Canberra Office
6/2 Brindabella Circuit
Brindabella Business Park
Canberra International Airport
Australian Capital Territory 2609
+61 2 6163 1000

Brisbane Office
Level 4, Kings Row Two
235 Coronation Drive
Milton, Brisbane
Queensland 4064
+61 7 3367 6900

Australia

facsimile: +61 2 6162 0606
email: info@moulislegal.com
www.moulislegal.com

moulislegal
commercial + international

30 December 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 Statement of Essential Facts 341

1 On behalf of APRIL Fine Paper Trading Pte Ltd and PT Riau Andalan Kertas (collectively, "APRIL"), we wish to make the following submissions regarding Statement of Essential Facts 341 ("SEF 341").[1]

2 APRIL is deeply disappointed with the proposed findings in SEF 341. In particular, APRIL is concerned regarding the proposed recommendation that anti-dumping measures be imposed against APRIL, in circumstances in which APRIL is not dumping. Secondly, APRIL is concerned by the recommendation that its actual cost of production requires "uplifting".

3 APRIL will discuss each of these issues below.

A BJ Ball's loss-making sales are not relevant to APRIL

4 APRIL has, at all times, set its prices to Australia at non-dumped levels. On the basis of APRIL's export price under Section 269TAB(1) of the *Customs Act 1901* (Cth) ("the Act") APRIL has a *no dumping* margin in excess of 20%. This is the correct outcome. Despite this, SEF 341 proposes the imposition of dumping duties on APRIL's exports to Australia.

5 The basis for this proposal is the finding that BJ Ball, APRIL's primary importer during the period of investigation, resold APRIL's A4 paper at a loss. In this regard, we again state that APRIL is unrelated to, and makes its pricing decisions in isolation from, BJ Ball. The sales and payment process between APRIL and BJ Ball has been reviewed and verified by the Commission. APRIL is not involved in any pricing decisions that would lead the Commission to a finding of dumping. APRIL does not reimburse, compensate or otherwise provide a benefit to BJ Ball for, or in respect of, the whole or part of the price.

6 It is also undisputed that BJ Ball's Edwards Dunlop Office Products ("EDOP") division, which is that part of BJ Ball's business that handled BJ Ball's A4 copy paper sales in the Australian market, has been purchased by the Australian industry in this investigation. All along, it has been the Australian industry's intention to supplant APRIL's imports with its own stock. The media available with respect to the sale of EDOP clearly evidences the fact that the Australian industry's reason and intention on purchasing EDOP was to supply EDOP's

[1] http://www.adcommission.gov.au/cases/EPR%20301%20%20350/EPR%20341/104%20-%20Verification%20Report%20-%20Importer%20-%20BJ%20Ball.pdf

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customers with its own A4 copy paper.[2] That intention has now been implemented. [CONFIDENTIAL TEXT DELETED – details of APRIL's sales].

7 APRIL is exasperated by the proposal in SEF 341 to impose anti-dumping measures against its exports from Indonesia in these circumstances. How can the independent and solely domestic pricing decisions of an entity that APRIL has nothing to do with other than having a sell-buy commercial relationship render APRIL to be dumping? Section 269TAA(2) of the Act is not a deeming provision. All it does is to permit a rebuttable inference to be drawn.

8 APRIL submits that the Commission should find that APRIL's export price is to be established under Section 269TAB(1)(a) of the Act, consistently with the Commission's factual findings. If this is done, APRIL will correctly be found not to have engaged in dumping during the period of investigation.

B APRIL's cost of production does not need to be uplifted

9 The 12.6% dumping margin found in SEF 341 was arrived at with the addition of a [CONFIDENTIAL TEXT DELETED - value] uplift to the cost of [CONFIDENTIAL TEXT DELETED – raw material] in APRIL's books. APRIL understands that this uplift has been applied by the Commission to add [CONFIDENTIAL TEXT DELETED – additional costs]. APRIL submits that no such uplift is necessary or warranted in the circumstances relevant to this investigation, for the following reasons.

10 Firstly, the Commission's stated policy with regard to the suitability of a producer's costs, where that producer purchases inputs from a related entity, is as follows:

> *In these circumstances the cost records relating to the input may be examined. The transfer price of the producer will be examined to determine whether it is reasonable given the known full cost of production for that input. For example, in relation to an integrated process the Commission will examine the records of account of an exporter/producer to ascertain whether the transfer price of the producer is not unreasonable given the full cost of production for that input.*[3]

11 In that direct context, SEF 341 acknowledges the following:

> *The verification team examined the costing methodology submitted and were satisfied that the cost data provided covered costs incurred as part of the integrated manufacturing process. The exporter has made a submission that the prices for the main raw material used for the purposes of costs was 'significantly more than cost recoverable'. The verification team can confirm that this statement is correct and that the costs submitted fully recovered the costs borne. Should the costs be used (and not the transfer pricing cost) RAK's CTM would be lower.*[4] [our emphasis]

12 The Commission's policy is that it will determine the reasonableness of the cost of the raw material in light of the full cost of production of the raw material. Given that it is accepted by the verification team that the cost of [CONFIDENTIAL TEXT DELETED – raw material] is *significantly more than cost recoverable*, we would submit that the transfer price is reasonable and that there is no need or compulsion to uplift APRIL's cost by the [CONFIDENTIAL TEXT DELETED – amount]. After all, what logic can there be to adding additional profit to an input that it already verified as being significantly profitable?

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[2] http://australianprinter.com.au/News/19908,aus-paper-acquires-bj-ball8217s-edop.aspx; http://www.printerspost.com.au/printingnews/5395/australian-paper-eyes-bj-ball%E2%80%99s-edop.aspx.

[3] *Dumping and Subsidy Manual November 2015*, page 46.

[4] SEF 341, at page 50.

13 We also recall that a component of this uplift is the addition of [CONFIDENTIAL TEXT DELETED - costs]. [CONFIDENTIAL TEXT DELETED – raw material] is not [CONFIDENTIAL TEXT DELETED – subject to those costs]. It is therefore incorrect to adjust the cost of [CONFIDENTIAL TEXT DELETED – raw material] by an amount for [CONFIDENTIAL TEXT DELETED – costs].

14 Accordingly, APRIL submits that there is no basis for the [CONFIDENTIAL TEXT DELETED – amount] uplift. APRIL's costs of production are reasonable and do reasonably reflect the competitive market costs associated with the production of A4 copy paper. The [CONFIDENTIAL TEXT DELETED – amount] uplift is not required and should be removed.

C Conclusion

15 APRIL has not engaged in dumping. Oddly, the Commission has made all the findings necessary for that conclusion – and was of that conclusion during a large part of its investigation – but then swerved away from it in SEF 341. We again say that the proposed recommendation that measures be imposed against APRIL is incorrect.

16 For the reasons stated herein, we submit that dumping measures should not and cannot be imposed in relation to APRIL's exports of A4 copy paper to Australia.

Yours sincerely

Daniel Moulis
Principal Partner