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29 December 2016

Justin Wickes
Director Operations 2
Anti-Dumping Commission
GPO Box 1632
Melbourne VIC 3001

Investigation into A4 Copy Paper exported from Brazil

Dear Director,

This submission is made on behalf of Jackaroo Paper Pty Ltd (Jackaroo) in response to the Anti-Dumping Commission's (the Commission) preliminary findings set out in Statement of Essential Facts Report No. 341 (SEF 341) published on 9 December 2016.

Jackaroo notes that the preliminary findings in SEF 341 do not take account of critically important information submitted to the investigation in submissions made by International Paper do Brasil Ltda. (IP Brasil), Jackaroo, Complete Office Supplies (COS) and the Government of Brazil (GOB). Whilst it is disappointing that the Commission did not have sufficient time to consider those submissions, Jackaroo urges the Commission to carefully and properly have regard to the points raised by the respective interested parties.

In particular, Jackaroo considers it imperative that the Commission have regard to and fully address:

i) the adjustment claims made by IP Brasil which would establish that the imported goods from Brazil were not dumped during the investigation period, and
ii) the Victorian Government tender information submitted by COS which clearly refutes the indirect material injury claims made by Australian Paper.

The Australian market

In SEF 341, the Commission provides an overview of the Australian market in terms of the broad end-user categories, distribution channels and type of goods sold in the Australian market. For the record, Jackaroo wishes to highlight that [redacted]% of its imports from Brazil were of private label branded product (COS Premium) sold through a B2B reseller (COS) (also known as 'contract dealers' by Penfolds Research) and ultimately re-sold to medium and large businesses, government and education sectors.

It is disappointing that the Commission did not provide a more detailed analysis of the Australian market by identifying or providing a graphical representation of the respective proportions represented by each of the end-user categories, distribution channels and types of goods sold. This information is considered particularly relevant and useful to the Commission's causal link assessment given the belated indirect injury claims made by Australian Paper in relation to imports from Brazil.

For example, it would be useful to know what proportion of Australian Paper's total A4 copy paper sales were of private label virgin paper products made to resellers and the trend over the injury analysis period. This could then be compared to the steady and consistent volumes of COS Premium product sold over the same period. This would provide insight into the materiality of the products that Australian Paper claims are being indirectly injured relative to the entire product range of like goods sold by Australian Paper during the investigation period.

As such, Jackaroo requests the Commission to provide more meaningful analysis of the Australian market in its final report to the Minister by providing a breakdown of the various categories for both subject imports and like goods by Australian Paper.

Economic Condition of the Australian Industry

Jackaroo makes the following observations and statements with regard to the Commission's analysis and preliminary findings on Australian Paper's economic condition during the injury analysis period.

Commencement of injury

In response to Australian Paper's claim '*that it had observed a sharp increase in import volumes of A4 copy paper at allegedly dumped prices in 2013*'[1], Jackaroo wishes to highlight that import volumes from Brazil fell approximately 60% in 2013 on the previous year and again decreased approximately 55% in 2014 on 2013 levels. In each of those years, the total import volumes from Brazil were below 0.5% of the total Australian market. Therefore, Australian Paper's claim of injury caused by dumping commencing in 2013 cannot be linked to Brazil imports.

In its application, Australian Paper also claimed that "*there has been a significant increase in import volumes from Brazil in 2015 (albeit from a lower base in 2104) and this is considered to be of a consequence of the recent anti-dumping petition taken by the US Uncoated Industry against imports from a number of countries including Brazil*"[2]. As previously highlighted by Jackaroo, his suggestion is both incorrect & highly misleading insofar as it relates to Brazil.

The US dumping investigation commenced on 21 January 2015 and Jackaroo had tendered for the COS business, which represents [redacted]% of the copy paper in question, in July of 2014 and was awarded the business in October of 2014. The first orders to service this business

[1] SEF 341, section 8.5, page 65.

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

arrived in January of 2105, prior to the US investigation having been announced. This is a further example of the facts contradicting the assertions made by Australian Paper in relation to imports from Brazil.

Volume effects

The Commission preliminarily concludes that Australian Paper has suffered injury during the investigation period in the form of lost sales. This preliminary finding appears to be based entirely on the graph at Figure 2 of SEF 341 which shows a steady decline in sales volumes across the injury analysis period.

Jackaroo does not consider the decline in sales volumes shown in Figure 2 to be relevant to imports from Brazil. Firstly, as explained above, imports from Brazil also showed a steady decline in volumes in 2013 and 2014, and cannot be attributed to any lost volumes by Australian Paper in those corresponding years.

Second, the Commission has confirmed that over [redacted]% of imports from Brazil were subject to a single tender that occurred in 2014 for the supply of COS Premium private label. As confirmed by COS and accepted by Australian Paper, COS invited parties including Australian Paper, to submits offers for the supply of COS Premium. Australian Paper opted to not participate in the tender and according to COS has shown no interest in supplying product for its private label premium paper range. Therefore, it is inappropriate for the Commission to conclude that Australian Paper lost sales volumes to Jackaroo's imports from Brazil given that it has never sought to 'win' those private label sales volumes being offered by COS, either prior to or during the investigation period.

In fact, given the belated indirect injury claims made by Australian Paper, it would be more appropriate for the Commission to show the trend analysis of Australian Paper's sales volumes over the injury period for private label virgin paper products sold to Staples and compare to the steady trend of COS Premium sales volume. It is these sales that Australian Paper is now claiming are being indirectly impacted by COS's sales of imported A4 copy paper from Brazil.

Price effects

As with the volume effects outlined above, Jackaroo also contends that the price depression and price suppression found to exist at Australian Paper's total product level, has no relevance or association to imports from Brazil. That is, as verified by the Commission, Jackaroo's selling prices of imports from Brazil across the investigation period [redacted] in US dollar terms and increased sharply in Australian dollar terms due to the depreciating Australian dollar against the US dollar. Further, Australian Paper's refusal to tender and supply private label virgin paper products to B2B resellers other than Staples supports the view that there is no direct link between Jackaroo's increasing selling prices of Brazil imports to COS and Australian Paper's selling prices to Staples of its own private label.

In the case of the claimed indirect links between Brazilian imports and the identified price effects experienced by the Australian industry, it is noted that Australian Paper's primary

claims surrounding the Whole of Victorian Government Stationary and Workplace Consumables State Purchase Contract have been discredited by the statements and evidence submitted by COS to the investigation. The evidence also confirms that Australian Paper continued to supply the vast majority of paper products relevant to that contract which were recycled paper. This evidence demonstrates that not only were imports from Brazil not used to tender for the contract, the portion of the contract relating to virgin paper products was '*an immaterial segment of the total contract*'[3].

In these circumstances it is fanciful to suggest that Jackaroo's selling prices to COS for virgin paper, can be attributed to the price depression and suppression found to be experienced by Australian Paper over the injury analysis period. Notwithstanding the lack of any price links between Jackaroo's selling prices and Australian Paper's selling prices of virgin paper products to office resellers, Jackaroo considers and requests that a more meaningful price graph for assessing the price effects attributable to Brazilian imports be prepared, showing the movement in the Australian industry's prices and costs for only private label virgin paper products sold to office resellers.

Causal link

Cumulation

As highlighted on numerous occasions in its submissions and confirmed by statements made by COS to the investigation, it is Jackaroo's understanding that Australian Paper's supply arrangement with Staples prevents it from offering supply of private label virgin paper products to competing resellers in the Australian market ([redacted]). This is further confirmed by Australian Paper's refusal to tender for the supply of COS Premium in 2014. This evidence alone supports a view that conditions of competition do not exist between imports from Brazil and like goods that are locally produced by the Australian industry, to warrant cumulating the effects of imports from the subject countries.

So unlike imports being sold into the retail, OEM and corporate stationary supplies sectors where Australian Paper can and does compete for sales by offering the full range of products available, in the contract reseller sector Australian Paper opts to preserve its trading relationship with Staples by not competing for sales offered by other resellers for the supply of private label virgin paper. Given that imports from Brazil [redacted] private label virgin paper products sold into the reseller market, it is reasonable to conclude that imports from Brazil did not compete with other imports and the Australian industry producing like goods.

In addition, it is important in assessing whether to cumulate the effects of imports, to be aware imports from Brazil sought to distinguish their tendered goods from other market participants in a variety of ways. Differentiation included IP Brasil's high environmental and ethical benchmarks in addition to the breadth of IP's speciality papers range.

[3] EPR 341, Record no. 123, page 2.

The product offered was FSC certified, carbon neutral and included a 100% recyclable wrapper made from BOPP (Number 5). Jackaroo believes the inclusion of a BOPP wrapper was important as it is unique to the Australian market and the only 100% recyclable wrapper available. Jackaroo's strategy was to enable COS premium to distinguish itself from competing products. By contrast, the poly-paper wrappers on alternative A4 copy paper on offer in Australia, including those produced by the applicant, are not fully recyclable and may not be recyclable at all.

As such, Jackaroo disagrees with the Commission's preliminary assessment that there are grounds to cumulate the effects of imports from the subject countries. Although as noted at the outset of this submission, those preliminary findings do not have regard to critical evidence contained in submissions presented to the Commission prior to the SEF report being published, but which were not considered in the preparation of the SEF report.

Volume effects

Jackaroo supports and agrees with the Commission's finding that Australian Paper did not suffer material injury attributable to imports from Brazil during the investigation period. As outlined earlier, the Australian industry's refusal to supply private label virgin paper products to resellers other than Staples is the primary cause of any potential lost sales volume, and not import prices or price offers in the Australian market.

In its submission of 21 November 2016, Australian Paper states that it '*has been supplying COS with a range of A4 copy paper (including recycled and non-recycled) for many years*' and '*all of AP's Australian customers, including COS, have access to a range of non-recycled copy paper brands from AP.*'[4] Jackaroo notes that Australian Paper refers to non-recycled paper being available to all customers but does not address the specific issue whether it is able to supply private label virgin paper to resellers competing against Staples in the contract market.

If the answer is yes, then Australian Paper should explain why it chose not to take up the offer by COS to tender for the COS Premium supply contract in 2014. If the answer is no, then Jackaroo agrees with COS that the inclusion of Brazil in the application is simply an attempt '*to gain anti-competitive protection of a local manufacturer's customer.*'[5]

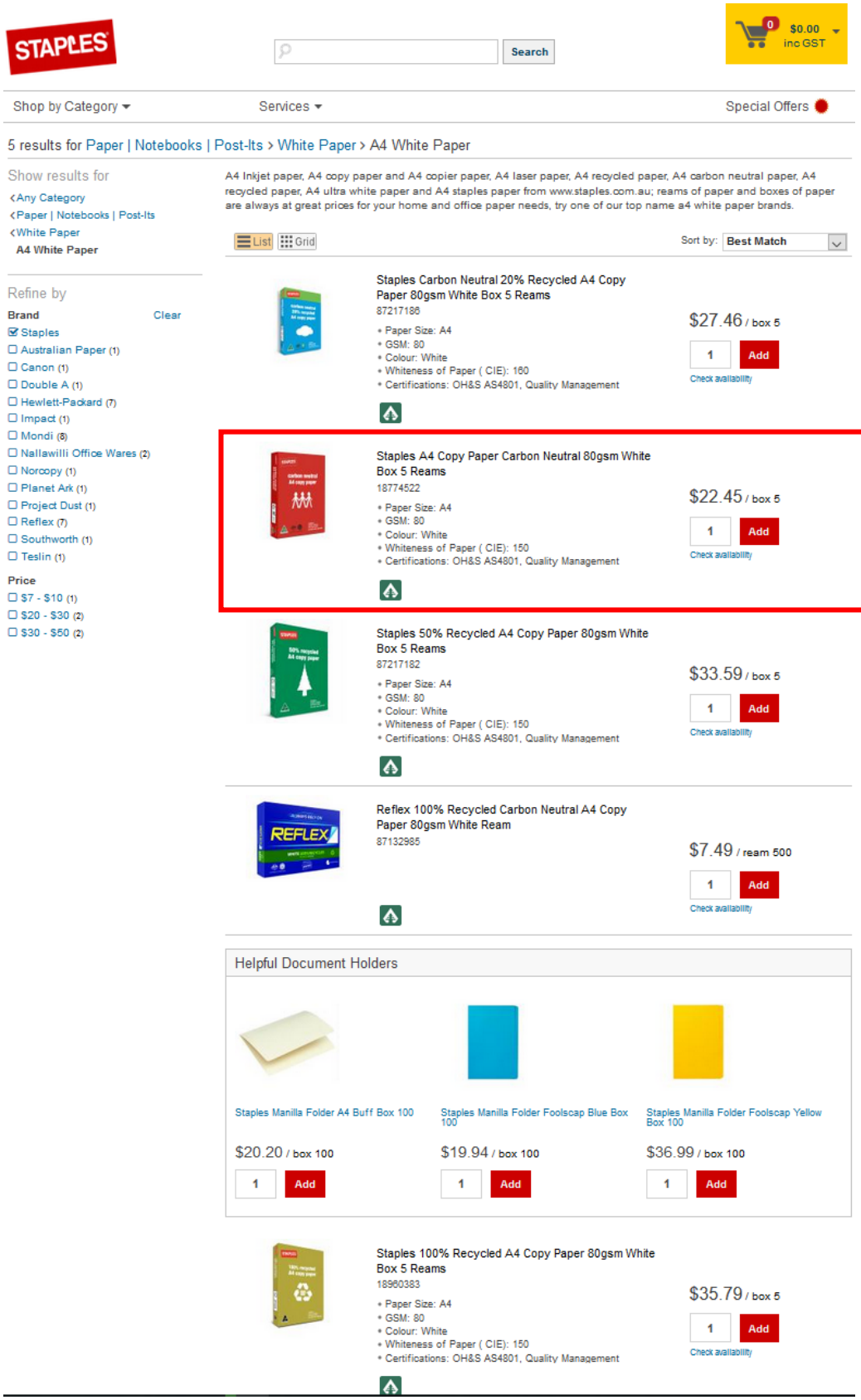
Undercutting

Jackaroo supports the Commission's methodology for undertaking price comparisons between imported and locally produced goods. Based on Jackaroo's understanding that Australian Paper does not supply private label virgin paper products to resellers other than Staples, it is expected the Commission has properly compared Jackaroo's COS Premium prices to COS, against Australian Paper's Carbon Neutral 80gsm 'Staples' branded paper. This product is the only comparable product to that imported by Jackaroo during the investigation period.

As highlighted on Staples website, the variations in products offered to Staples has a material impact on relative prices. As such, Jackaroo requests the Commission to confirm in

[4] EPR 341, Record no. 127, page 1.
[5] EPR 341, Record no. 123, page 2.

the final report that in performing its undercutting analysis with imports from Brazil, that all proprietary and recycled paper products sold by Australian Paper have been excluded.



Source: http://www.staples.com.au/main-catalogue-browse?Ne=0&N=4294527435+8082+4294931120

Jackaroo main concern with the Commission's undercutting analysis is that the reported 3.78% margin of undercutting reflects a single month across the entire investigation period. This is highly misleading and not consistent with the requirements for objective examination of evidence as it does not properly and accurately reflect the margin of undercutting observed across the whole of the investigation period.

Instead, Jackaroo requests the Commission to provide a meaningful assessment of the weighted average margin of undercutting found to have occurred across the investigation period. On the understanding that Australian Paper's equivalent prices undercut Jackaroo's corresponding prices in eleven of the twelve months of the investigation period, Jackaroo expects that the evidence would demonstrate that the imports from Brazil did not undercut the Australian industry's prices during the investigation period.

The Commission's confirmed lack of direct evidence to support a link between undercutting and price reductions by Australian Paper to Staples, is particularly concerning as the Commission's preliminary findings appear to not be based on 'positive evidence' but simply on general market behaviours and the mere possibility that Australian Paper is likely to have reacted to prices from competitors.

This abstract assessment by the Commission is further weakened when considering the evidence submitted by COS demonstrating that imports from Brazil were not used to tender for the Whole of Victorian Government Stationary and Workplace Consumables State Purchase Contract. This suggests that if Australian Paper did reduce its prices to Staples in reaction to competitive COS tender prices, that either their market intelligence was inaccurate or they simply offered price reductions irrespective of the actual source and type of paper being offered by COS. Jackaroo considers the latter scenario most likely given that Australian Paper must have been aware that virgin paper was such an immaterial component of the entire contract and that in fact, recycled paper was the predominant paper product to be supplied by the winning reseller.

Non-injurious price

It is noted that the Commission has preliminarily concluded that Australian Paper's selling prices during the previous investigation period of 1 July 2012 to 30 June 2013 from Investigation 225, represents a period during which prices were unaffected by dumping and therefore appropriate for establishing unsuppressed selling prices. Jackaroo submits that unsuppressed selling prices ought to be calculated taking into account the most comparable products sold by the Australian industry to ensure a meaningful non-injurious price can be compared with the corresponding normal values.

Jackaroo contends that the methodology adopted by the Commission for assessing price undercutting should also be used for calculating unsuppressed selling prices which are both accurate and reasonable. For example, it is without doubt unreasonable to consider that injury would be removed to Australian Paper if IP Brasil exported its private label virgin paper into the reseller sector at prices equivalent to Australian Paper's sales of recycled Reflex branded paper into the retail market.

Therefore, to ensure that a meaningful non-injurious price can be properly compared with corresponding normal value for the goods exported, Jackaroo urges the Commission to calculate an unsuppressed selling price relevant to Brazil on the basis of Australian Paper's sales of private label virgin paper sold to Staples during the Commission's preferred period of 1 July 2012 to 30 June 2013.

Conclusion

As Jackaroo has highlighted in each of its submissions throughout the investigation, the application by Australian Paper as it relates to exports from Brazil was undoubtedly deficient and without any supporting evidence of a causal link. Australian Paper's subsequent indirect causal link claims raised late in the investigation have been unquestionably discredited by the evidence presented by COS.

Further, the Commission itself recognises in SEF 341 the lack of positive evidence linking imports from Brazil to the Australian industry's performance during the investigation period. It is Jackaroo's view that this lack of evidence and the unsubstantiated self-serving statements made by Australian Paper demonstrates the willingness and desire of the applicant to prevent and constrain competition at the benefit of its main reseller customer Staples.

Jackaroo therefore urges the Commission to examine the information presented and price undercutting analysis undertaken in an objective manner, and give no weight to Australian Paper's unsupported statements. In doing so, the Commission ought to bear in mind that the dumping margin at its extreme is barely above de minimis, notwithstanding that it actually should be below 2% when addressing the adjustment claims made by IP Brasil.

On that basis, Jackaroo contends that the Commission is compelled to terminate the investigation as the dumping margin for exports from Brazil are de minimis and in any case, imports from Brazil did not contribute or cause material injury to the Australian industry producing like goods during the investigation period.

Yours sincerely

John Bracic