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13 January 2017

Mr Tim King
Case Manager
Dumping Operations
Anti-Dumping Authority
Level 35, 55 Collins Street
Melbourne Victoria 3000

Public File

Dear Mr King

Investigation No. 341 – A4 Copy Paper exported from Brazil, P R China, Indonesia and Thailand – Submission on behalf of UPM Asia Pacific Pte Ltd, UPM China Co., Ltd and UPM Kymmene Pty Ltd

I. Introduction

I refer to the submission on behalf of UPM Asia Pacific Pte Ltd ("UPM AP"), UPM China Co., Ltd ("UPM China") and UPM Kymmene Pty Ltd ("UPM Kymmene) collectively "UPM" dated 29 December 2016.

Australian Paper Pty Ltd ("AP") has reviewed the submission and provides the following comments.

II. Invalidity

UPM maintains that the Anti-Dumping Commission ("the Commission") should not have accepted an application for dumping and countervailing measures as the provisions of ss269TB(1)(c) and ss.269TDA(1) and (2) imply that separate applications for anti-dumping and countervailing measures are required.

As indicated by the Commission at Section 2.2. of Statement of Essential Facts No. 341 ("SEF 341") "*There is no express requirement in s. 269SMS or in S.269TB that the application form by the Commission must only allow one application to be made per form*". In the Commission's view the legislative provision has not been contravened and both applications may be submitted on the one form.

III. Export price

It is not disputed by AP that in order to determine the export price of the goods exported to Australia it is necessary to also consider the fundamental factors involved the export transaction.

It is argued on behalf of UPM that the Commission has erred in its assessment of the exporter and the importer of the goods. AP does not consider, however, that the explanations afforded on behalf of UPM provide any further clarity. UPM alleges that at all times UPM China – the manufacturer of the exported goods – at no time is the owner of the goods. This is an issue central to the identification of the exporter of the goods. It is suggested that UPM

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AP is the exporter of the goods as it provides UPM China with the raw materials to produce A4 copy paper for orders received from Australian customers. It is argued that UPM AP engages UPM AP to toll manufacture the goods for export to Australia. However, an intrinsic area of concern with this arrangement is that UPM AP can manipulate what it "pays" for the manufacture of the goods – made even easier in this instance as the parties are related.

AP does not consider that the Singaporean UPM AP can be considered the exporter of the goods. AP has maintained that in order for the Commission to fully validate the cost of goods produced by UPM China, it must be able to access the full costs of production incurred by UPM China (including the cost of the raw materials supplied by the related entity). UPM China therefore must be considered the exporter of the goods.

It is argued vigorously on behalf of UPM that "*there is absolutely no evidence that there is any 'likelihood' that (Fuji Xerox Australia Pty Ltd) FXA or its associates will in fact receive a reimbursement from UPM AP or any other member of the UPM group of companies*". However, the sales of A4 copy paper by FXA during the investigation period "were sold at substantial losses" and "those losses are not recoverable within a reasonable period of time". The losses must be considered by the Commission and reflected in the export price calculation. For this reason, deductive export price calculations are warranted.

If the Commission were to entertain the assertions presented on behalf of UPM, the key fundamentals of the relevant transactions would not be unearthed (nor would the impact of those transactions on the Australian industry). AP disagrees that UPM AP can be considered both the exporter and the importer of the goods, as the role of UPM AP masks the true cost of production of the goods by UPM China and does not take full account of the final selling price of the goods in Australia.

IV. VAT Adjustment

A further contention on behalf of UPM is the upward adjustment of UPM's normal value to allow for the differential between VAT on domestic and export sales. UPM claims that the Commission did not sufficiently examine what it refers to "the differential incidence of taxation" to be satisfied that there is an impact on price.

The Commission has a long established practice of applying s.269TAC(8) adjustments to the normal value of Chinese goods to account for the taxation differential attributable to VAT on domestic and export sales. UPM is suggesting that the selling price is not influenced by the level of VAT applied – whether for domestic or export. This cannot be seriously contemplated as a variance in the level of VAT will unquestionably impact the final selling price of the goods.

V. Currency conversions

UPM refers to correspondence between itself and the Commission concerning the basis for currency conversions. AP does not have access to this commercially sensitive information. AP would note that in the absence of demonstrative information, the exchange rate(s) used in converting the export price in Australian dollars to Renminbe would be that applicable on the day of export.

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VI. Conclusions

AP encourages the Commission to reject arguments presented on behalf of UPM and determine that UPM China is the producer and exporter of the A4 copy paper exported to Australia and, that FXA and UPM Kymmene (where appropriate), are the importers of those goods. The acceptance of UPM's argument that the suggested exporter and importer of the goods is UPM AP does not permit the correct identification of normal value(s) in China or the export price (i.e. sales at a loss) of sales to FXA.

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