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8 August 2016

Mr Tim King
Case Manager
Dumping Operations
Anti-Dumping Authority
Level 35, 55 Collins Street
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Public File

Dear Mr King

Investigation No. 341 – A4 Copy Paper from Brazil, P R China, Indonesia and Thailand – 'Pass Through' benefit on raw material inputs by upstream suppliers in China and Indonesia

Introduction

The Dumping and Subsidy Manual ("the manual") addresses "Upstream Subsidies" that confer a benefit to exporters of goods. The manual refers to Articles 10 and 32 of the Subsidies and Countervailing Measures ("SCM") Agreement that refers to a subsidy being "*granted, directly or indirectly, on the manufacture, production or export of such product in the country of origin or exportation*". The manual further elaborates on indirect subsidies and that Article VI of the GATT implies that "*financial contributions by the government to the **production of inputs** used **in manufactured products** subject to an investigation are **not excluded** from the amount of subsidies that may be offset through the imposition of countervailing duties on the processed products*" (emphasis added).

It is evident, therefore, that subsidized inputs used in the manufacture of exported goods may be the subject of countervailing measures. The manual then describes "upstream" subsidies as a "*subsidy paid to an input product such as raw material or a manufactured product used in the production of the goods in question, and countervailing action may be taken where the benefit received by the upstream recipient of the subsidy **passed through**, in whole or in part, to the downstream purchaser*" and further "*Where it is established that the price of the input product reflects the benefit of the subsidy, in whole or in part, received by the upstream supplier, then the downstream purchaser is taken to have had received a subsidy*".

In its application for countervailing measures, Australian Paper Pty Ltd ("AP") has identified subsidies paid on raw material inputs (i.e. timber at less than adequate remuneration in Indonesia; raw material chemicals used in pulp production in China) used in the manufacture of copy paper. AP asserts that the upstream subsidies received on the raw material inputs carries a countervailable benefit that passes through to the the goods under consideration ("GUC") i.e. copy paper.

Upstream subsidies

AP's application for countervailing measures on copy paper exported from China and Indonesia detailed the following subsidies applicable to inputs of the GUC:

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- Calcium carbonate, coal, caustic soda and titanium dioxide used in pulp manufacture for the production of the GUC in China; and
- Timber at less than adequate remuneration (or 'stumpage') in Indonesia.

AP notes the comments on behalf of the GOI concerning the concept of "pass through"[1]. It is argued on behalf of the GOI that assuming the "*government influences on inputs to manufacture did amount to subsidies, then, in order for countervailable duties to be levied, it would need to be demonstrated that those subsidies "flowed through" and the extent to which they flowed through to A4 cop paper exported to Australia*"[2]. AP does not dispute the statements made. AP recognizes that the Anti-Dumping Commission ("the Commission") must determine the pass-through benefits of the subsidy(ies) received on production inputs of the goods under consideration.

Program 1 – Raw materials at less than adequate remuneration - China

AP has identified raw materials that it understands are purchased by Chinese pulp producers at domestic prices that are lower in China than other market-economy countries (i.e. at less than adequate remuneration). AP's application demonstrated that the domestic prices in China for the nominated chemical products (calcium carbonate, coal, caustic soda, and titanium dioxide) are sold at low prices when contrasted with domestic prices for the same goods in another country, reflecting government influence that impact prices. It is further noted (with the exception of UPM Shandong) that each of the cooperative Chinese producers of copy paper (i.e. Zhanjiang Chenming Pulp and Paper Co., Ltd "Shandong Chenming", and Yueyang Forest and Paper Co Ltd "Yueyang") along with Asia Symbol (Guangdong) Paper Co., Ltd, are integrated pulp and paper (including copy paper) manufacturers in China.

The Shandong Chenming and Yueyang Exporter Questionnaire Responses ("EQRs") – public file versions – do not disclose the information pertaining to the raw material purchases by the exporter. AP understands, however, that the exporters purchase pulp from their respective related company pulp producer. The relationship of the pulp suppliers to the producer of the copy paper is central to the issue of 'pass through' and conferral of the benefit. Where the supplier of the pulp is related to the producer of the copy paper there can be limited debate as to the pass-through nature of the benefit (under Article 10 of the WTO Agreement on Subsidies and Countervailing Measures). AP notes the Commission's stance as referred to in the Dumping and Subsidy manual involving raw material from an upstream supplier,

> "*Where the inputs are purchased from a related upstream supplier and consistent with practices elsewhere, the Commission will infer that the whole of the input subsidy has been passed through top the related downstream purchases.*[3]"

The Commission's task is to establish whether the raw material input has been purchased on more favourable terms than otherwise would be the case. This will be difficult as the domestic prices for the raw material input goods sold domestically within China will be approximately the same for all pulp producers in China, as each company will be purchasing at similar depressed levels. The Commission will therefore need to consider an appropriate benchmark

[1] Electronic Public File (EPF) Folio 25.
[2] Ibid, P.3.
[3] Dumping and Subsidy Manual, November 2015, P.109.

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price upon which to compare the subsidized input price. AP does not consider that a domestic price within China is a suitable benchmark as it is likely that the all domestic selling prices for the raw material inputs are subsidized. Other benchmark alternatives include:

- An input product imported into China;
- Surrogate pricing information from a comparable industry where subsidies have not been paid;
- Domestic pricing information in another domestic market (e.g. Korea, Japan).

AP understands that the Commission will compare the Chinese domestic prices of the identified raw materials with the benchmark price to determine the extent of the subsidy. AP is also aware that the Commission has written to both Shandong Chenming[4] and Yueyang[5] and advised that they will be deemed non-cooperative for the purposes of the investigation.

The reduced input prices equally impact the traded selling price of the intermediate pulp sold in China. Traded pulp prices (i.e. sales between unrelated parties) in China are therefore artificially low. Imported pulp would also be priced in accordance with Chinese domestically traded pulp prices and must be considered as being influenced by the government of China's ("GOC") subsidies applicable to raw material inputs.

AP's application against exports of copy paper from China identified further subsidies received by pulp and paper industry participants. The range of subsidies included:

(i) reduced corporate tax rates for 'high and new technology' enterprises;
(ii) VAT tax incentives/exemptions (for certain imported raw materials and capital equipment);
(iii) grants for specific projects involving pulp and paper industry participant companies; and
(iv) loans at less than commercial rates of industry for the intended purpose of attracting capital investment in the industry.

The additional subsidies are considered specific as they have been tailored by the GOC for the forestry, pulp and paper industry in China – an industry that is designated an "Encouraged" industry by the GOC for the purposes of attracting investment (including by foreign-invested enterprises). It is further considered by AP that the benefits received in relation to the reduced corporate tax rates, VAT exemptions/reduction, grants and concessional loans permit the exporter to operate in a more favourable financial manner than would be the case in the absence of such benefits.

Program 1 – timber at less than adequate remuneration - Indonesia

AP's application identified the subsidy program of timber at less than adequate remuneration (referred to as 'stumpage') as affording benefits to pulp producer companies in Indonesia. The government of Indonesia ("GOI") has declared the Pulp and Paper industry as a priority industry in its National industry Policy. The GOI has plans to develop Indonesia's pulp and paper industry to be the fifth largest producing country globally by 2025.

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[4] EPR, Folio 49.
[5] EPR, Folio 53.

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An independent CIFOR and World Bank Report in 2012[6] warned that the growth in Indonesia's pulp and paper industry carried a "substantial degree of financial risk" as the Indonesian producers had not firstly secured "legal and sustainable raw material supply". Despite this, the Indonesian pulp and paper industry rapid expanded with pulp capacity increasing from 606,000 tonnes per annum in 1998 to 7.9 million tonnes in 2010.

The dramatic growth in pulp production has been supported by the GOI's stumpage programs to supply timber at prices that, due to the substantial and predominant government ownership of harvested forests, are significantly discounted when contrasted with domestic timber prices in other countries. In submission dated 22 July 2016 AP highlighted an article in the Jakarta Times that indicated harvested timber from Indonesia forests sells for US$30 per cubic meter, whereas the regional price is much higher at US$80 per metre. The pass-through impact of reduced raw material input prices provides pulp and paper manufacturers with a competitive advantage over other pulp and paper producers that do not receive raw materials at heavily discounted prices.

The EQR responses of APRIL and Sinar Mas Group confirm that their pulp purchases are from affiliated pulp producers (i.e. APRIL's PT Riau Andalan Kertas ("RAK") purchases its pulp from affiliated PT Riau Andalan Pulp and Paper ("RAPP"), and Sinar Mas Group's Indonesian paper producers purchase pulp from affiliated pulp businesses). As indicated above, the subsidy benefit received on raw material purchases can be considered to "pass-through" in full to the related-affiliate copy paper manufacturer (i.e. exporter).

The subsidy benefits received by the integrated pulp-copy paper exporters to Australia for timber at less than adequate remuneration can be quantified by the difference between the stumpage rates paid by the pulp producer for stumpage and the benchmark timber price (i.e. a price for similar timber sold domestically in another country[7]).

Conclusions

AP submits that raw material inputs sold at less than adequate remuneration in the manufacture of pulp for copy paper in both China and Indonesia satisfy the 'pass-through' test and that the full benefit of the subsidy received by the pulp producer passes through to the affiliated copy paper producer.

It is further submitted that copy paper producers that purchase pulp on the domestic markets in China and Indonesia are not free of influence from the government subsidies received by domestic pulp manufacturers. The prices paid for pulp in China and Indonesia are heavily influenced by the raw material input subsidies (i.e. raw material chemicals used in pulp manufacture in China, and timber at less than adequate remuneration in Indonesia) that pass through to impact traded pulp prices.

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[6] Krystof Obidzinski and Ahmed Dermawan, CIFOR and World Bank, New Round of pulp and paper expansion in Indonesia: What do we know and what do we need to know? (May 11, 2012), available at www.cifor.org/ard/documents/background/day5.pdf

[7] The domestic selling prices for harvested timber sold by private entities in Indonesia would be influenced by the GOI's stumpage rates, and cannot be considered a suitable benchmark price.

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AP considers that the Commission has sufficient evidence before it to be satisfied that subsidies received on raw material inputs used in pulp manufacture in China and Indonesia pass-through in full to the selling prices for copy paper exported to Australia.

If you have any questions concerning this submission please do not hesitate to contact me on (03) 8540 2451 or AP's representative Mr John O'Connor on (07) 3342 1921.

Yours sincerely

Matt Decarne
Trade Affairs Manager