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23 November 2016

Mr T King
Assistant Director
Anti-Dumping Commission
55 Collins Street
Melbourne
Victoria 3000

By email

Dear Tim

APRIL Fine Paper Trading Pte Ltd
Comments concerning PAD margin

1 As you know, we act on behalf of APRIL Fine Paper Trading Pte Ltd ("AFPT") and PT Riau Andalan Kertas ("RAK", collectively, "APRIL"), with regard to this investigation.

2 At the conclusion of the verification of APRIL, the Commission found that APRIL was not dumping. The "no dumping" margin was 20%. The second Preliminary Affirmative Determination Report ("PAD Report") concluded that APRIL has a dumping margin of 9.3%.

3 APRIL understands that the catalyst for this seismic shift in its position was the finding that APRIL's export prices were not arm's length, and the adoption of a deductive export price with respect to APRIL's exports. In this regard, APRIL refers to its recent submission of 17 November 2016. As noted in that submission, that finding is contrary to the evidence before the Anti-Dumping Commission ("the Commission"), and should be vacated immediately. When this is done, it will again be clear that APRIL has not been dumping.

4 Without derogating from that primary point, APRIL has also identified errors in the normal value calculation which have resulted in an overstatement of the margin in the PAD report as based on the deductive export price. Once these errors are corrected, APRIL's dumping margin falls to 1.9%. This will be discussed in greater detail below. Thus, even with the hugely prejudicial export price found in the PAD Report, APRIL still is not "dumping" to an actionable level.

5 Finally, APRIL will address some elements of the PAD report which have relevance to the subsidy allegations.

A Normal value corrections

6 In constructing the normal values, the Commission used the SG&A from domestic sales, and added that to the CTM of the export models. The Commission has then upwardly adjusted this amount by:

- export inland transport;
- export handling;

- export credit insurance;
- marketing;
- other; and
- export credit.

7 However, despite the statement to the alternative in the PAD Report, the Commission has not applied any corresponding downward adjustments to the constructed normal value for domestic costs. Therefore, the current normal values used to determine the dumping margin are significantly inflated.

8 When the Commission adopted 269TAC(1) normal values, downward adjustments were made for domestic "*Maritime freight*", "*Inland transport*", "*Handling & others*", "*Insurance*" and "*Domestic marketing*". However, in adopting a constructed normal value under Section 269TAC(2)(c), those downward adjustments have not been made.

9 The domestic costs mentioned above are included in the [CONFIDENTIAL INFORMATION DELETED – amount] per tonne amount of SG&A that the Commission has added to the export CTM to construct the normal value. That SG&A is made up of the weighted average of [CONFIDENTIAL INFORMATION DELETED – number] values over the period of investigation – [CONFIDENTIAL INFORMATION DELETED – components of SG&A]. Importantly:

- The total [CONFIDENTIAL INFORMATION DELETED – component of SG&A] is equal to the sum of [CONFIDENTIAL INFORMATION DELETED – cost] and [CONFIDENTIAL INFORMATION DELETED – cost], the details of which are explained in the EQ and were verified by the Commission earlier this year. As per columns AS and AT of Attachment 1 - *Domestic Sales Inland Transport*, the total of these two values as reported in the Domestic Sales spreadsheet is [CONFIDENTIAL INFORMATION DELETED – value]. This is the same amount as the total amount of [CONFIDENTIAL INFORMATION DELETED – cost] recorded in the domestic CTMS.[1]

- Attachment 2 –*Domestic SG&A* - shows the build-up of the [CONFIDENTIAL INFORMATION DELETED – component of SG&A], [CONFIDENTIAL INFORMATION DELETED – component of SG&A] and [CONFIDENTIAL INFORMATION DELETED – component of SG&A]. The [CONFIDENTIAL INFORMATION DELETED – component of SG&A] includes an amount for [CONFIDENTIAL INFORMATION DELETED – cost] at account [CONFIDENTIAL INFORMATION DELETED – account number]. This includes the [CONFIDENTIAL INFORMATION DELETED – cost] amount reported in the Domestic Sales spreadsheet. Therefore the [CONFIDENTIAL INFORMATION DELETED – component of SG&A] include [CONFIDENTIAL INFORMATION DELETED – cost].

- Additionally, as per Attachment 2 – *Domestic SG&A* the [CONFIDENTIAL INFORMATION DELETED – component of SG&A] include account no. [CONFIDENTIAL INFORMATION DELETED – account number and name]. This includes the [CONFIDENTIAL INFORMATION DELETED – costs] recorded in the Domestic Sales spreadsheet. Therefore the [CONFIDENTIAL INFORMATION DELETED – component of SG&A] include [CONFIDENTIAL INFORMATION DELETED – cost].

[1] Note, Attachment 1 was provided to the verification team as part of the verification of domestic inland transport costs.

- Finally, as per Attachment 2 – *Domestic SG&A*, [CONFIDENTIAL INFORMATION DELETED – component of SG&A] also include [CONFIDENTIAL INFORMATION DELETED – cost] – this is reported at account [CONFIDENTIAL INFORMATION DELETED – account number] in Attachment 2.

10 Therefore the PAD margin is significantly inflated. It has been upwardly adjusted for Australian sales costs, but has not been downwardly adjusted for domestic sales costs present within the constructed normal value.

11 At Attachment 3 – *Corrected Margin*, APRIL has taken the liberty of calculating the relevant adjustments and applying them to the normal value. These adjustments are [CONFIDENTIAL INFORMATION DELETED – calculation methodology]. This appears to be the same basis the Commission used to determine the upward export adjustments, and must therefore be an acceptable methodology for the Commission. The result is a dumping margin of 1.9%. This is below the *de minimis* margin amount.

12 Accordingly, we request that this investigation be terminated insofar as it relates to APRIL at the soonest possible convenience.

B Comments regarding subsidies

13 APRIL notes the Commission's reference in the PAD Report to *United States – Measures Treating Export Restraints as Subsidies* with regard to the alleged "export prohibition" subsidy. APRIL trusts that any finding of the Commission will be in line with the clear WTO jurisprudence stated in that case. In other words, an export prohibition does not meet the definition of a subsidy.

14 APRIL notes that the PAD report characterises plantations on concession-land with "*government owned (or licensed) plantations*". As we have pointed out previously, whether or not the land is "government owned" is irrelevant to the existence of the "*provision of timber at less than adequate remuneration*" subsidy. We further emphasise the following:

(a) It is an undisputed and verified fact that the costs associated with establishing requisite infrastructure, establishing the plantation, growing the trees to maturity and selling those trees are borne directly by the plantation operator. This is the case whether land upon which the plantation is situated is concession land or privately owned.

(b) It is an undisputed and verified fact that any timber purchased by RAPP, other than from its own plantations, was purchased from other plantation operators, not from the GOI. Again, this is the case whether the land upon which the plantation is situated is concession land or privately owned.

15 It is therefore clear that the GOI has not "*provided timber*" under even the most torturously broad interpretation of that term. Accordingly, the alleged subsidy does not exist.

C Conclusion

16 We respectfully request that:

(a) the dumping investigation be terminated as it relates to APRIL;

(b) the subsidy investigation be terminated as it relates to APRIL;

(c) if that is not done immediately, that any requirement for importers to lodge securities on the importation of APRIL's A4 copy paper be withdrawn.

Yours sincerely

Daniel Moulis
Principal Partner