PUBLIC RECORD

Australian Government
Department of Industry, Innovation and Science

Anti-Dumping Commission

CUSTOMS ACT 1901 - PART XVB

TERMINATION OF PART OF AN INVESTIGATION

TERMINATION REPORT NO. 341A

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CONTENTS

ABBREVIATIONS

the Act	*Customs Act 1901*
ADN	Anti-Dumping Notice
the applicant	Paper Australia Pty Ltd
the application	the application for Investigation 341
Asia Symbol	collective reference to Asia Symbol (Guangdong) Paper Co., Ltd. and Greenpoint Global Trading (Macao Commercial Offshore) Ltd.
Australian Paper	Paper Australia Pty Ltd
Brazil	Federative Republic of Brazil
Central National Australia	Central National Australia Pty Ltd
CFMEU	Construction, Forestry, Mining and Energy Union
Chenming	Shandong Chenming Paper Holdings Limited
China	People's Republic of China
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
CON 341	Consideration Report No. 341
Customs	Australian Customs Service
Double A	Double A (1991) Public Company Ltd
EPR	the electronic public record for Investigation 341 at adcommission.gov.au
FIE	foreign invested enterprise
GOC	Government of China
the goods	the goods the subject of the application (also referred to as the goods under consideration)
Indonesia	Republic of Indonesia
the Manual	the Commission's *Dumping and Subsidy Manual*
the nominated countries	collective reference to Brazil, China Indonesia and Thailand
PAD	Preliminary Affirmative Determination
PAD Direction	Customs (Preliminary Affirmative Determinations) Direction 2015
Parliamentary Secretary	Assistant Minister for Industry, Innovation and Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science
this Report, TER 341A	*Termination Report No. 341A*
REQ	response to the exporter questionnaire
RGQ	response to the government questionnaire
RMB	Chinese Yuan (Renminbi)
SEF	Statement of Essential Facts
SEF 341	*Statement of Essential Facts No. 341*
SIE	state invested enterprise
SOCB	Chinese state-owned commercial bank
Thailand	Kingdom of Thailand
UPM	collective reference to UPM (China) Co., Ltd and UPM Asia Pacific Pte Ltd
USDOC	United States Department of Commerce
VAT	value added tax

1 SUMMARY AND RECOMMENDATIONS

1.1 Introduction

This *Termination Report No. 341A* (TER 341A) has been prepared in relation to Investigation 341, which was initiated following the application (the application) by Paper Australia Pty Ltd (Australian Paper) seeking the publication of a dumping duty notice in respect of A4 copy paper (the goods) exported to Australia from the Federative Republic of Brazil (Brazil), the People's Republic of China (China), the Republic of Indonesia (Indonesia) and the Kingdom of Thailand (Thailand), and the publication of a countervailing duty notice in respect of the goods exported from China and Indonesia.

Australian Paper alleges that it has suffered material injury caused by A4 copy paper exported to Australia from Brazil, China, Indonesia and Thailand at dumped prices and from China and Indonesia at subsidised prices.

This termination report sets out the facts and findings on which the Commissioner of the Anti-Dumping Commission (the Commissioner) has based his decision to terminate the countervailable subsidy investigation in relation to goods exported from China by Asia Symbol (Guangdong) Paper Co., Ltd. and Greenpoint Global Trading (Macao Commercial Offshore) Ltd (collectively Asia Symbol).

1.2 Findings

As a result of his investigation, the Commissioner is satisfied that during the investigation period, in relation to Chinese exporter Asia Symbol, countervailable subsidies have been received in respect of some or all of the goods, but the subsidies never, at any time during the investigation period, exceeded the negligible level of countervailable subsidy under subsection 269TDA(16)(b) of the *Customs Act* (the Act)[1] and, therefore, the countervailable subsidy investigation must be terminated in accordance with subsection 269TDA(2)(b)(ii) in so far as it relates to that exporter.

Public notice of the Commissioner's termination decision was made in *Anti-Dumping Notice (ADN) No. 2017/51*, which was published on the website[2] of the Anti-Dumping Commission (the Commission).

1.3 Application of law to facts

1.3.1 Authority to make decision

Division 2 of Part XVB of the Act describes, among other matters, the procedures to be followed and the matters to be considered by the Commissioner when conducting anti-dumping investigations for the purpose of making a report to the Assistant Minister

[1] All legislative references are to the *Customs Act 1901* unless otherwise specified.

[2] www.adcommission.gov.au

for Industry, Innovation and Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science (the Parliamentary Secretary).[3]

Section 269TDA describes the circumstances in which the Commissioner must terminate an investigation or part thereof.

1.3.2 Application

Australian Paper alleged that the Australian industry producing A4 copy paper suffered material injury caused by A4 copy paper exported to Australia from Brazil, China, Indonesia and Thailand at dumped and/or subsidised prices.

The application sought publication of a dumping duty notice in respect of the goods exported to Australia from Brazil, China, Indonesia and Thailand and publication of a countervailing duty notice in respect of the goods exported from China and Indonesia.

The Commissioner decided not to reject the application and initiated an investigation, and published notification of same, on 12 April 2016.

Consideration Report No. 341 (CON 341)[4] and *ADN No. 2016/33*[5] provide further details of the initiation of the investigation and are available on the Commission's website.

1.3.3 Day 60 Status Report and Preliminary Affirmative Determinations

In accordance with subsection 269TD(1), the Commissioner may make a Preliminary Affirmative Decision (PAD) if satisfied that there appear to be sufficient grounds for the publication of a dumping duty notice or a countervailing duty notice, or it appears that there will be sufficient grounds subsequent to the importation of the goods into Australia.

A PAD may be made no earlier than day 60 of the investigation (day 60 in relation to this investigation was 14 June 2016)[6] and the Commonwealth may require and take securities at the time of a PAD, or at any time during the investigation after a PAD has been made, if the Commissioner is satisfied that it is necessary to do so to prevent material injury to an Australian industry occurring while the investigation continues.

In accordance with section 6 of the *Customs (Preliminary Affirmative Determinations) Direction 2015* (the PAD Direction), the Commissioner published a Day 60 Status Report on 14 June 2016,[7] being 60 days after the initiation of the investigation, providing reasons why a PAD was not made.

Section 9 of the PAD Direction requires the Commissioner to reconsider making a PAD after the publication of a Day 60 Status Report at least once prior to the publication of the

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[3] On 19 July 2016, the Prime Minister appointed the Parliamentary Secretary to the Minister for Industry, Innovation and Science as the Assistant Minister for Industry, Innovation and Science. For the purposes of this investigation the Minister is the Parliamentary Secretary to the Minister for Industry, Innovation and Science.

[4] See document 3 on the electronic public record for Investigation 341 at www.adcommission.gov.au (EPR).

[5] EPR document 4.

[6] First business day after 11 June 2016.

[7] EPR document 31.

Statement of Essential Facts (SEF). The Commissioner made a PAD on each of the following dates:

- On 29 September 2016, the Commissioner was satisfied that there were sufficient grounds for the publication of a dumping duty notice in relation to exports of the goods from China and Thailand and made a PAD to that effect[8]. Following the PAD, and to prevent material injury to the Australian industry occurring while the investigation continued, securities were taken in respect of any interim dumping duty that may become payable in respect of the goods exported from China and Thailand and entered for home consumption in Australia on or after 29 September 2016.
- On 4 November 2016, the Commissioner was satisfied that there were sufficient grounds for the publication of a dumping duty notice in relation to exports of the goods exported to Australia from Brazil and Indonesia and made a PAD[9] to that effect. Following the PAD, and to prevent material injury to the Australian industry occurring while the investigation continued, securities were taken in respect of any interim dumping duty that may become payable in respect of the goods exported from Brazil and Indonesia and entered for home consumption in Australia on or after 7 November 2016. On 4 November 2016 the Commissioner also gave notice that he had revised the level of securities required and taken under section 42 of the Act in respect of interim dumping duty that may become payable in relation to the goods exported to Australia from China and Thailand.
- On 16 December 2016, the Commissioner was satisfied that there were sufficient grounds for the publication of a countervailing duty notice in relation to exports of the goods exported to Australia from China and made a PAD[10] to that effect. Following the PAD, and to prevent material injury to the Australian industry occurring while the investigation continued, securities were taken in respect of any interim countervailing duty that may become payable in respect of the goods exported from China and entered for home consumption in Australia on or after 20 December 2016. On 16 December 2016 the Commissioner also revised the level of securities required and taken under section 42 of the Act in respect of interim countervailing duty that may become payable in relation to the goods exported to Australia from China and Indonesia.

1.3.4 Statement of Essential Facts

The Commissioner must, within 110 days after the initiation of an investigation, or such longer period as the Parliamentary Secretary allows under subsection 269ZHI(3), place on the public record a SEF on which the Commissioner proposes to base a recommendation to the Parliamentary Secretary in relation to the application.

Statement of Essential Facts 341 (SEF 341) was originally due to be placed on the public record by 1 August 2016. The Commissioner was granted three extensions of time,

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[8] EPR document 84.

[9] EPR document 120.

[10] EPR document 141.

totalling 130 days, in which to publish SEF 341. The Commissioner placed SEF 341 on the public record on 9 December 2016.[11]

1.3.5 Submissions received from interested parties

After the publication of SEF 341, the Commission received submissions from interested parties, the relevant aspects of which were taken into account in preparing this report.

Non-confidential versions of all submissions received are available on the public record.

1.3.6 Final Report

The Commission was granted three extensions to provide his report to the Parliamentary Secretary. Two extensions were provided to complete the investigation and a final extension was granted to enable the Commissioner to consider an offer from an exporter to provide a price undertaking.

The final report to the Parliamentary Secretary was provided on 17 March 2017.

[11] EPR document 139.

2 BACKGROUND

2.1 Initiation

On 24 February 2016, Australian Paper lodged an application under subsection 269TB(1) of the Act. The application sought the publication of a dumping duty notice in respect of the goods exported to Australia from Brazil, China, Indonesia and Thailand and the publication of a countervailing duty notice in respect of the goods exported from China and Indonesia (collectively referred to as the nominated countries).

Subsequent to receiving further information on 25 February 2016 and 8 March 2016 from Australian Paper and having considered the application, the Commissioner decided not to reject the application and initiated an investigation into the alleged dumping and/or subsidisation of A4 copy paper from the nominated countries on 12 April 2016. Public notification of initiation of the investigation was also made on 12 April 2016. *ADN No. 2016/33* provides further details relating to the initiation of the investigation.

In respect of the investigation:

- the investigation period[12] for the purpose of assessing dumping and subsidisation is 1 January 2015 to 31 December 2015; and
- the injury analysis period for the purpose of determining whether material injury to the Australian industry has been caused by exports of dumped and subsidised goods is from 1 January 2012.

2.2 SEF 341

SEF 341 set out the facts on which the Commissioner proposed to base the recommendations in his report to the Parliamentary Secretary. SEF 341 informed interested parties of the facts established to the date SEF 341 was placed on the public record and allowed them to make submissions in response. Following its publication on the public record, interested parties had 20 days to respond to SEF 341. Responses to SEF 341 were to be provided to the Commissioner by no later than 29 December 2016.

2.3 Submissions received from interested parties

The Commission has received submissions from interested parties during the course of the investigation, including in response to SEF 341. The Commissioner has considered these submissions, in so far as they are relevant to his termination decision, in making this Termination Report.

2.4 Public record

The public record contains non-confidential submissions by interested parties, the non-confidential versions of the Commission's visit reports and other publicly available documents. The public record is available for inspection in hard copy by request in Melbourne or online at www.adcommission.gov.au. Documents on the public record should be read in conjunction with this Termination Report.

[12] As defined in subsection 269T(1).

3 THE GOODS AND LIKE GOODS

3.1 Finding

The Commissioner considers that the Australian industry comprised of Australian Paper manufactured A4 copy paper that is like to the goods under consideration and subject to the application.

3.2 Legislative framework

Subsection 269TC(1) of the Act provides that the Commissioner shall reject an application for a dumping duty notice if, inter alia, the Commissioner is not satisfied that there is, or is likely to be established, an Australian industry in respect of like goods.

In making this assessment, the Commissioner must firstly determine that the goods produced by the Australian industry are "like" to the imported goods. Subsection 269T(1) of the Act defines like goods as:

> *Goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration.*

An Australian industry can apply for relief from injury caused by dumped or subsidised imports even if the goods it produces are not identical to those imported. The industry must however, produce goods that are "like" to the imported goods.

The *Dumping and Subsidy Manual* (the Manual)[13] outlines certain "likeness tests" which provide a framework for assessing whether the goods manufactured by Australian Paper are like to the imported goods. Where the locally produced goods and the imported goods are not alike in all respects, the Commissioner assesses whether they have characteristics closely resembling each other against the following considerations:

- physical likeness;
- commercial likeness;
- functional likeness; and
- production likeness.

3.3 The goods

The goods subject of the application are:

> *uncoated white paper of a type used for writing, printing or other graphic purposes, in the nominal basis weight range of 70 to 100 gsm and cut to sheets of metric size A4 (210mm x 297mm) (also commonly referred to as cut sheet paper, copy paper, office paper or laser paper).*

The applicant provided further information on the goods as follows:

[13] Copy available at www.adcommisison.gov.au.

The paper is not coated, watermarked or embossed and is subjectively white. It is made mainly from bleached chemical pulp and/or from pulp obtained by a mechanical or chemi-mechanical process and/or from recycled pulp.

3.4 Tariff classification

The goods have been classified to the following tariff subheadings:

- 4802.56.10, statistical code 03;
- 4802.56.10, statistical code 09.

The Commission added statistical code 09 to the tariff code classification initially specified in the consideration report, following a submission from Central National Australia Pty Ltd (Central National Australia).[14]

The submission from Central National Australia queried the consistency between the further information provided by Australian Paper on the goods description and the tariff description of the goods. The Central National Australia submission also stated that 90 and 100 gsm papers, which are referenced under statistical code 09, would fall outside the statistical code 03.

Statistical code 03 refers to 'white' A4 copy paper weighing between 40 gsm and 89 gsm. It is noted that statistical code 09 refers to the goods weighing 90 gsm or more, but not more than 150 gsm. Australian Paper's goods description refers to the goods having a "nominal basis weight range of 70 to 100 gsm". Consequently, there is some possibility that some goods subject of this application may be imported under statistical code 09.

3.5 Like goods assessment

3.5.1 Information provided by Australian Paper

Australian Paper provided information on the physical, commercial, functional and production likenesses between imported A4 copy paper and A4 copy paper manufactured by Australian industry in their application. This is detailed below.

Physical likeness

Australian Paper submitted in its application that:

> *"…both the imported goods and the goods produced by the Australian industry are white paper cut in rectangular sheets and generally wrapped in reams of 500 sheets, but also sold in packs containing different numbers of sheets. Both are what the Australian consumer would recognise as white copy paper. Unless placed side by side, the average consumer would be unlikely to notice any difference between them.*
>
> *In the Australian market, the predominant sheet size and basis weight is A4, 80 gsm. The old imperial sheet sizes have fallen out of use. As well as the 80 gsm weight which dominates the Australian market, some 70 gsm, 75 gsm, 90 gsm and 100 gsm is used together with small amounts of heavier weights used for special purposes.*

[14] EPR document 10.

The imported goods and the goods produced by the Australian industry are physically alike in all practical aspects…"

Commercial likeness

Australian Paper submitted in its application that:

"…The imported goods and the goods produced by the Australian industry compete for the same market. In particular, a significant portion of the Australian market is goods wrapped and sold as the purchaser's own brand e.g. [redacted] *[customer]. In this portion of the market, together with the 'plain wrap' and generic products, there is direct head-to-head competition between imported goods and the goods produced by the Australian industry. At different times in the past, Australian Paper has previously supplied several of the purchaser's brand products now sourced from imports, most particularly the* [redacted] *[customer and brand].*

Where the goods are wrapped and sold in the manufacturer's brand and are heavily promoted, e.g. Australian Paper's 'REFLEX®' brand, there is some short term decoupling of price, but ultimately the end consumer will switch based on the trade-off between price, service and reputation…"

Functional likeness

Australian Paper submitted in its application that:

"…Both the imported goods and the goods produced by the Australian industry are used in the same range of applications, including high speed and low speed copying, printing (both on computer printers and small offset printers), and general use in business, education and home offices as well as in small offset printers.

The imported goods and the goods produced by the Australian industry are functionally alike in all practical aspects.

In the domestic markets of the exporting countries, as well as 'export grade' goods produced by the exporters in the nominated countries which are generally comparable with the goods sold in the Australian domestic market, there are also lower priced goods which have significantly inferior appearance (e.g. lower brightness, lower whiteness, poor surface finish, specks, inconsistency etc.) and, at times, functionality (e.g. unsuited to high speed duplex copying or printing) when compared with the 'export grade' goods…"

Production likeness

Australian Paper submitted in its application that:

"…The paper production and finishing processes are substantially identical across the large scale industry. Some mills, such as UPM-Kymmene China, use paper pulp purchased from bleached pulp mills located elsewhere while others, such as Australian Paper, have their own bleached pulp mills on site.

The imported goods and the goods produced by the Australian industry are manufactured using equipment and processes which are alike in all significant practical aspects and which are as described in (the application)…"

During the course of the Australian industry verification visit, the Commission obtained further information on Australian Paper's production processes, the physical characteristics of A4 copy paper it produced and the Australian market for A4 copy paper.

3.5.2 Submissions from interested parties on like goods

A submission was received from Double A (1991) Public Company Ltd (Double A)[15] submitting, in part, that products sold under its Double A brand should be distinguished from other products on the market in Australia on the basis of commercial likeness. Double A stated that its Double A branded products were sold at a significant consumer price premium, were of superior quality and carried significant advertising/marketing costs when compared to the lower priced private and commodity labelled products. A further submission[16] submitted that all Double A goods should be excluded from the investigation as they are not commercially alike to the goods produced in Australia. In this submission further information was provided in relation the certain characteristics of its products and how these characteristics impact in the market.

The Commission considers that, whilst A4 copy paper may be differentiated in relation to slight variations in its stated characteristics, these variations are not sufficient to establish that these products do not closely resemble the goods the subject of the application.

3.5.3 Commission's assessment of like goods

The Commission's assessment is that, while the locally produced goods are not necessarily identical to the goods that are the subject of the application, the Commission is satisfied that the locally produced goods closely resemble the goods that are the subject of the application and are like goods on the basis of the following.

<u>The primary physical characteristics of imported and locally produced goods are similar</u>

The Commission considers that the primary physical characteristics of the goods are the standard dimensions of A4 copy paper and the nominal whiteness in the colour of the paper. While 'whiteness' may marginally vary between different brands and models of paper, most end users would not perceive any marked difference. The Commission considers that other characteristics of the goods, such as packaging, certification, grams per square metre, brightness, recycled content and 'type of' whiteness are secondary characteristics which do not affect the essential physical likeness of domestically produced A4 copy paper to imported A4 copy paper. These secondary characteristics may be used by manufacturers to differentiate between products for marketing and pricing purposes.

<u>The imported and locally produced goods are commercially alike as they are sold to common end users</u>

The goods are commercially similar as they directly compete in the same market sectors and have similar distribution channels. The Commission observes that customers and end users of the goods have switched between domestically sourced and import sourced A4 copy paper during the investigation period.

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[15] EPR document 12.

[16] EPR document 116.

The imported and locally produced goods are functionally alike as they have the same end uses

The Commission considers that imported and domestically produced A4 copy paper have the same end uses and that they are functionally substitutable. Common uses include copying and printing.

The imported and locally produced goods are manufactured in a similar manner

Through visiting Australian industry and co-operative exporters, the Commission is satisfied that imported and domestically produced copy paper are produced in a similar manner, using similar raw materials and production processes. These processes are described in Chapter 4.

Having regard to the above, the Commissioner is satisfied that the Australian industry produces like goods to the goods that are the subject of the application.[17]

[17] The term 'like goods' is defined in subsection 269T(1).

4 SUBSIDY INVESTIGATION – CHINA

4.1 Findings

The Commissioner is satisfied that, for goods exported by Asia Symbol during the investigation period, countervailable subsidies were received in respect of all of the goods. However, as Asia Symbol's subsidy margin[18] has been calculated as being **1.2 per cent,** the Commissioner is satisfied that the countervailable subsidies never, at any time during the investigation period, exceeded the negligible level of countervailable subsidies under subsection 269TDA(16)(b).

The Commissioner has therefore terminated the countervailable subsidy investigation in relation to Asia Symbol in accordance with subsection 269TDA(2)(b)(ii).

4.2 Legislative framework

Subsection 269TDA(2)(b)(ii) requires the Commissioner to terminate a countervailable subsidy investigation in relation to an exporter if a countervailable subsidy has been received in respect of some of all of the goods, but the subsidy never, at any time during the investigation period, exceeded the negligible level of countervailable subsidy under subsection 269TDA(16).

Under subsection 269TDA(16)(b), in relation to goods exported from China (a developing country),[19] a countervailable subsidy received in respect of goods exported to Australia is negligible if, when expressed as a percentage of the export price of the goods, that subsidisation is not more than two per cent.

4.3 Investigated programs

Australian Paper alleged in its application and in subsequent submissions that Chinese exporters of A4 copy paper benefited from 16 countervailable subsidies. These alleged subsidies related to programs for the provision of inputs for less than adequate remuneration, preferential tax policies and financial grants. The Commission has investigated and assessed all 16 alleged subsidy programs including through:

- asking questions relating to each program in a questionnaire provided to the Government of China (GOC) shortly after initiation of the investigation (a public record version of the GOC response is available on the public record);[20] and
- assessing information provided in exporter questionnaire responses and obtained by the Commission during verification visits with selected Chinese exporters.

The Commission was provided with information from Chinese exporters indicating that benefits were received, or were able to be received, by exporters of the goods under several new subsidy programs that were not included in the 16 alleged programs already

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[18] The subsidy margin indicates the level of countervailable subsidisation when expressed as a percentage of the export price of the goods in terms of subsection 269TDA(16).

[19] As defined in subsection 3(1) of the *Customs Tariff Act 1995.* The Commission relies on this classification when applying section 269TDA.

[20] EPR document 30.

being examined by the Commission. As a result, the Commission identified 22 additional subsidy programs that were not identified in the initial application or in subsequent submissions. As such a total of 38 programs have been investigated and assessed.

4.4 Summary of countervailable programs

After assessing all relevant information available, the Commissioner has found that countervailable subsidies have been received in respect of A4 copy paper exported to Australia from China under 34 countervailable subsidy programs.

The findings in relation to each investigated program are outlined in the below table.

Program Number	Program Name	Program Type	Countervailable in relation to the goods (Yes/No)
1	Policy Loans to the Paper Industry	Preferential lending	Yes
2	Provision of Calcium Carbonate for LTAR	Provision of goods	No
3	Provision of Caustic Soda for LTAR	Provision of goods	No
4	Provision of Titanium Dioxide for LTAR	Provision of goods	No
5	Provision of Coal for LTAR	Provision of goods	No
6	VAT rebates relating to raw materials	Preferential tax	Yes
7	Preferential Income Tax Program for High or New Technology Enterprises	Preferential tax	Yes
8	Preferential Income Tax Program for Comprehensive Utilisation Entitling Enterprise	Preferential tax	Yes
9	Tax Allowance for Special Equipment for Water and Energy-Saving Purchased by Enterprises	Preferential tax	Yes
10	VAT and Import Tariff Exemptions for Imported Equipment	Preferential tax	Yes
11	VAT Rebates on FIE Purchases of Chinese Made Equipment	Preferential tax	Yes
12	Subsidies for Energy Efficiency and Environmental Protection	Financial grant	Yes
13	Support Fund for Environmental Protection Project - Rizaho City	Financial grant	Yes
14	Support Fund for Environmental Protection Input	Financial grant	Yes
15	Support Fund for Environmental Protection Project	Financial grant	Yes
16	City Bonus for Export Activity from Finance Bureau	Financial grant	Yes
17-38	Other grants	Financial grants	Yes

Further information on the Commissioner's assessment of these programs is included in **Appendix 1**.

4.5 Submissions following SEF 341

4.5.1 Differences between US and Australian subsidy margins

The Construction, Forestry, Mining and Energy Union (CFMEU) provided an analysis of the difference between the subsidy margins calculated in the United States (US) countervailing investigation for Indonesia and those calculated in this investigation.[21] The CFMEU queried the differences between the subsidy margins.

The CFMEU provided no evidence or information other than the fact that the Australian and US subsidy margins are different. The Commission considers these differences are likely due to differences in domestic legislation, investigation practices and investigation periods. In any event the Commission must independently assess the amount of subsidisation in relation to goods exported to Australia.

4.5.2 Policy loans and preferential taxation

4.5.2.1 GOC submissions

The GOC argued that Chinese exporters did not benefit from a countervailable subsidy in the form of policy loans because:

- "Chinese State invested commercial banks" should not be considered public bodies for purposes of a countervailing investigation simply because they take into account government policies in deciding whether to fund commercial projects.[22] The GOC called in support of its argument:
    - the practices of Australian banks and the Australian Clean Energy Finance Corporation;
    - the use by the Commission of "out-dated" evidence from earlier investigations by the Commission and "derivative" evidence from US investigations;[23]
- There is no evidence of the provision of policy loans or any benefit. The GOC called in support of its argument:
    - that the Commission used a "slavish imitation" of the US approach in determining a comparator commercial interest rate that was inconsistent with the Commission's approach in other investigations;
- There is no evidence of specificity. The GOC called in support of its argument:
    - that the Commission had not assessed whether Chinese state-owned commercial banks (SOCBs) provided loans at a preferential rate that conferred a benefit to the borrowers on the basis that the borrowers belonged to a specific industry;

[21] EPR document 155 at page 8.

[22] EPR document 161 at pages 1 to 4.

[23] Asia Symbol made a similar argument, see EPR document 151 at page 8.

- an alleged policy loan was supposedly given to a paper producer outside China which is "peculiar and incorrect".[24]

The Commission does not accept the GOC's argument in relation to policy loans for the following reasons:

- the Commission does not consider that the practices of Australian banks and other Australian organisations are relevant to its assessment of Chinese SOCBs as public bodies;
- the GOC provided no updated evidence or information to indicate that evidence from the Commission's earlier investigations was no longer relevant, rather the relevance of evidence from the Commission's earlier investigations is confirmed by the recent findings in US investigations;
- the Commission determined a relevant comparator commercial interest rate according to the circumstances of the current inquiry and is not in any event bound by its own previous decisions;
- in order to assess whether the SOCBs provided loans at a preferential rate in the way proposed by the GOC, the Commission would need access to evidence of all other loans made by those SOCBs, which is not available to the Commission;
- a recipient of a SOCB loan may be based outside China, however the Commission must assess whether a countervailable subsidy was received in respect of the goods (subsection 269TJ(1)(a)), in this case goods that were produced in China.

The GOC argued that the preferential tax under Program 7 was incorrectly assessed by the Commission because it related to the financial year prior to the investigation period. According to the GOC this is expressly against the Commission's policy stated at page 88 of the Manual.[25]

The Commission notes that the GOC's quotation from the Manual omits the second half of the sentence concerning when the benefit from preferential tax is normally received. The second half of that sentence clarifies that the benefit is received when the tax would otherwise have had to be paid, namely when the company lodges a tax return (normally the following year).

4.5.2.2 Asia Symbol submissions

Asia Symbol disagreed with the Commission's finding that it had received policy loans or preferential lending from the GOC.[26] In support of its argument Asia Symbol claimed that:

- Chinese law clearly stipulates and requires that banks only issue working capital loans based on commercial considerations and risk assessment, and not on the basis of any industrial policy issued by the GOC;
- the interest rates charged by SOCBs are comparable to those charged by the foreign banks;

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[24] Asia Symbol also made this argument, see EPR document 151 at page 10.

[25] EPR document 161 at page 7; Asia Symbol made a similar argument, see EPR document 151 at page 11.

[26] EPR document 151 at pages 8 to 10.

- there is no evidence to suggest that the so called “preferential” interest rate was indeed preferential; and
- the interest rate used as a benchmark neither reflects the interest rates applicable in China, nor those of any other major economy.

The Commission does not accept Asia Symbol’s argument in relation to policy loans for the following reasons:

- Asia Symbol provided no evidence to support its claim that Chinese law clearly stipulates and requires that banks only issue working capital loans based on commercial considerations and risk assessment;
- Asia Symbol has not addressed the finding that there were no competitive benchmarks in China;
- the Commission considers that there is evidence to the finding that interest rates were preferential, namely that those rates were less than the relevant competitive benchmark; and
- the interest rate used by the Commission as a benchmark was developed by US authorities based on comparable economies and the Commission notes that the GOC did not dispute the use of this benchmark during related WTO proceedings.

4.6 Currency issue

The preliminary subsidy margin for Asia Symbol as published in SEF 341 was 2.2 per cent.

During the investigation period Asia Symbol kept its accounts in multiple currencies.

Subsequent to SEF 341 and the Commissioner providing *Anti-Dumping Commission Report No. 341* to the Parliamentary Secretary, it became apparent to the Commission that one figure in these accounts had been read as being Chinese Yuan (RMB) instead of US Dollars.

The Commission has thoroughly examined this issue including by reference to source documents provided by Asia Symbol during the investigation. As a result, the Commission finds that the subsidy margin for Asia Symbol is **1.2 per cent**.

The Commission’s subsidy margin calculations are at **Confidential Attachment 1**.

5 APPENDICES AND ATTACHMENTS

Confidential Attachment 1	Subsidy margin calculations for Asia Symbol
Appendix 1	Assessment of countervailable subsidies – China

Appendix 1: Assessment of countervailable subsidies – China

A1.1 Introduction

This appendix details the Commission's assessment of the subsidy programs investigated in relation to A4 copy paper exported from China. The relevant legislation against which the subsidies are assessed is set out in subsection 269T(1) (definition of 'subsidy'), sections 269TACC, 269TAAC and 269TACD.

A1.1.1 Overview

The investigated programs, and assessment of whether each is countervailable in relation to A4 copy paper exported from China, is outlined in the below table.

Program Number	Program Name	Program Type	Countervailable in relation to the goods (Yes/No)
1	Policy Loans to the Paper Industry	Preferential lending	Yes
2	Provision of Calcium Carbonate for LTAR	Provision of goods	No
3	Provision of Caustic Soda for LTAR	Provision of goods	No
4	Provision of Titanium Dioxide for LTAR	Provision of goods	No
5	Provision of Coal for LTAR	Provision of goods	No
6	VAT rebates relating to raw materials	Preferential tax	Yes
7	Preferential Income Tax Program for High or New Technology Enterprises	Preferential tax	Yes
8	Preferential Income Tax Program for Comprehensive Utilisation Entitling Enterprise	Preferential tax	Yes
9	Tax Allowance for Special Equipment for Water and Energy-Saving Purchased by Enterprises	Preferential tax	Yes
10	VAT and Import Tariff Exemptions for Imported Equipment	Preferential tax	Yes
11	VAT Rebates on FIE Purchases of Chinese Made Equipment	Preferential tax	Yes
12	Subsidies for Energy Efficiency and Environmental Protection	Financial grant	Yes
13	Support Fund for Environmental Protection Project - Rizaho City	Financial grant	Yes
14	Support Fund for Environmental Protection Input	Financial grant	Yes
15	Support Fund for Environmental Protection Project	Financial grant	Yes
16	City Bonus for Export Activity from Finance Bureau	Financial grant	Yes
17-38	Other grants	Financial grants	Yes

A1.1.2 Information considered by the Commission

A1.1.2.1 Australian Paper's application

The Commission has relied upon information submitted by Australian Paper in its application and submissions with respect to the Commission's investigation of the 16 countervailable subsidy programs (Programs 1 – 16) that were allegedly received by Chinese exporters of A4 copy paper exported to Australia.

A1.1.2.2 Information provided by exporters

The Commission has relied upon information provided by exporters in assessing the alleged subsidy programs. This includes information provided in responses to the exporter questionnaire, as well as information provided by exporters during verification visits.

The Commission included questions relating to each of the 16 alleged programs in a government questionnaire that was sent to the GOC.

The GOC provided a detailed response to the questionnaire sent, however not all programs were addressed in the response.

A1.1.2.3 Information obtained during previous investigations

The Commission has relied on information obtained during previous Australian Customs and Border Protection Service and Commission investigations into the alleged subsidisation of various goods exported from China.

The Commission was provided with no evidence or information during the course of this investigation that would displace previous findings made on the basis of information provided during previous investigations.

A1.1.2.4 Other information considered as part of this assessment

The Commission also considered as part of this assessment:

- Information submitted by interested parties in submissions to the investigation; and
- other relevant information obtained by the Commission during independent research into matters relevant to determining subsidisation in China, particularly the annual reports of Chinese corporations and investigations and findings made by anti-dumping authorities in other jurisdictions .

A1.2 CATEGORY ONE: Preferential lending

A1.2.1 Program 1: Policy loans to the paper industry

A1.2.1.1 Legal basis

The overarching legal basis for the program is contained within the *Law of the People's Republic of China on Commercial Banks (2003)*.[27]

A1.2.1.2 WTO notification

The Commission is not aware of any WTO notification of this program.

A1.2.1.3 Eligibility criteria

There are no articulated eligibility criteria for enterprises receiving preferential treatment in the granting of loans.

A1.2.1.4 Is there a subsidy?

In its application Australian Paper referred to the following as evidence of the preferential granting of loans to exporters of the goods by Chinese state-owned commercial banks (SOCBs):

- receipt of a RMB 68 M interest-free loan from the government by Shandong Chenming Paper Holdings Limited (Chenming);[28]
- SOCB shareholdings in Chenming as evidence of likely debt-for-equity swaps;[29] and
- the 2008 preliminary finding of the then Australian Customs Service (Customs) that the preferential granting of loans to toilet paper producers in China constitutes a countervailable subsidy.[30]

In CON 341 the Commission noted that the United States Department of Commerce (USDOC)[31] found that *Policy Loans to the Paper Industry* constituted a benefit in the form of lending costs below what would normally be found in a competitive banking sector.[32]

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[27] http://www.npc.gov.cn/englishnpc/Law/2007-12/12/content_1383716.htm

[28] Shandong Chenming Paper Holdings Limited, Interim Report 2015, p. 121

[29] ibid., p. 35

[30] Investigation into the alleged subsidisation of toilet paper exported from the People's Republic of China, *Preliminary Report on Existence of Countervailable Subsidies: Government of the People's Republic of China* (Toilet Paper Report), ch. 4

[31] The Antidumping and Countervailing Duty Operations Unit of the US Department of Commerce is responsible for enforcing US anti-dumping duty and countervailing duty laws, including the conduct of investigations http://trade.gov/enforcement/operations/

[32] CON 341, p. 28

The Commission sought further information in relation to this alleged program from exporters and the GOC. In its response to the government questionnaire (RGQ) and a subsequent submission, the GOC advised that there was no such subsidy program, claiming that Chinese State-invested commercial banks are not 'public bodies' and are completely market-oriented in their lending practices.[33]

Financial contribution

The Act defines a subsidy as, inter alia, a financial contribution by a government of the country of export or by a public body of that country, which involves a direct transfer of funds from that government or body, if that financial contribution confers a benefit (whether directly or indirectly) in relation to the goods exported to Australia.[34]

A bank loan is a direct transfer of funds and therefore a financial contribution. In the case of loans provided by SOCBs, the Commission has considered whether the financial contribution has been provided by a 'public body'.

The term 'public body' is not defined in the legislation or the WTO Agreement on Subsidies and Countervailing Measures. It has been considered by the Commission in previous investigations and has been the subject of a number of WTO Appellate Body findings. The Appellate Body's findings in dispute DS379 are particularly relevant[35] and are supported by Australian case law.[36]

In DS379 the Appellate Body provided guidance as to how it can be ascertained that an entity exercises, or is vested with government authority, outlining the following indicia that may help assess whether an entity is a public body (vested with or exercising governmental authority):[37]

- Indicia 1 - where a statute or other legal instrument expressly vests government authority in the entity concerned;
- Indicia 2 - where there is evidence that an entity is, in fact, exercising governmental functions may serve as evidence that it possesses or has been vested with governmental authority; and
- Indicia 3 - where there is evidence that a government exercises meaningful control over an entity and its conduct may serve, in certain circumstances, as evidence that the relevant entity possesses governmental authority and exercises such authority in the performance of governmental functions.

As part of the 2008 investigation into the alleged subsidisation of toilet paper exported to Australia from China, Customs conducted onsite verification visits with officials from the following GOC agencies, policy banks and SOCBs:

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[33] GOC RGQ, p. 25 and record number 122, p. 3

[34] Subsection 269T(1)

[35] United States – Definitive Anti-Dumping and Countervailing Duties on Certain Products from China, WT/DS379/AB/R, adopted 11 March 2011; see also ADN 2011/27.

[36] Dalian Steelforce Hi-Tech v Minister for Home Affairs [2015] FCA 885 at [50]ff.

[37] Ibid. at [318].

- National Development Reform Commission (NDRC) – responsible for formulating and implementing strategies of national economic and social development;[38]
- Development Reform Commissions (DRCs) of Guangdong Province and Jiangsu Province – responsible for the implementation of national plans at provincial level;[39]
- China Banking Regulatory Commission (CBRC) – primary role is to supervise banks and financial institutions in China;[40]
- People's Bank of China (PBC) – China's central bank;
- Agricultural Bank of China (ABC) – a state-controlled commercial bank;[41]
- China Construction Bank (CCB) – majority state-owned commercial bank;[42]
- China Development Bank (CDB) – wholly state-owned policy bank;[43] and
- Industrial and Commercial Bank of China (ICBC) – majority state-owned commercial bank.[44]

As a result of its onsite verification, Customs found that:

- the GOC plays a critical role in the economic development of China's forestry, pulp and papermaking industry;
- the GOC's national and provincial government industry plans make references to economic support and financial assistance in order to achieve the established objectives;
- article 34 of the *Law of the People's Republic of China on Commercial Banks* (Banking Law) imposes a requirement on commercial banks in China and reflects a direction or command given by the GOC to those banks to act in accordance with state industrial policies; and
- the level of government ownership of the SOCBs provides the GOC with the degree of control required to provide direction to them to comply with the obligations set out in article 34 of the Banking Law.

Toilet paper and A4 copy paper are produced by the same industry. Accordingly the Commission considers that Customs' 2008 findings are relevant to the current investigation.

In its recent investigation into the subsidisation of certain uncoated paper[45] from Indonesia and China, USDOC found that SOCBs are public bodies (or 'authorities' in US

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[38] http://en.ndrc.gov.cn/mfndrc/ .

[39] Toilet Paper Report, pp. 22-24.

[40] Ibid., p. 25.

[41] ABC, Annual Report 2015, p. 106.

[42] CCB, Annual Report 2015, p. 73.

[43] CDB, Annual Report 2014 (GOC RGQ Att. 39), p. 27

[44] Industrial and Commercial Bank of China Limited, Annual Report 2015 (GOC RGQ Att. 45), p. 77

[45] The scope of the USDOC investigation includes copy paper similar to the goods subject of this investigation

terminology).[46] USDOC relied on its previous analysis and findings in relation to SOCBs, particularly its original 'OTR Tires' investigation.[47]

The Commission has examined these previous investigations, the indicia set out by the Appellate Body in DS379 and evidence gathered during the course of this investigation to determine whether SOCBs are public bodies.

The Commission notes that:

- current stated national policies in relation to the Chinese paper industry include:
  - 'Encourage domestic banks to render credit support for the overseas investment in the field of paper industry by means of export credit, project financing, annexation loan, etc.'; and
  - 'Further boost the scale of commercial bank loan, encourage and guide financial institutions to render great support to the projects and enterprises with strong economic strength and great market potential';[48]
- Article 34 of the Banking Law states that 'Commercial banks shall conduct their business of lending in accordance with the needs of the national economic and social development and under the guidance of the industrial policies of the State' *(emphasis added)*; and
- statements from SOCBs that have made loans to exporters of the goods to Australia include:
  - 'In line with the government's macro-control measures and the direction of industrial policy, the Bank enacted guidelines for industrial lending and continued to push forward the building of an industrial policy system so as to optimise its credit structure';[49]
  - 'The Group earnestly implemented the national economic and financial policies and guidelines and the deployment of stabilising growth, promoting reformation, adjusting structure, benefiting people's livelihood and risk resistance';[50]
  - 'The Bank enthusiastically implemented the government's macroeconomic and industrial policies, and worked for maximization of risk-adjusted return on capital (RAROC) and economic profit or economic value added (EVA)';[51]
  - 'The Bank worked hard to meet the government's policy requirements to serve the real economy as it enhanced its credit support to key sectors and

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[46] *Certain Uncoated Paper From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 81 FR 3110 (January 20, 2016) (USDOC Uncoated Paper) and accompanying issues and decision memorandum (IDM) at p. 23

[47] Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Final Affirmative Countervailing Duty Determination, 73 FR 40480 (July 15, 2008) (USDOC OTR Tires) and accompanying IDM at p. 23 and Comment E.2

[48] NDRC, 12th Five-Year Development Plan of Paper Industry, December 2011 (GOC RGQ Att. 9), p. 41

[49] Bank of China Limited, 2015 Annual Report (GOC RGQ Att. 34), p. 67

[50] Bank of Communications Co., Ltd, 2015 Annual Report (GOC RGQ Att. 36), p. 12

[51] China CITIC Bank Co., Ltd, 2015 Annual Report (GOC RGQ Att. 41), p. 57

major project construction. The Bank also vigorously adjusted its credit structure by putting a cap limit on the total volume of the credit granted to overcapacity industries and improving the structure of credit accordingly';[52] and

- 'In 2015, the Bank attached importance to coordinating the use of incremental credit and existing credit, credit and non-credit financing services, to lend overriding support to the improvement of the quality and efficiency of the real economy, echoing the changes in macroeconomic environment and financial regulatory requirements'.[53]

The Commission considers the above evidence demonstrates that SOCBs are, in fact, exercising governmental functions and therefore possess or have been vested with governmental authority. As a result, the Commission finds that SOCBs are public bodies for the purposes of the Act.

The Commission also notes that in DS379 the Appellate Body specifically examined USDOC's public bodies determination in the OTR Tires investigation[54] and found that "the USDOC's public body determination in respect of SOCBs was supported by evidence on the record that these SOCBs exercise governmental functions on behalf of the Chinese Government".[55]

Benefit conferred

In determining whether a financial contribution confers a benefit, the making of a loan by a government or public body does not confer a benefit unless the loan requires the enterprise receiving the loan to repay a lesser amount than would be required for a comparable commercial loan which the enterprise could actually obtain.[56]

In determining an appropriate commercial or market benchmark for each loan, the Commission has considered the approach taken by USDOC in the recent uncoated paper investigation.[57] USDOC has conducted detailed analysis of the Chinese banking sector and found that it does not operate on a commercial basis and is subject to significant distortions, primarily arising out of the GOC's continued dominant role in the sector. The continued significant intervention of SOCBs in that sector precludes the use of a benchmark within China because no fully market-determined rates exist:

> 'loans provided by Chinese banks reflect significant government intervention in the banking sector and do not reflect rates that would be found in a functioning market'.[58]

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[52] China Everbright Bank Co., Ltd, 2015 Annual Report (GOC RGQ Att. 42), p. 47

[53] Industrial and Commercial Bank of China Limited, 2015 Annual Report (GOC RGQ Att. 45), p. 24

[54] DS379 at [348]-[356]

[55] ibid. at [355]

[56] Subsection 269TACC(3)

[57] USDOC Uncoated Paper and accompanying IDM at pp. 7-10

[58] ibid., p.7

USDOC first analysed the Chinese banking sector and formulated its approach in its 2007 'Coated Free Sheet' investigation.[59] The WTO Appellate Body specifically examined the findings of that investigation in DS379 and found that:

- In examining 'the amount the firm would pay on a comparable commercial loan which the firm could actually obtain on the market',[60] reference to external benchmarks is permitted;[61] and
- 'USDOC's decision not to rely on interest rates in China as benchmarks was reasoned and adequate, and one that a reasonable and objective investigating authority could reach based on the record before it'.[62]

USDOC has re-examined China's banking sector multiple times since 2007 and recently found that:

> 'the banking system continues to be affected by the legacy of government policy objectives, which continue to undermine the ability of the "Big Four" and the rest of the domestic banking sector to act on a commercial basis, and allows continued government involvement in the allocation of credit in pursuit of those objectives';[63] and
>
> 'the GOC has not presented new arguments or information sufficient to warrant reconsideration of the Department's prior findings'.[64]

The calculated USDOC interest rate benchmarks are based on International Monetary Fund interest rates (or LIBOR and corporate BB bond rates for foreign currency denominated loans) and World Bank economy groupings. The benchmarks are published for every investigation and available on the public record of each USDOC investigation.

The Commission considers that the USDOC interest rate benchmarks are a suitable proxy for a comparable commercial loan to determine whether exporters of A4 copy paper in China have benefited from the preferential lending practices of SOCBs. On that basis, the benefit conferred is the difference between the USDOC interest rate benchmarks and the interest rates paid by exporters of A4 copy paper in China, which results in less interest payable on applicable loans than otherwise would have been payable.

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[59] Coated Free Sheet Paper from the People's Republic of China: Final Affirmative Countervailing Duty *Determination*, 72 FR 60645 (October 25, 2007) and accompanying IDM at pp. 5-9 and Comment 10

[60] WTO, Agreement on Subsidies and Countervailing Measures, Article 14(b)

[61] DS379 at [471]-[490]

[62] ibid. at [509]

[63] Certain Corrosion-Resistant Steel Products from the People's Republic of China: Final Affirmative Countervailing Duty Determination, 81 FR 35308 (June 2, 2016) accompanying IDM at p. 27

[64] ibid., p. 29

Specificity

A subsidy is a countervailable subsidy if it is specific.[65] The Commissioner may determine that a subsidy is specific having regard to:

- the fact that the subsidy program benefits a limited number of particular enterprises;
- the fact that the subsidy program predominantly benefits particular enterprises;
- the fact that particular enterprises have access to disproportionately large amounts of the subsidy; or
- the manner in which a discretion to grant access to the subsidy has been exercised.[66]

In the 2008 toilet paper investigation, Customs noted that documents provided by ICBC and CCB showed that their assessment of loan applications by exporters of toilet paper to Australia was supported in large part because of the companies' categorisation as 'encouraged' enterprises. Customs found that the granting of loans to the exporters was specific because preferential treatment by the banks favoured particular enterprises, being those in industries classified as 'encouraged'.

More recently, USDOC found a program of preferential policy lending specific to paper producers based on 'evidence demonstrating the GOC's objective of developing the papermaking industry, through preferential loans'.[67]

The Commission notes that:

- the current national industry plan (*12th Five-Year Development Plan of Paper Industry*) includes policies to encourage domestic banks to offer credit support for foreign investment in the paper industry and increase lending to support key projects;
- the Directory Catalogue on Readjustment of Industrial Structure (Industrial Catalogue) lists large scale pulp and paper production as an 'encouraged' industry;[68]
- the *Decision of the State Council on Promulgating the Interim Provisions on Promoting Industrial Structure Adjustment*[69] includes measures to:
    - 'urge the industries of oil refining, ethylene, steel, cement and paper making to develop towards those of large bases and of large scale'; and
    - 'actively develop and spread resource conserving, substitutive and circular utilization technologies and products, emphatically propel the transformation of energy conserving and consumption reducing technologies in the

[65] Subsection 269TAAC(1)

[66] Subsection 269TAAC(4)

[67] USDOC Uncoated Paper accompanying IDM at p. 23

[68] GOC RGQ Att. 22, p. 3

[69] Decision of the State Council on Promulgating the Interim Provisions on Promoting Industrial Structure Adjustment, Guo Fa [2005] No. 40, 2 December 2005

industries of steel, non-ferrous metal, electric power, petroleum chemistry, construction, coal, building materials, paper making'; *(emphasis added)*

- the *12th Five-Year Plan of Jiangsu Province* (where UPM (China) Co., Ltd is located) describes paper making as an 'important' industry;[70]
- the *Jiangsu Directory Catalogue on Readjustment of Industrial and Information Industry Structure* includes large scale pulp and paper production as an 'encouraged' industry and small scale pulp production as an 'eliminated' industry;[71]
- the *Implementation Plan for Industry Structure Adjustment of Guangdong Province* (where Asia Symbol and Chenming are located) includes papermaking and paper products as an 'encouraged' industry and small scale chemical pulp production as an 'eliminated' industry;[72]
- Article 34 of the Banking Law states mandates SOCBs to conduct their lending in accordance with national economic and industrial policies; and
- SOCBs have stated publicly that they have 'enthusiastically' implemented the GOC's economic and industrial policies.

Considering this evidence, the Commission finds that SOCBs give preferential treatment in the granting of loans to producers of A4 copy paper as members of an 'encouraged' industry. The preferential lending program is specific, in that it predominantly benefits particular enterprises,[73] and is therefore a countervailable subsidy.

A1.2.1.5 Amount of subsidy

For Asia Symbol, the Commission has applied the relevant benchmark interest rate to each loan to determine the amount of interest that would have been payable during the investigation period. Where that amount is greater than the interest actually paid during the period, the difference is taken to be the benefit received by the exporter. The sum of the benefits provided by the loans has been divided by total sales revenue to determine the subsidy margin.

The Commission found that UPM (China) Co., Ltd and UPM Asia Pacific Pte Ltd (collectively UPM) did not benefit from this program.

The Commission is satisfied that uncooperative and all other exporters have not given the Commission information relevant to the investigation within a reasonable period and so the Commission has determined that these exporters have received a countervailable subsidy under this program during the investigation period on the basis of all available facts and reasonable assumptions.[74] The subsidy margin determined for Asia Symbol has been applied to uncooperative and all other exporters.

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[70] GOC RGQ Att. 25

[71] GOC RGQ Att. 28

[72] GOC RGQ Att. 27

[73] Subsection 269TAAC(4)(b)

[74] Section 269TAACA.

A1.3 CATEGORY TWO: Provision of inputs for less than adequate remuneration

A1.3.1 Programs 2 – 5: Provision of calcium carbonate, caustic soda, titanium dioxide and coal for less than adequate remuneration

A1.3.1.1 Legal basis

The Commission is not aware of the legal basis for these programs.

A1.3.1.2 WTO notification

The Commission is not aware of any WTO notification of these programs.

A1.3.1.3 Eligibility criteria

There are no articulated eligibility criteria for enterprises receiving preferential treatment in the provision of raw materials for less than adequate remuneration.

A1.3.1.4 Is there a subsidy?

The Commission has previously countervailed programs related to the provision of raw materials by state invested enterprise (SIE) public bodies at less than adequate remuneration (LTAR). The Commission also notes that USDOC recently countervailed all four of these programs in relation to uncoated paper from China.

The Commission has examined the available evidence and determined that none of these programs are countervailable in this instance, for the reasons below.

Program 2: Provision of Calcium Carbonate for LTAR

Program 3: Provision of Caustic Soda for LTAR

Neither of the cooperating exporters identified any suppliers of calcium carbonate or caustic soda as SIEs.

USDOC determined that privately-owned suppliers of these chemicals are public bodies on the basis that the GOC failed to provide information 'regarding the presence of Chinese Communist Party (CCP) officials and organizations within those companies' and 'that the CCP meets the definition of the term 'government … for the limited purpose of applying U.S. CVD law to China'.[75]

The Commission has no evidence to suggest that privately-owned suppliers of calcium carbonate or caustic soda in China are public bodies or private bodies carrying out a governmental function.

[75] USDOC Uncoated Paper accompanying IDM at p. 15

Program 4: Provision of Titanium Dioxide for LTAR

Neither of the cooperating exporters identified any purchases of titanium dioxide. This is consistent with USDOC's findings in relation to Asia Symbol.

USDOC only countervailed this program in relation to uncooperative exporters, however similar to the discussion above, the Commission has no evidence that SIEs operate in the titanium dioxide market or that privately-owned enterprises are public bodies.

Program 5: Provision of Coal for LTAR

USDOC found this program to be specific on the basis that the paper producers use coal to generate power and that the power generation industry uses 34 per cent of the coal in China and is therefore a predominant user of coal.[76]

The Commission considers that producers of A4 copy paper are primarily in the paper making industry, not the power generation industry (even if some do sell surplus electricity to the State's grid). Data provided by the GOC from its National Bureau of Statistics shows that paper and paper products manufacturing sector represents only 0.3% of total coal consumption in China.[77] For these reasons the Commission finds that the provision of coal to manufacturers of A4 copy paper is not specific and therefore not countervailable.[78]

A1.4 CATEGORY THREE: Preferential tax policies

A1.4.1 Program 6: VAT rebates relating to raw materials

The Commission has previously found this program to be a countervailable subsidy in the following investigations into goods exported to Australia from China:[79]

Case	Year	Commodity	Program No.
Investigation 198	2013	Hot rolled plate steel	Program 40
Investigation 237	2015	Silicon metal	Program 42
Investigation 316	2016	Grinding balls	Program 29
Investigation 322	2016	Steel reinforcing bar	Program 9
Investigation 331	2016	Rod in coils	Program 9

A1.4.1.1 Legal basis

The Commission is not aware of the legal basis for this program.

[76] ibid., p. 30

[77] GOC RGQ Att. 53

[78] Section 269TAAC(1).

[79] Final Reports for these investigations can be found on the Commission's website www.adcommission.gov.au

A1.4.1.2 WTO notification

The Commission is not aware of any WTO notification of this program.

A1.4.1.3 Eligibility criteria

The Commission is not aware of the eligibility criteria for this program.

A1.4.1.4 Is there a subsidy?

Financial contribution

The Commission understands that the law governing this program involves a financial contribution by the GOC, being a refund of government revenue.[80]

Benefit conferred

Where received, the financial contribution is considered to confer a benefit on all goods manufactured by the recipient enterprise because of the value added tax (VAT) refunded on 'comprehensive utilisation of resources'.[81] The GOC did not provide any information in relation to this program in its RGQ in this investigation, however the Commission understands from previous investigations that 'comprehensive utilisation of resources' refers to the use of waste materials or other resources in production, such as recycled paper, waste water or excess energy.

The Commission found that the two cooperating exporters did not receive any benefit in relation to this program, however Yueyang reported receiving a benefit under this program in its response to the exporter questionnaire (REQ), including the total amount received during the investigation period. Although found to be an uncooperative exporter, the Commission has no reason to question the applicability of this program to Yueyang's production and export of the goods to Australia.

Other evidence that exporters and manufacturers of A4 copy paper in China received a benefit under this program during the investigation period includes:

- Chenming – 2015 annual report includes reference to VAT incentives and reported government grants include an amount for VAT refunds of RMB 6.5 M;[82]
- Nine Dragons – reported other income in 2015-16 annual report includes an amount for VAT refunds of RMB 424.0 M for using recycled paper as raw materials;[83] and

[80] REP 316, p. 119

[81] Ibid; the Commission considers in any event that subsection 269TACC(2)(a) applies such that the VAT refund is taken to confer a benefit

[82] Shandong Chenming Paper Holdings Limited, Annual Report 2015, pp. 160 and 205

[83] Nine Dragons Paper (Holdings) Limited, Annual Report 2015-16, p. 131

- Yueyang – reported government grants in 2015 annual report includes an amount for VAT refunds of RMB 7.8 M and a reference to VAT refunds received for utilising waste resources in production.[84]

Specificity

It is clear that this program is specific because it benefits only those enterprises[85] that undertake 'comprehensive utilization of resources'. Further, there is no evidence that:

- eligibility for, and the amount of, the subsidy are established by objective criteria or conditions set out in primary or subordinate legislation or other official documents that are capable of verification;
- eligibility for the subsidy is automatic;
- those criteria or conditions are neutral, do not favour particular enterprises over others, are economic in nature and are horizontal in application; or
- those criteria or conditions are strictly adhered to in the administration of the subsidy.[86]

The Commission therefore finds that this program is specific to a limited number of enterprises and countervailable. There is also evidence, as outlined above, that some of the goods exported to Australia during the investigation period have benefited from this program.

A1.4.1.5 Amount of subsidy

The Commission found that neither cooperating exporter benefited from this program.

The Commission examined the evidence referred to above that some of the uncooperative exporters received benefits under this program during the investigation period. The Commission has considered all relevant information to conclude that it is likely that uncooperative and all other exporters have had benefits conferred to them under this program during the investigation period. The Commission has calculated the amount of the reported VAT refund as a percentage of total sales revenue for Chenming, Nine Dragons and Yueyang and applied the highest of these three (Nine Dragons) as the uncooperative exporter subsidy margin for this program.

A1.4.2 Program 7: Preferential income tax program for high or new technology enterprises

The Commission has previously found this program to be a countervailable subsidy in the following investigations into goods exported to Australia from China:

Case	Year	Commodity	Program No.
Investigation 177	2012	Hollow structural sections	Program 35
Investigation 181	2012	Aluminium road wheels	Program 22

[84] Yueyang Forest & Paper Co., Ltd, Annual Report 2015, p. 141

[85] Subsection 269TAAC(4)(a)

[86] Subsection 269TAAC(3)

Case	Year	Commodity	Program No.
Investigation 193	2013	Hot rolled plate steel	Program 10
Investigation 198	2013	Zinc Coated (Galvanised) Steel and Aluminium Zinc Coated Steel	Program 11
Investigation 237	2015	Silicon metal	Program 8
Investigation 238	2015	Deep drawn stainless steel sinks	Program 24
Investigation 248	2015	Aluminium extrusions	Program 23
Investigation 316	2016	Grinding balls	Program 5
Investigation 322	2016	Steel reinforcing bar	Program 5
Investigation 331	2016	Rod in coils	Program 5

A1.4.2.1 Legal basis

The overarching legal basis for the program is contained within the *Enterprise Income Tax Law of the People's Republic of China* (EITL).[87]

A1.4.2.2 WTO notification

The GOC notified this program to the WTO in 2015.[88]

A1.4.2.3 Eligibility criteria

The GOC provided a copy of administrative guidelines for the accreditation of high-tech enterprises, which sets out the criteria and procedures for the accreditation of an enterprise as a high-tech enterprise.[89] This document is discussed further below under 'specificity'.

A1.4.2.4 Is there a subsidy?

Financial contribution

The law governing this program states that the income tax levied on enterprises recognised as high or new technology enterprises (HNTEs) shall be at the reduced rate of 15%.[90] The standard enterprise income tax rate is 25%.[91] The GOC provided information in its RGQ that confirms the Commission's understanding of this program.

[87] Enterprise Income Tax Law of the People's Republic of China, 16 March 2007 (GOC RGQ Att. 57)

[88] WTO document G/SCM/N/284/CHN, dated 30 October 2015

[89] Ministry of Science and Technology and Ministry of Finance, State Administration of Taxation, *Administrative Measures on Accreditation of High-tech Enterprises*, 14 April 2008 (GOC RGQ Att. 56)

[90] EITL, Article 28.

[91] EITL, Article 4.

The Commission considers that the reduced level of income tax is a financial contribution by the GOC, which involves the foregoing, or non-collection, of revenue due to the GOC by eligible enterprises in China.

Benefit conferred

Where received, the financial contribution is considered to confer a benefit on all goods manufactured by the recipient enterprise because of the tax savings realised.[92]

USDOC examined this program in its recent uncoated paper investigation and found the Asia Symbol group of companies to have received a benefit under this program during the 2014 calendar year.[93]

In this investigation the Commission found that the two cooperating exporters are both recognised as HNTEs and received a benefit under this program during the investigation period.

The Commission is also satisfied that Chenming and Yueyang received benefits under this program, as the 2015 annual reports of each company state that the company is subject to an income tax rate of 15% due to recognition as a HNTE[94] and this is supported by information provided to the Commission in their respective REQs.

Specificity

It is clear that this program benefits a limited number of particular enterprises,[95] being those that are recognised as HNTEs. The Commission does not consider that the program is unable to be found to be specific on the basis that:[96]

- eligibility for, and the amount of, the subsidy are established by objective criteria or conditions set out in primary or subordinate legislation or other official documents that are capable of verification;
- eligibility for the subsidy is automatic;
- those criteria or conditions are neutral, do not favour particular enterprises over others, are economic in nature and are horizontal in application; and
- those criteria or conditions are strictly adhered to in the administration of the subsidy.

In its GQR the GOC provided a copy of administrative guidelines for the accreditation of high-tech enterprises, which sets out the criteria and procedures for the accreditation of an enterprise as a high-tech enterprise for the purposes of access to the reduced income tax rate.[97] The Commission notes that an English translation of

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[92] REP 316 at page 113.

[93] USDOC Uncoated Paper and accompanying IDM at page 33.

[94] Chenming Annual Report 2015 at page 160 and Yueyang Annual Report 2015 at page 113.

[95] Subsection 269TAAC(4)(a).

[96] Subsection 269TAAC(3).

[97] Ministry of Science and Technology and Ministry of Finance, State Administration of Taxation, *Administrative Measures on Accreditation of High-tech Enterprises*, 14 April 2008 (GOC RGQ Att. 56)

the appendix to the guidelines was not provided, however the GOC did provide a translation of this document to USDOC in the course of its uncoated paper investigation.[98] That appendix[99] sets out eight high-technology fields selected for 'key State support':

1) Electronics and Information Technology;
2) Biology and New Medicine Technology;
3) Aerospace Industry;
4) New Materials Technology;
5) High-tech Service Industry;
6) New Energy and Energy-Saving Technology;
7) Resources and Environmental Technology; and
8) High-tech Transformation of Traditional Industries.[100]

It appears that the eligibility for enterprises to be accredited as a HNTE is restricted to enterprises conducting business in those eight fields. The Commission therefore finds that this program is specific to a limited number of enterprises and countervailable. There is also evidence as outlined above that the majority of the goods exported to Australia during the investigation period have benefited from this program.

A1.4.2.5 Amount of subsidy

Benefits for income tax programs are expensed to the year in which the benefit is received, and the benefit is taken to have been received on the date on which the enterprise would otherwise have had to pay the taxes associated with the exemption (i.e. the date the enterprise lodged its tax return.[101] In China the financial year for income tax purposes is the calendar year 1 January to 31 December, with tax returns due the following calendar year. Therefore, for this investigation the benefit received during the investigation period is the benefit of any reduction in income tax received for the 2014 financial year.

The Commission found that both cooperating exporters received a benefit under this program during the investigation period. The Commission calculated the benefit for these exporters based on the income tax reported in their respective REQs and allocated the benefit to sales of all goods as a proportion of sales revenue,[102] to determine a subsidy margin for each exporter.

The Commission is satisfied that uncooperative and all other exporters have not given the Commission information relevant to the investigation within a reasonable period and so the Commission has determined that these exporters have received a countervailable subsidy under this program during the investigation period on the basis of all available

[98] GOC initial questionnaire response to USDOC, 22 May 2015, Exhibit 14

[99] Referred to as an 'annex' in the translation provided to USDOC

[100] USDOC Uncoated Paper accompanying IDM at p. 32

[101] Dumping and Subsidy Manual, p. 88

[102] Section 269TACD.

facts and reasonable assumptions.[103] The highest of the cooperative exporter margins has been applied to uncooperative and all other exporters.

A1.4.3 Program 8: Preferential income tax program for comprehensive utilisation entitling enterprise

The Commission has not previously investigated this program. The GOC did not provide any information in relation to this program in its RGQ.

USDOC examined this program as part of its recent uncoated paper investigation and found that one of the Asia Symbol group of companies (AS Shandong) benefited from the program.[104] The GOC and Asia Symbol cooperated with the USDOC investigation and the USDOC's findings are based on its analysis of information provided by those parties. The Commission has relied upon USDOC's findings and the supporting evidence provided to USDOC in the assessment below.

A1.4.3.1 Legal basis

The overarching legal basis for the program is contained in Article 33 of the EITL.[105]

A1.4.3.2 WTO notification

The Commission is not aware of any WTO notification of this program.

A1.4.3.3 Eligibility criteria

USDOC found that incomes generated by an enterprise from using any of the materials as listed in the *Catalogue of Resources for Comprehensive Utilization by Enterprises Entitled to Preferential Income Tax Treatment* (Catalogue of Resources)[106] as its major raw material, may use ten percent of that income to reduce its overall taxable income.[107]

A1.4.3.4 Is there a subsidy?

Financial contribution

The Commission considers that the reduced level of income tax is a financial contribution by the GOC, which involves the foregoing, or non-collection, of revenue due to the GOC by eligible enterprises in China.[108]

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[103] Section 269TAACA.

[104] USDOC Uncoated Paper accompanying IDM at pp. 33-34

[105] ibid., p .33

[106] Ministry of Finance, State Administration of Taxation, *The Catalogue of Resources for Comprehensive Utilization Entitling Enterprises to Income Tax Preferences*, No. 177 [2008], 20 August 2008 (GOC Exhibit 63 to the USDOC Uncoated Paper investigation); papermaking raw materials are listed at item 15 of GOC Exhibit 63 to the USDOC Uncoated Paper investigation.

[107] USDOC Uncoated Paper accompanying IDM at p. 33

[108] ibid., p. 34; see the definition of 'subsidy' in subsection 269T(1).

Benefit conferred

Where received, the financial contribution is considered to confer a benefit on all goods manufactured by the recipient enterprise because of the tax savings realised.

Specificity

The Catalogue of Resources identifies 16 eligible resources, grouped into the following three categories:

- Symbiosis, associated mineral resources;
- Waste (liquid), waste gas and waste residue; and
- Renewable resources.

USDOC found that AS Shandong qualified for this program by utilising industrial waste heat and pressure in the production of electricity. AS Shandong advised USDOC that it applied to multiple provincial authorities to obtain a 'Certificate of Resources for Comprehensive Utilization' and filed the certificate with the local taxation authority. USDOC therefore found that the program is limited to certain enterprises that utilise certain resources specified by the government.[109] The Commission was not provided any evidence or information during the course of the investigation that would suggest that any of the circumstances in subsection 269TAAC(3) that would preclude a finding of specificity apply to this program.

The Commission found no evidence that:

- eligibility for, and the amount of, the subsidy are established by objective criteria or conditions set out in primary or subordinate legislation or other official documents that are capable of verification;
- eligibility for the subsidy is automatic;
- those criteria or conditions are neutral, do not favour particular enterprises over others, are economic in nature and are horizontal in application; or
- those criteria or conditions are strictly adhered to in the administration of the subsidy.[110]

The Commission therefore finds that this program is specific to a limited number of enterprises and countervailable. There is also evidence from the USDOC investigation that producers of copy paper in China have benefited from this program.[111]

A1.4.3.5 Amount of subsidy

The Commission found that neither cooperating exporter benefited from this program.

[109] ibid., pp. 33-34

[110] Subsection 269TAAC(3).

[111] See evidence referred to in USDOC Uncoated Paper accompanying IDM at pages 33 and 34.

The Commission examined the evidence referred to above that USDOC found AS Shandong to have received a received benefit under this program during the 12-month period immediately preceding the investigation period.

The Commission is satisfied that uncooperative and all other exporters have not given the Commission information relevant to the investigation within a reasonable period and so the Commission has determined that these exporters have received a countervailable subsidy under this program during the investigation period on the basis of all available facts and reasonable assumptions.[112] The Commission has applied the USDOC-determined rate for AS Shandong as the uncooperative exporter subsidy margin for this program.

A1.4.4 Program 9: Tax allowance for special equipment for water and energy-saving purchased by enterprises

The Commission has not previously investigated this program. The GOC did not provide any information in relation to this program in its RGQ.

USDOC examined this program as part of its recent uncoated paper investigation and found that Asia Symbol benefited from the program.[113] Asia Symbol cooperated with the USDOC investigation and the USDOC's findings are based on its analysis of information provided by the exporter. The Commission has relied upon USDOC's findings and the supporting evidence provided to USDOC in the assessment below.

A1.4.4.1 Legal basis

Asia Symbol advised USDOC that the 'List of income tax preference for special equipment for water and energy-saving (2008 version) (Cai Shui [2008] no. 48)' provided the legal basis for this program.[114]

A1.4.4.2 WTO notification

The Commission is not aware of any WTO notification of this program.

A1.4.4.3 Eligibility criteria

The Commission is not aware of the eligibility criteria for this program.

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[112] Section 269TAACA.

[113] USDOC Uncoated Paper accompanying IDM at page 34.

[114] Ministry of Finance, State Administration of Taxation, Notice on the Implementation of the Catalog of Enterprise Income Tax on Special Equipment for Environmental Protection, Catalog of Enterprise Income Tax on Special Equipment for Energy Saving and Water Saving, Catalog of Enterprise Income Tax on Special Equipment for Safety in Production, Cai Shui (2008) No. 48, 23 September 2008 http://www.chinatax.gov.cn/n810341/n810765/n812171/n812685/c1191206/content.html

A1.4.4.4 Is there a subsidy?

Financial contribution

The Commission considers that the reduced level of income tax is a financial contribution by the GOC, which involves the foregoing, or non-collection, of revenue due to the GOC by eligible enterprises in China.[115]

Benefit conferred

Where received, the financial contribution is considered to confer a benefit on all goods manufactured by the recipient enterprise because of the tax savings realised.

USDOC found Asia Symbol to have received a benefit under this program during the 2014 calendar year.[116]

Specificity

Asia Symbol reported to USDOC that it reduced its income tax payable because of its purchases of equipment for water and energy-saving.[117] Asia Symbol stated that:

> 'if a company purchases and uses the equipment listed in the Cai Shui (2008) No. 48, it can ask for tax relief from the income tax payable of the current year, based on 10% of the investment amount on equipment'.[118]

USDOC relied on 'adverse facts available' to determine that the program is specific because the GOC failed to provide information which was requested of it regarding the details of the government assistance.[119]

It is clear that this program benefits a limited number of particular enterprises,[120] being those that purchase and use certain types of equipment for certain purposes.[121] Further, there is no evidence that:[122]

- eligibility for, and the amount of, the subsidy are established by objective criteria or conditions set out in primary or subordinate legislation or other official documents that are capable of verification;
- eligibility for the subsidy is automatic;
- those criteria or conditions are neutral, do not favour particular enterprises over others, are economic in nature and are horizontal in application; or
- those criteria or conditions are strictly adhered to in the administration of the subsidy.

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[115] USDOC Uncoated Paper accompanying IDM at p. 34; see the definition of 'subsidy' in subsection 269T(1).

[116] ibid.

[117] ibid.

[118] Asia Symbol's 3rd supplemental questionnaire response to USDOC at p. 8

[119] USDOC Uncoated Paper accompanying IDM at p. 34

[120] Subsection 269TAAC(4)(a)

[121] Asia Symbol's 3rd supplemental questionnaire response to USDOC at p. 8

[122] Subsection 269TAAC(3)

The Commission therefore finds that this program is specific to a limited number of enterprises and countervailable. There is also evidence as outlined above that some of the goods exported to Australia have benefited from this program.

A1.4.4.5 Amount of subsidy

The Commission found that neither cooperating exporter benefited from this program.

The Commission examined the evidence referred to above that USDOC found AS Shandong to have received a received benefit under this program during the 12-month period immediately preceding the investigation period and no information or evidence was provided to the effect that this program would cease after that time.

The Commission is satisfied that uncooperative and all other exporters have not given the Commission information relevant to the investigation within a reasonable period and so the Commission has determined that these exporters have received a countervailable subsidy under this program during the investigation period on the basis of all available facts and reasonable assumptions.[123] The Commission has applied the USDOC-determined rate for AS Shandong as the uncooperative exporter subsidy margin for this program.

A1.4.5 Program 10: VAT and import tariff exemptions for imported equipment

The Commission has previously found this program to be a countervailable subsidy in the following investigations into goods exported to Australia from China:

Case	Year	Commodity	Program No.
Investigation 148	2010	Aluminium extrusions	Program 21
Investigation 177	2012	Hollow structural sections	Program 14
Investigation 181	2012	Aluminium road wheels	Program 31
Investigation 193	2013	Hot rolled plate steel	Program 11
Investigation 198	2013	Zinc Coated (Galvanised) Steel and Aluminium Zinc Coated Steel	Program 12
Investigation 237	2015	Silicon metal	Program 9
Investigation 248	2015	Aluminium extrusions	Program 15
Investigation 316	2016	Grinding balls	Program 6
Investigation 322	2016	Steel reinforcing bar	Program 8
Investigation 331	2016	Rod in coils	Program 8

A1.4.5.1 Legal basis

The legal basis to establish this subsidy is pursuant to the following:[124]

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[123] Section 269TAACA.

[124] GOC RGQ, pp. 55-57

- *Notice of the State Council on the Adjustment of Tax Policies for Imported Equipment* (Guo Fa [1997] No. 37);[125]
- *Catalogue for the Guidance of the Foreign Investment Industries* (2007);
- *Catalogue of Encouraged Development of Key Industries, Products and Technologies* (2004);
- *Directory of Imported Commodities of Non-Tax-Exemption to be Used in Domestic Invested Projects*; and
- *Directory of Imported Commodities of Non-Tax-Exemption to be Used in Foreign Invested Projects*.

The Commission understands that the program operates on a national level. The NDRC or its provincial branches issue certificates under this program, while local customs authorities administer the VAT and tariff exemptions.

The Commission also understands that while the tariff exemption is still in effect, the GOC terminated VAT exemptions for imported equipment on 1 January 2009, according to the *Announcement of Ministry of Finance, China's Customs and State Administration of Taxation* (No. 43 of 2008).[126] However, as the *Dumping and Subsidy Manual* notes, 'subsidies used for acquisition of capital assets, for example, will be amortised over the expected useful life of the assets'.[127] Therefore, equipment imported VAT-free prior to 2009 may still have conferred a benefit on goods produced during the investigation period.

A1.4.5.2 WTO notification

The GOC notified this program to the WTO in 2006.[128]

A1.4.5.3 Eligibility criteria

Under Articles 1 and 2 of Guo Fa [1997] No. 37:

- FIEs are eligible if the project is covered under the preferential or restrictive-B categories of the *Catalogue for the Guidance of the Foreign Investment Industries* (2007); and
- domestic enterprises are eligible if the project falls within the *Catalogue of Encouraged Development of Key Industries, Products and Technologies* (2004).

Qualified enterprises can be exempted from paying tariffs and/or VAT on purchases of selected imported equipment if it is for self-use and the equipment is not listed in the *Directory of Imported Commodities of Non-Tax-Exemption to be Used in Domestic Invested Projects* or the *Directory of Imported Commodities of Non-Tax-Exemption to be Used in Foreign Invested Projects*.

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[125] ibid. at Att. 61

[126] GOC RGQ at Att. 60

[127] p. 83

[128] WTO document G/SCM/N/123/CHN, dated 13 April 2006

A1.4.5.4 Is there a subsidy?

Financial contribution

The Commission considers that this program is a financial contribution by the GOC, which involves the foregoing, or non-collection, of revenue due to the GOC (tariff and VAT) by eligible enterprises in China.

Benefit conferred

The Commission considers that, depending on the nature of the imported equipment, a financial contribution made under this program could be made in relation to the production, manufacture or export of A4 copy paper. Where received, this financial contribution is considered to confer a benefit because of the tariff and VAT savings realised.

Where exporters of A4 copy paper during the investigation period received tax savings under the program for equipment related to their copy paper production, it would therefore confer a benefit in relation to those goods.

USDOC found that the Asia Symbol Group of companies received benefits under this program for equipment imported prior to 2014. Consistent with the Commission's approach as set out in the *Dumping and Subsidy Manual*, USDOC allocated the benefit received across the average useful life of the relevant imported assets and apportioned across all goods produced using those assets.[129]

Specificity

It is clear from the information provided by the GOC that this program benefits a limited number of particular enterprises,[130] being those that import equipment for certain eligible projects. Further, there is no evidence that:[131]

- eligibility for, and the amount of, the subsidy are established by objective criteria or conditions set out in primary or subordinate legislation or other official documents that are capable of verification;
- eligibility for the subsidy is automatic;
- those criteria or conditions are neutral, do not favour particular enterprises over others, are economic in nature and are horizontal in application; and
- those criteria or conditions are strictly adhered to in the administration of the subsidy.

The Commission therefore finds that this program is specific to a limited number of enterprises and countervailable. There is also evidence, as outlined above, that some of the goods exported to Australia during the investigation period have benefited from this program.

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[129] USDOC Uncoated Paper accompanying IDM at pp. 35-36

[130] Subsection 269TAAC(4)(a)

[131] Subsection 269TAAC(3)

A1.4.5.5 Amount of subsidy

The Commission found that Asia Symbol benefited from this program during the investigation period. The Commission calculated the benefit for this exporter based on the tariff exemption reported in its REQ and allocated the benefit to sales of all goods as a proportion of sales revenue, to determine a subsidy margin for Asia Symbol.

The Commission found that UPM did not benefit from this program.

The Commission examined the evidence referred to above that USDOC found the Asia Symbol Group of companies to have received a received benefit under this program during the 12-month period immediately preceding the investigation period.

The Commission is satisfied that uncooperative and all other exporters have not given the Commission information relevant to the investigation within a reasonable period and so the Commission has determined that these exporters have received a countervailable subsidy under this program during the investigation period on the basis of all available facts and reasonable assumptions.[132] The Commission has applied the USDOC-determined rate for the Asia Symbol Group as the uncooperative exporter subsidy margin for this program.

A1.4.6 Program 11: VAT rebates on FIE purchases of Chinese made equipment

The Commission has not previously investigated this program. The GOC did not provide any information in relation to this program in its RGQ.

USDOC examined this program as part of its recent uncoated paper investigation and found that one of the Asia Symbol group of companies (AS Shandong) benefited from the program.[133] Asia Symbol cooperated with the USDOC investigation and the USDOC's findings are based on its analysis of information provided by the exporter. The Commission has relied upon USDOC's findings and the supporting evidence provided to USDOC in the assessment below.

A1.4.6.1 Legal basis

AS Shandong advised USDOC that 'Article 3 and Article 4 of the *Pilot Measures of Tax Rebate Management Method for Purchase of Domestic-Made Equipment by Foreign-Invested Program*' provided the legal basis for this program.[134]

A1.4.6.2 WTO notification

The Commission is not aware of any WTO notification of this program.

A1.4.6.3 Eligibility criteria

The Commission is not aware of the eligibility criteria for this program.

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[132] Section 269TAACA.

[133] USDOC Uncoated Paper accompanying IDM at p. 36

[134] AS Shandong's initial questionnaire response to USDOC at p. 32

A1.4.6.4 Is there a subsidy?

Financial contribution

The Commission considers that this program is a financial contribution by the GOC, which involves the foregoing, or non-collection, of revenue due to the GOC (VAT) by eligible enterprises in China.[135]

Benefit conferred

The Commission considers that, depending on the nature of the purchased equipment, a financial contribution made under this program could be made in relation to the production, manufacture or export of A4 copy paper. Where received, this financial contribution is considered to confer a benefit because of the VAT savings realised.

Where exporters of A4 copy paper during the investigation period received tax savings under the program for equipment related to their copy paper production, it would therefore confer a benefit in relation to those goods.

USDOC found that Asia Symbol received benefits under this program for equipment imported prior to 2014. Consistent with the Commission's approach as set out in the *Dumping and Subsidy Manual*, USDOC allocated the benefit received across the average useful life of the relevant imported assets and apportioned across all goods produced using those assets.[136]

Specificity

AS Shandong stated that to be eligible for the program:

1) The enterprise must be a foreign-investment enterprises that is a general VAT taxpayer; and
2) the related project must be in the 'encouraged' category of the *Foreign Investment Industry Guidance Catalogue* or it must be included in the *Foreign Investment Advantageous Industry Catalogue in Midwest*.

To receive this benefit, AS Shandong obtained a 'Confirmation of Foreign-invested and Domestic-invested Project Encouraged by the State' then applied to the local taxation authority for the VAT rebate.[137]

USDOC found the program to be specific on the basis that VAT rebates are contingent upon the use of domestic over imported equipment.[138]

The Commission considers that, based on the available evidence, the subsidy is specific on the basis that it is contingent, whether solely or as one of several conditions, on the

[135] USDOC Uncoated Paper accompanying IDM at p. 37; see the definition of 'subsidy' in subsection 269T(1).

[136] ibid.

[137] AS Shandong's initial questionnaire response to USDOC at pp. 32-33

[138] USDOC Uncoated Paper accompanying IDM at pp. 36-37

use of domestically produced or manufactured goods in preference to imported goods.[139] Further, the Commission found no evidence that:

- eligibility for, and the amount of, the subsidy are established by objective criteria or conditions set out in primary or subordinate legislation or other official documents that are capable of verification;
- eligibility for the subsidy is automatic;
- those criteria or conditions are neutral, do not favour particular enterprises over others, are economic in nature and are horizontal in application; or
- those criteria or conditions are strictly adhered to in the administration of the subsidy.[140]

The Commission therefore finds that this program is countervailable. There is also evidence from the USDOC investigation that producers of copy paper in China have benefited from this program.[141]

A1.4.6.5 Amount of subsidy

The Commission found that neither cooperating exporter benefited from this program.

The Commission examined the evidence referred to above that USDOC found AS Shandong to have received a benefit under this program during the 12-month period immediately preceding the investigation period.

The Commission is satisfied that uncooperative and all other exporters have not given the Commission information relevant to the investigation within a reasonable period and so the Commission has determined that these exporters have received a countervailable subsidy under this program during the investigation period on the basis of all available facts and reasonable assumptions.[142] The Commission has applied the USDOC-determined rate for AS Shandong as the uncooperative exporter subsidy margin for this program.

A1.5 CATEGORY FOUR: Financial grants

The Commission investigated 27 programs in this category, comprising five grant programs identified in Australian Paper's application and a further 22 programs identified by the cooperating exporters. The Commission's assessment as to whether these programs are countervailable subsidies and the method of subsidy calculation under these programs, is contained in the below table. The Commission is not aware of any WTO notification of any of the programs below.

[139] Subsection 269TAAC(2)(d)

[140] Subsection 269TAAC(3)

[141] See evidence referred to in USDOC Uncoated Paper accompanying IDM at pages 36 and 37.

[142] Section 269TAACA.

Program	Background	Legal basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?	Method of subsidy margin calculation
Program 12 – Subsidies for energy efficiency and environmental protection Program 13 – Support fund for environmental protection project - Rizaho City Program 14 – Support fund for environmental protection input Program 15 – Support fund for environmental protection project	USDOC examined these programs as part of its recent uncoated paper investigation and found that one of the Asia Symbol group of companies (AS Shandong) benefited from the four programs.[143]	The Commission is not aware of any legal basis for these programs. AS Shandong submitted to USDOC that the grants were from one of the following local government bodies: • Rizhao City Government; • Rizhao Municipal Finance Bureau; or • Rizhao Economic and Technological Development Area Govt.[144]	The Commission is not aware of the eligibility criteria for these programs.	A grant provided under these programs would be a financial contribution by the GOC, which involves a direct transfer of funds by GOC to the recipient enterprises in China. Due to the nature of the grants, and in light of the limited information available, it is considered that a financial contribution under each program would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including copy paper). This financial contribution is considered to confer a benefit to recipient manufacturers of copy paper because it is a direct financial payment from the GOC (s.269TACC(2)). Where exporters of A4 copy paper during the investigation period received a grant under any of these programs, this would therefore confer a benefit in relation to the goods, and this financial contribution meets the definition of a subsidy under s.269T.	On the evidence available to the Commission only some paper manufacturers are eligible for these grants. As the criteria or conditions providing access to the subsidy favours particular enterprises over other enterprises in China, the programs are considered to be specific. The specificity of the subsidy is not excepted by reference to s.269TAAC(3).	<u>Cooperative exporters</u> Neither of the cooperative exporters had a benefit conferred to them under these programs. <u>Uncooperative exporters</u> As neither the GOC nor uncooperative exporters provided information as to whether these exporters benefited from these programs, the Commission has considered all relevant information to conclude that it is likely that uncooperative and all other exporters have had benefits conferred to them under these programs or similar programs during the investigation period in the form of direct transfers of funds (grants).[145] In calculating the amount of subsidy attributable to that benefit, the Commission has calculated the total subsidy margin for AS Shandong as found by USDOC for these programs (0.53%).

[143] USDOC Uncoated Paper accompanying IDM at pp. 37-39.

[144] ibid.

[145] Pursuant to ss.269TAACA(1)(c) and 269TAACA(1)(d), the Commissioner has acted on the basis of all the facts available and made reasonable assumptions in order to determine whether a countervailable subsidy has been received in respect of the goods. In the absence of usage information, the Commissioner has determined it is reasonable to assume all other exporters received benefits under these programs or similar programs in locations

Program	Background	Legal basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?	Method of subsidy margin calculation
Program 16 – City bonus for export activity from Finance Bureau	Both cooperating exporters reported receiving benefits under this program in their REQs. In its RGQ the GOC stated that at least one exporter received a benefit under this program and that the GOC was continuing to verify the amount of any financial contribution. The GOC directed the Commission to the exporter REQs for further details. USDOC examined this program as part of its recent uncoated paper investigation and found that Asia Symbol Group of companies benefited from the program.[146]	The Commission is not aware of any legal basis for this program. The exporters claimed that there is no specific application and approval process and the grant was provided by the local Bureau of Commerce or Finance Bureau.	The Commission is not aware of the eligibility criteria for this program. One of the exporters claimed that grant is linked to increase in import and export activity based on Chinese Customs criteria, but no further details were provided.	Applying the same reasoning as for Programs 12 to 15, this grant is a financial contribution that meets the definition of a subsidy under s.269T.	Being an export-oriented subsidy, only enterprises that export goods from China are eligible. The Commission considers this makes the subsidy 'contingent on export performance' and hence the subsidy is specific. The specificity of the subsidy is not excepted by reference to s.269TAAC(3).	<u>Cooperative exporters</u> The Commission found that both cooperating exporters received a benefit under this program during the investigation period. The Commission calculated the benefit for these exporters based on the grant amount reported in their respective REQs and allocated the benefit to all exported goods as a proportion of export sales revenue, to determine a margin for each exporter. <u>Uncooperative exporters</u> The Commission has considered all relevant information to conclude that it is likely that uncooperative and all other exporters have had benefits conferred to them under this program during the investigation period. The Commission has applied the rate determined by USDOC for the Asia Symbol Group as the uncooperative exporter margin for this program.

outside Rizhao, based on the fact that USDOC found that AS Shandong received benefits under these programs in the 12-month period immediately preceding the investigation period.

[146] USDOC Uncoated Paper accompanying IDM at p. 39

Program	Background	Legal basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?	Method of subsidy margin calculation
Program 17 – Award for eco civilization of year	One of the cooperating exporters reported receiving a benefit under this program in its REQ.	The Commission is not aware of any legal basis for this program. The exporter claimed that there is no specific application and approval process and the grant was provided by the local Environment Protection Bureau.	The Commission is not aware of the eligibility criteria for this program. The exporter claimed that the grant was received for good performance for environmental protection for more than three years.	Applying the same reasoning as for Programs 12 to 15, this grant is a financial contribution that meets the definition of a subsidy under s.269T.	Applying the same reasoning as for Programs 12 to 15, this subsidy favours particular enterprises over other enterprises in China and is therefore specific. The specificity of the subsidy is not excepted by reference to s.269TAAC(3).	Cooperative exporters The Commission found that UPM received a benefit under this program during the investigation period. The Commission calculated the benefit as the amount of the grant and allocated the benefit to sales of all goods as a proportion of sales revenue, to determine a margin for the program. Uncooperative exporters The Commission has considered all relevant information to conclude that it is likely that uncooperative and all other exporters have had benefits conferred to them under this program during the investigation period. The Commission has applied the rate determined for UPM as the uncooperative exporter margin for this program.
Program 18 – Subsidy of water balance testing support	One of the cooperating exporters reported receiving a benefit under this program in its REQ.	The Commission is not aware of any legal basis for this program. The exporter claimed that there is no specific application and approval process and the grant was provided by the local Water Bureau.	The Commission is not aware of the eligibility criteria for this program. The exporter claimed that the grant was received for passing a water balance test every five years.	Applying the same reasoning as for Programs 12 to 15, this grant is a financial contribution that meets the definition of a subsidy under s.269T.	Applying the same reasoning as for Programs 12 to 15, this subsidy favours particular enterprises over other enterprises in China and is therefore specific. The specificity of the subsidy is not excepted by reference to s.269TAAC(3).	Cooperative exporters The Commission found that UPM received a benefit under this program during the investigation period. The Commission has applied the same methodology for Program 17 to determine a margin for this program. Uncooperative exporters The Commission has applied the same methodology for Program 17 to determine a margin for this program.

Program	Background	Legal basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?	Method of subsidy margin calculation
Program 20 – Subsidy for flue-gas desulfurization (FGD) project	One of the cooperating exporters reported receiving a benefit under this program in its REQ.	The Commission is not aware of any legal basis for this program. The exporter claimed that there is an application and audit/approval process and the grant was provided by the local Environment Protection Bureau. The exporter provided copies of relevant documents with no English translation.	The Commission is not aware of the eligibility criteria for this program. The exporter claimed that the grant was received for air emission modification based on new investment to modify its existing "Boilers Fluegas Cleaning System" (5% of the total investment).	Applying the same reasoning as for Programs 12 to 15, this grant is a financial contribution that meets the definition of a subsidy under s.269T.	Applying the same reasoning as for Programs 12 to 15, this subsidy favours particular enterprises over other enterprises in China and is therefore specific. The specificity of the subsidy is not excepted by reference to s.269TAAC(3).	<u>Cooperative exporters</u> The Commission found that UPM received a benefit under this program during the investigation period. The Commission has applied the same methodology for Program 17 to determine a margin for this program. <u>Uncooperative exporters</u> The Commission has applied the same methodology for Program 17 to determine a margin for this program.
Program 21 – Subsidy of water usage	One of the cooperating exporters reported receiving a benefit under this program in its REQ.	The Commission is not aware of any legal basis for this program. The exporter claimed that there is no specific application and approval process and the grant was provided by the local Water Bureau.	The Commission is not aware of the eligibility criteria for this program. The exporter claimed that the grant was received for passing a water audit as part of a pilot program.	Applying the same reasoning as for Programs 12 to 15, this grant is a financial contribution that meets the definition of a subsidy under s.269T.	Applying the same reasoning as for Programs 12 to 15, this subsidy favours particular enterprises over other enterprises in China and is therefore specific. The specificity of the subsidy is not excepted by reference to s.269TAAC(3).	<u>Cooperative exporters</u> The Commission found that UPM received a benefit under this program during the investigation period. The Commission has applied the same methodology for Program 17 to determine a margin for this program. <u>Uncooperative exporters</u> The Commission has applied the same methodology for Program 17 to determine a margin for this program.

Program	Background	Legal basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?	Method of subsidy margin calculation
Program 22 – Safety production award	One of the cooperating exporters reported receiving a benefit under this program in its REQ.	The Commission is not aware of any legal basis for this program. The exporter claimed that there is no specific application and approval process and the grant was provided by the local Industrial Safety Bureau.	The Commission is not aware of the eligibility criteria for this program. The exporter claimed that the grant was an award for good safety performance.	Applying the same reasoning as for Programs 12 to 15, this grant is a financial contribution that meets the definition of a subsidy under s.269T.	Applying the same reasoning as for Programs 12 to 15, this subsidy favours particular enterprises over other enterprises in China and is therefore specific. The specificity of the subsidy is not excepted by reference to s.269TAAC(3).	Cooperative exporters The Commission found that UPM received a benefit under this program during the investigation period. The Commission has applied the same methodology for Program 17 to determine a margin for this program. Uncooperative exporters The Commission has applied the same methodology for Program 17 to determine a margin for this program.
Program 23 – Award of clean run	One of the cooperating exporters reported receiving a benefit under this program in its REQ.	The Commission is not aware of any legal basis for this program. The exporter claimed that there is no specific application and approval process and the grant was provided by the local Environment Protection Bureau.	The Commission is not aware of the eligibility criteria for this program. The exporter claimed that the grant was an award for clean production.	Applying the same reasoning as for Programs 12 to 15, this grant is a financial contribution that meets the definition of a subsidy under s.269T.	Applying the same reasoning as for Programs 12 to 15, this subsidy favours particular enterprises over other enterprises in China and is therefore specific. The specificity of the subsidy is not excepted by reference to s.269TAAC(3).	Cooperative exporters The Commission found that UPM received a benefit under this program during the investigation period. The Commission has applied the same methodology for Program 17 to determine a margin for this program. Uncooperative exporters The Commission has applied the same methodology for Program 17 to determine a margin for this program.

Program	Background	Legal basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?	Method of subsidy margin calculation
Program 24 – Subsidy for workstation of graduate student	One of the cooperating exporters reported receiving a benefit under this program in its REQ.	The Commission is not aware of any legal basis for this program. The exporter claimed that there is an application process and the grant was provided by the local Department of Science and Technology. The exporter provided copies of relevant documents with no English translation.	The Commission is not aware of the eligibility criteria for this program. The exporter claimed that the grant was to obtain a workstation assessment for a graduate student that was working on one of 13 designated science and technology infrastructure projects in the local area.	Applying the same reasoning as for Programs 12 to 15, this grant is a financial contribution that meets the definition of a subsidy under s.269T.	Applying the same reasoning as for Programs 12 to 15, this subsidy favours particular enterprises over other enterprises in China and is therefore specific. The specificity of the subsidy is not excepted by reference to s.269TAAC(3).	<u>Cooperative exporters</u> The Commission found that UPM received a benefit under this program during the investigation period. The Commission has applied the same methodology for Program 17 to determine a margin for this program. <u>Uncooperative exporters</u> The Commission has applied the same methodology for Program 17 to determine a margin for this program.
Program 25 – Award for high tech product award	One of the cooperating exporters reported receiving a benefit under this program in its REQ.	The Commission is not aware of any legal basis for this program. The exporter claimed that there is no specific application and approval process and the grant was provided by the local Economic and Technology Development Zone.	The Commission is not aware of the eligibility criteria for this program. The exporter claimed that the grant was received for high smoothness paper certified as a high-tech product.	Applying the same reasoning as for Programs 12 to 15, this grant is a financial contribution that meets the definition of a subsidy under s.269T.	Applying the same reasoning as for Programs 12 to 15, this subsidy favours particular enterprises over other enterprises in China and is therefore specific. The specificity of the subsidy is not excepted by reference to s.269TAAC(3).	<u>Cooperative exporters</u> The Commission found that UPM received a benefit under this program during the investigation period. The Commission has applied the same methodology for Program 17 to determine a margin for this program. <u>Uncooperative exporters</u> The Commission has applied the same methodology for Program 17 to determine a margin for this program.

Program	Background	Legal basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?	Method of subsidy margin calculation
Program 26 – Subsidy for patent application support from Changshu Economic Development Zone (CEDZ) Program 27 – Subsidy for patent application support Changshu Municipal Department of Science and Technology	One of the cooperating exporters reported receiving a benefit under this program in its REQ.	The Commission is not aware of any legal basis for this program. The exporter claimed that there is an application process and the grants were provided by the local Economic and Technology Development Zone and local Department of Science and Technology, respectively. The exporter provided copies of relevant documents with no English translation.	The Commission is not aware of the eligibility criteria for this program. The exporter claimed that the grants were received after obtaining assessment of patents for five inventions and 12 utility models.	Applying the same reasoning as for Programs 12 to 15, these grants are financial contributions that meet the definition of a subsidy under s.269T.	Applying the same reasoning as for Programs 12 to 15, these subsidies favour particular enterprises over other enterprises in China and are therefore specific. The specificity of the subsidies is not excepted by reference to s.269TAAC(3).	<u>Cooperative exporters</u> The Commission found that UPM received a benefit under these programs during the investigation period. The Commission has applied the same methodology for Program 17 to determine a margin for these programs. <u>Uncooperative exporters</u> The Commission has applied the same methodology for Program 17 to determine a margin for these programs.

Program	Background	Legal basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?	Method of subsidy margin calculation
Program 28 – Subsidy of MNCs function center	One of the cooperating exporters reported receiving a benefit under this program in its REQ.	The Commission is not aware of any legal basis for this program. The exporter claimed that there is an application process and the grant was provided by the local Department of Commerce. The exporter provided copies of relevant documents with no English translation.	The Commission is not aware of the eligibility criteria for this program. The exporter claimed that the grant was received after obtaining assessment as a multinational corporation.	Applying the same reasoning as for Programs 12 to 15, this grant is a financial contribution that meets the definition of a subsidy under s.269T.	Applying the same reasoning as for Programs 12 to 15, this subsidy favours particular enterprises over other enterprises in China and is therefore specific. The specificity of the subsidy is not excepted by reference to s.269TAAC(3).	Cooperative exporters The Commission found that UPM received a benefit under this program during the investigation period. The Commission has applied the same methodology for Program 17 to determine a margin for this program. Uncooperative exporters The Commission has applied the same methodology for Program 17 to determine a margin for this program.
Program 29 – Training subsidy on new employee training for PM3 Program 30 – Individual tax refund for about 20 management level people	One of the cooperating exporters reported receiving a benefit under these programs in its REQ.	The Commission is not aware of any legal basis for this program. The exporter claimed that there is an application process and the grants were provided by the local Economic and Technology Development Zone. The exporter provided copies of relevant documents with no English translation.	The Commission is not aware of the eligibility criteria for this program. The exporter claimed that the grants were received based on its investment in a new paper machine.	Applying the same reasoning as for Programs 12 to 15, these grants are financial contributions that meet the definition of a subsidy under s.269T.	Applying the same reasoning as for Programs 12 to 15, these subsidies favour particular enterprises over other enterprises in China and are therefore specific. The specificity of the subsidies is not excepted by reference to s.269TAAC(3).	Cooperative exporters The Commission found that UPM received a benefit under these programs during the investigation period. The Commission has applied the same methodology for Program 17 to determine a margin for these programs. Uncooperative exporters The Commission has applied the same methodology for Program 17 to determine a margin for these programs.

Program	Background	Legal basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?	Method of subsidy margin calculation
Program 31 – Innovation ability development fund to R&D center	One of the cooperating exporters reported receiving a benefit under this program in its REQ.	The Commission is not aware of any legal basis for this program. The exporter claimed that there is an application process and the grant was provided by the local Department of Science and Technology. The exporter provided copies of relevant documents with no English translation.	The Commission is not aware of the eligibility criteria for this program. The exporter claimed that the grant was received based on recognition as a key R&D centre at provincial level.	Applying the same reasoning as for Programs 12 to 15, this grant is a financial contribution that meets the definition of a subsidy under s.269T.	Applying the same reasoning as for Programs 12 to 15, this subsidy favours particular enterprises over other enterprises in China and is therefore specific. The specificity of the subsidy is not excepted by reference to s.269TAAC(3).	<u>Cooperative exporters</u> The Commission found that UPM received a benefit under this program during the investigation period. The Commission has applied the same methodology for Program 17 to determine a margin for this program. <u>Uncooperative exporters</u> The Commission has applied the same methodology for Program 17 to determine a margin for this program.

Program	Background	Legal basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?	Method of subsidy margin calculation
Program 32 – Subsidy income of energy management system	One of the cooperating exporters was found to have received a benefit under this program during verification of its REQ.	The Commission is not aware of any legal basis for this program. The exporter claimed that there is no specific application and approval process and the grant was provided by the local government.	The Commission is not aware of the eligibility criteria for this program. The exporter claimed that the grant was received for its energy management system.	Applying the same reasoning as for Programs 12 to 15, this grant is a financial contribution that meets the definition of a subsidy under s.269T.	Applying the same reasoning as for Programs 12 to 15, this subsidy favours particular enterprises over other enterprises in China and is therefore specific. The specificity of the subsidy is not excepted by reference to s.269TAAC(3).	<u>Cooperative exporters</u> The Commission found that Asia Symbol received a benefit under this program during the investigation period. The Commission calculated the benefit as the amount of the grant and allocated the benefit to sales of all goods as a proportion of sales revenue, to determine a margin for the program. <u>Uncooperative exporters</u> The Commission has considered all relevant information to conclude that it is likely that uncooperative and all other exporters have had benefits conferred to them under this program during the investigation period. The Commission has applied the rate determined for Asia Symbol as the uncooperative exporter margin for this program.

Program	Background	Legal basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?	Method of subsidy margin calculation
Program 33 – Import interest subsidy	One of the cooperating exporters was found to have received a benefit under this program during verification of its REQ.	The Commission is not aware of any legal basis for this program. The exporter claimed that there is no specific application and approval process and the grant was provided by the local government.	The Commission is not aware of the eligibility criteria for this program. The exporter claimed that the grant was received for imported products and technology.	Applying the same reasoning as for Programs 12 to 15, this grant is a financial contribution that meets the definition of a subsidy under s.269T.	Applying the same reasoning as for Programs 12 to 15, this subsidy favours particular enterprises over other enterprises in China and is therefore specific. The specificity of the subsidy is not excepted by reference to s.269TAAC(3).	<u>Cooperative exporters</u> The Commission found that Asia Symbol received a benefit under this program during the investigation period. The Commission has applied the same methodology for Program 32 to determine a margin for this program. <u>Uncooperative exporters</u> The Commission has applied the same methodology for Program 32 to determine a margin for this program.
Program 34 – Bonus for the third award of Jiangmen City Technology received from Jiangmen Technology Bureau	One of the cooperating exporters was found to have received a benefit under this program during verification of its REQ.	The Commission is not aware of any legal basis for this program. The exporter claimed that there is no specific application and approval process and the grant was provided by the local Technology Bureau.	The Commission is not aware of the eligibility criteria for this program. The exporter claimed that the grant was received for R&D on high whiteness top grade copy paper without impurities.	Applying the same reasoning as for Programs 12 to 15, this grant is a financial contribution that meets the definition of a subsidy under s.269T.	Applying the same reasoning as for Programs 12 to 15, this subsidy favours particular enterprises over other enterprises in China and is therefore specific. The specificity of the subsidy is not excepted by reference to s.269TAAC(3).	<u>Cooperative exporters</u> The Commission found that Asia Symbol received a benefit under this program during the investigation period. The Commission has applied the same methodology for Program 32 to determine a margin for this program. <u>Uncooperative exporters</u> The Commission has applied the same methodology for Program 32 to determine a margin for this program.

Program	Background	Legal basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?	Method of subsidy margin calculation
Program 35 – Special fund for energy saving	One of the cooperating exporters was found to have received a benefit under this program during verification of its REQ.	The Commission is not aware of any legal basis for this program. The exporter claimed that there is no specific application and approval process and the grant was provided by the local government.	The Commission is not aware of the eligibility criteria for this program. The exporter claimed that the grant was received for its energy management centre construction project.	Applying the same reasoning as for Programs 12 to 15, this grant is a financial contribution that meets the definition of a subsidy under s.269T.	Applying the same reasoning as for Programs 12 to 15, this subsidy favours particular enterprises over other enterprises in China and is therefore specific. The specificity of the subsidy is not excepted by reference to s.269TAAC(3).	<u>Cooperative exporters</u> The Commission found that Asia Symbol received a benefit under this program during the investigation period. The Commission has applied the same methodology for Program 32 to determine a margin for this program. <u>Uncooperative exporters</u> The Commission has applied the same methodology for Program 32 to determine a margin for this program.
Program 36 – Special support fund of Safety Production Association (Jiangmen City)	One of the cooperating exporters was found to have received a benefit under this program during verification of its REQ.	The Commission is not aware of any legal basis for this program. The exporter claimed that there is no specific application and approval process and the grant was provided by the local government.	The Commission is not aware of the eligibility criteria for this program. The exporter claimed that the grant was received for acquiring a level 2 safety production standardisation license.	Applying the same reasoning as for Programs 12 to 15, this grant is a financial contribution that meets the definition of a subsidy under s.269T.	Applying the same reasoning as for Programs 12 to 15, this subsidy favours particular enterprises over other enterprises in China and is therefore specific. The specificity of the subsidy is not excepted by reference to s.269TAAC(3).	<u>Cooperative exporters</u> The Commission found that Asia Symbol received a benefit under this program during the investigation period. The Commission has applied the same methodology for Program 32 to determine a margin for this program. <u>Uncooperative exporters</u> The Commission has applied the same methodology for Program 32 to determine a margin for this program.

Program	Background	Legal basis	Eligibility Criteria	Is there a subsidy?	Is the subsidy countervailable?	Method of subsidy margin calculation
Program 37 – Fund for encouraging the development of foreign trade	One of the cooperating exporters was found to have received a benefit under this program during verification of its REQ.	The Commission is not aware of any legal basis for this program. The exporter claimed that there is no specific application and approval process and the grant was provided by the local government.	The Commission is not aware of the eligibility criteria for this program. The exporter claimed that the grant was received for encouraging the development of foreign trade	Applying the same reasoning as for Programs 12 to 15, this grant is a financial contribution that meets the definition of a subsidy under s.269T.	Being an export-oriented subsidy, only enterprises that export goods from China appear to be eligible. The Commission considers this makes the subsidy 'contingent on export performance' and hence the subsidy is specific. The specificity of the subsidy is not excepted by reference to s.269TAAC(3).	Cooperative exporters The Commission found that Asia Symbol received a benefit under this program during the investigation period. The Commission calculated the benefit as the amount of the grant and allocated the benefit to all exported goods as a proportion of export sales revenue, to determine a margin for the program. Uncooperative exporters The Commission has applied the same methodology for Program 32 to determine a margin for this program.The Commission has applied the same methodology for Program 32 to determine a margin for this program.
Program 38 – Subsidy of environmental protection	One of the cooperating exporters was found to have received a benefit under this program during verification of its REQ.	The Commission is not aware of any legal basis for this program. The exporter claimed that there is no specific application and approval process and the grant was provided by the local Environment Protection Bureau.	The Commission is not aware of the eligibility criteria for this program. The exporter claimed that the grant was received for on-line monitoring the source of pollution.	Applying the same reasoning as for Programs 12 to 15, this grant is a financial contribution that meets the definition of a subsidy under s.269T.	Applying the same reasoning as for Programs 12 to 15, this subsidy favours particular enterprises over other enterprises in China and is therefore specific. The specificity of the subsidy is not excepted by reference to s.269TAAC(3).	Cooperative exporters The Commission found that Asia Symbol received a benefit under this program during the investigation period. The Commission has applied the same methodology for Program 32 to determine a margin for this program. Uncooperative exporters The Commission has applied the same methodology for Program 32 to determine a margin for this program.