



CUSTOMS ACT 1901 - PART XVB

STATEMENT OF ESSENTIAL FACTS

NO. 547

**REVIEW OF ANTI-DUMPING MEASURES APPLYING TO
A4 COPY PAPER**

**EXPORTED TO AUSTRALIA FROM
THE REPUBLIC OF INDONESIA**

BY

**PT INDAH KIAT PULP & PAPER TBK AND
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ABBREVIATIONS

ABF	Australian Border Force
the Act	<i>Customs Act 1901</i> (Cth)
ADN	Anti-Dumping Notice
ADRP	Anti-Dumping Review Panel
AIA	<i>Acts Interpretation Act 1901</i> (Cth)
APP	Asia Pulp and Paper
APRIL Fine Paper	APRIL Fine Paper Trading Pte Ltd
ASIC	Australian Securities and Investments Commission
AUD	Australian Dollars
Australian Paper	Paper Australia Pty Ltd, trading as Australian Paper
BHK	Bleached hardwood kraft pulp
Brazil	Federative Republic of Brazil
CFR	Cost and freight
China	People's Republic of China
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
CTM	Cost to make
CTMS	Cost to make and sell
DS529	World Trade Organization Panel Report, <i>Australia – Anti-Dumping Measures on A4 Copy Paper</i> , WTO Doc WT/DS529/R (4 December 2019)
DSB	Dispute Settlement Body of the WTO
EBIT	Earnings before interest and tax
EPR	Electronic public record
FOB	Free On Board
GAAP	Generally accepted accounting principles
GOI	Government of Indonesia
Hawkins Wright	Hawkins Wright Ltd
the goods	the goods exported to Australia that are the subject of the review (also referred to as the goods under consideration or A4 copy paper)
gsm	Weight in grams per square meter
Indah Kiat	PT Indah Kiat Pulp & Paper Tbk
Indonesia	Republic of Indonesia
IDD	Interim dumping duty
Investigation 463	Investigation into the alleged dumping of A4 copy paper exported to Australia from Austria, Finland, the Republic of Korea, the Russian Federation and the Slovak Republic
Investigation 341	Investigation into the alleged dumping of A4 copy paper exported to Australia from Brazil, China, Indonesia and Thailand, as well as alleged countervailable subsidies in respect of A4 copy paper exported from China and Indonesia
Investigation 225	Investigation into the alleged dumping of uncoated A4 and A3 cut sheet paper exported to Australia from China
the Minister	Minister for Industry, Science and Technology
MCC	Model Control Code
NIP	Non-injurious Price
OCOT	Ordinary course of trade
OEM	Original equipment manufacturer

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the Panel	World Trade Organization Dispute Panel in DS529
Paper Force	Paper Force (Oceania) Pty Ltd
Pindo Deli	PT Pindo Deli Pulp and Paper Mills
RAK	Riau Andalan Kertas
REP 341	Anti-Dumping Commission Report No. 341
REP 463	Anti-Dumping Commission Report No. 463
Review period	Review period for Review 547 (1 January 2019 to 31 December 2019)
REQ	Response to Exporter Questionnaire
RISI	Fastmarkets RISI
RPT	Reasonable Period of Time
SEF	Statement of Essential Facts
SG&A	Selling, general and administrative
SMG	Sinar Mas Group
Special Equipment	Special Equipment (Aust) Pty Ltd
Thailand	Kingdom of Thailand
Tjiwi Kimia	PT Pabrik Kertas Tjiwi Kimia Tbk
USD	United States Dollars
USP	Unsuppressed Selling Price
WRI	Wood Resources International LLC
WTO	World Trade Organization
the WTO Panel	the World Trade Organization Panel
WTO DSB	WTO Dispute Settlement Body

1 SUMMARY AND PROPOSED RECOMMENDATIONS

1.1 Introduction

This statement of essential facts (SEF) sets out the facts on which the Commissioner of the Anti-Dumping Commission (the Commissioner) proposes to base his recommendations to the Minister for Industry, Science and Technology (the Minister)¹ in relation to a review of the anti-dumping measures (in the form of a dumping duty notice) applying to A4 copy paper (the goods) exported to Australia from the Republic of Indonesia (Indonesia) by Pt Indah Kiat Pulp & Paper Tbk (Indah Kiat) and Pt Pindo Deli Pulp and Paper Mills (Pindo Deli).

This review was initiated on 12 March 2020 after a request by the Minister. This review is considering whether:

- the variable factors relevant to the taking of measures in relation to A4 copy paper exported to Australia from Indonesia by Indah Kiat and Pindo Deli may have changed; and
- the anti-dumping measures may no longer be warranted in relation to the measures applying to Indah Kiat and Pindo Deli.

Further information on the initiation of this review is available in Chapter 2 of this SEF.

1.2 Legislative background

Division 5 of Part XVB of the *Customs Act 1901* (Cth) (the Act)² sets out, among other things, the procedures to be followed by the Commissioner when undertaking a review of anti-dumping measures.

Division 5 sets out the procedures for the initiation of a review. A review may be initiated by the Commissioner after either receiving a written request from the Minister³ or after deciding not to reject an application made by an affected party.⁴

Where the Commissioner initiates a review he is required to publish a notice indicating that it is proposed to review the anti-dumping measures covered by the application.

A review may concern the 'variable factors' – the normal value, export price or non-injurious price. A review may also concern a claim that anti-dumping measures are no longer warranted (revocations). Reviews may be in relation to a particular exporter or exporters or exporters generally.

The Commissioner must, within 110 days after the publication of the notice or such longer period as the Minister allows, place on the public record a statement of essential facts

¹ For the purposes of this decision the Minister of Industry, Science and Technology is the decision maker.

² All legislative references in this report are to the *Customs Act 1901*, unless otherwise specified.

³ Pursuant to section 269ZA(3) of the Act.

⁴ Pursuant to sections 269ZA(1) and 269ZC(4) of the Act.

(this SEF) on which the Commissioner proposes to base his recommendation to the Minister in relation to the review of the anti-dumping measures.

The Commission must make a revocation recommendation to the Minister in relation to the anti-dumping measures relevant to the application, unless he is satisfied that revoking the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping or subsidisation and the material injury that the measures are intended to prevent.

1.3 Preliminary findings

The Commissioner has found preliminarily that, in relation to Indah Kiat:

- the variable factors of export price and normal value relevant to the taking of the measures have changed and that the relevant dumping margin applying to Indah Kiat for the review period is 0.1 per cent; and
- that revoking the measures applying to Indah Kiat would not lead, or not likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the measures are intended to prevent.

The Commissioner has found preliminarily that, in relation to Pindo Deli that:

- the variable factors of export price and normal value relevant to the taking of the measures have changed and that the relevant dumping margin applying to Pindo Deli for the review period is 17.5 per cent;
- Pindo Deli has not exported to any country since 2018 and is unlikely to export above a negligible volume to Australia; and
- that revoking the measures applying to Pindo Deli would not lead, or not be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the measures are intended to prevent.

The Commissioner has found preliminarily that, in relation to Indah Kiat and Pindo Deli that:

- the Minister is not required to have regard to the desirability of applying the lesser duty rule (but still may choose to do so).

1.4 Proposed recommendations

Based on the above findings and subject to any submissions received in response to this SEF, pursuant to section 269ZDA(1)(a)(ii), the Commissioner proposes to recommend to the Minister that the dumping duty notice be revoked in its application to A4 copy paper exported from Indonesia to Australia by Indah Kiat and Pindo Deli.

It is further recommended that the Minister's decision in this matter take effect from 12 March 2020, which is not earlier than the date of publication of the notice under section 269ZC indicating the Commissioner's proposal to undertake the revocation review, pursuant to section 269ZDB(6)(a).

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The effect of this proposed recommendation will be that interim dumping duties will not apply to the goods entered for home consumption on and after 12 March 2020, and that any relevant importers who had paid such duties would be eligible for a refund.

1.5 Responding to this SEF

This SEF sets out the essential facts on which the Commissioner proposes to base his final recommendations to the Minister.

The SEF represents an important stage in the review as it informs interested parties of the facts established and allows them to make submissions in response to the SEF.

It is important to note that the SEF may not represent the final views of the Commissioner.

Interested parties, in responding to this SEF, should provide submissions to the Commissioner by no later than **20 July 2020**. The Commissioner will consider these responses in making his recommendation to the Minister.

The Commissioner is not obliged to have regard to any submission made in response to this SEF that is received after this date if to do so would, in the opinion of the Commissioner, prevent the timely preparation of the report to the Minister.

Submissions should preferably be emailed to investigations2@adcommission.gov.au.

Alternatively, submissions may be posted to:

The Director – Investigations 2
Anti-Dumping Commission
GPO Box 2013
Canberra ACT 2601
AUSTRALIA

Confidential submissions must be clearly marked accordingly and a non-confidential version of any submission is required for inclusion on the public record. A guide for making submissions is available on the Commission's website.

The public record includes non-confidential submissions by interested parties, the non-confidential versions of the Commission's verification reports⁵ and other publicly available documents. The public record can be viewed online on the Commission's website.

Documents on the public record for this review should be read in conjunction with this SEF.

⁵ For the purposes of this review details of the verification undertaken by the Commission are included in this report, not in separate verification reports.

1.6 *Final report*

The Commissioner's final report and recommendations must be provided to the Minister by **14 August 2020** or within such longer period as may be allowed.

2 BACKGROUND

2.1 Initiation

This review was initiated on 12 March 2020 after a request by the Minister, pursuant to subsection 269ZA(3) of the Act, to review the dumping measures as they apply to Indah Kiat and Pindo Deli's export of the goods to Australia from Indonesia.⁶

The Minister requested the Commissioner initiate this review because she considered that:

- the variable factors relevant to the taking of measures in relation to A4 copy paper exported to Australia from Indonesia by Indah Kiat and Pindo Deli may have changed; and
- the anti-dumping measures may no longer be warranted in relation to the measures applying to Indah Kiat and Pindo Deli.

In her written request, the Minister further specified that the reasons for the request were to:

- 1) implement the findings made by the World Trade Organization (WTO) Panel (the WTO Panel) in DS529, *Australia – Anti-Dumping Measures on A4 Copy Paper*,⁷ (DS529) in its report, as endorsed by the Dispute Settlement Body (DSB) on 27 January 2020. In that decision, the Panel made several findings which affirmed the approach of the Commissioner and the then Assistant Minister for Science, Jobs and Innovation and Parliamentary Secretary to the Minister for Jobs and Innovation in respect of the anti-dumping measures relating to A4 copy paper exported from Indonesia by certain exporters. However, the Panel found some inconsistencies with the Anti-Dumping Agreement including:⁸
 - Article 2.2, because Australia disregarded domestic sales of two exporters as the basis for determining normal value without properly determining that such sales did “not permit a proper comparison”;
 - Article 2.2.1.1, because Australia did not establish both conditions in the first sentence of Article 2.2.1.1 were satisfied when rejecting the pulp component of two exporters' records on the basis of the term “normally”; and
 - Article 2.2, because Australia did not have a basis to use surrogate costs for the calculation of two exporters' pulp costs when constructing the cost of production, because Australia did not provide a reasoned and adequate explanation as to why it was permitted to do so.

⁶ A copy of the Minister's request is attached to ADN 2020/028.

⁷ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper* (Indonesia), WTO Doc WT/DS529/R (4 December 2019).

⁸ Agreement for the Implementation of Article VI of the General Agreement on Tariffs & Trade 1994.

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- 2) address changes which have occurred in the market for A4 Paper exported to Australia from Indonesia since the notice relating to the measures was published on 19 April 2017⁹ following the completion of Investigation 341.

Notice of the initiation of the review was made upon the publication of Anti-Dumping Notice (ADN) 2020/028.¹⁰

2.2 History of anti-dumping measures

2.2.1 Current cases

Review 551, which was initiated on 16 April 2020, is examining whether the variable factors have changed as they apply to A4 copy paper exported to Australia from the Federative Republic of Brazil (Brazil), the People's Republic of China (China), Indonesia (except Indah Kiat and Pindo Deli) and the Kingdom of Thailand (Thailand). Review 551 was initiated subsequent to an application received from Paper Australia Pty Ltd, trading as Australian Paper (Australian Paper).

Further information in relation to Review 551 can be found on the Commission's website.

2.2.2 Previous cases

The Commission has conducted multiple investigations relating to A4 copy paper. Full details of these investigations can be found on the Commission's website. Previous investigations since 2013 that are relevant to A4 copy paper are summarised below.

Case Number	Commencement	Case Description
463	March 2018	The Commissioner initiated an investigation into the alleged dumping of A4 copy paper exported to Australia from Austria, Finland, the Republic of Korea, the Russian Federation and the Slovak Republic (referred to as Investigation 463). Following the investigation the Minister accepted the recommendations contained in <i>Anti-Dumping Commission Report No. 463</i> (REP 463) and a dumping duty notice was published in respect of A4 copy paper exported to Australia from Finland, Korea, Russia and Slovakia. As a result of applications to the Anti-Dumping Review Panel (ADRP), the Minister accepted the recommendations of the ADRP and revoked and substituted a new decision that was the same as the original decision, but excluding Mondi SCP a.s. from the measures.

⁹ ADN 2017/39, published following the recommendations by the Commissioner in Report No. 341.

¹⁰ Electronic public record (EPR) number 1.

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Case Number	Commencement	Case Description
341	April 2016	The Commissioner initiated an investigation into the alleged dumping of A4 copy paper exported to Australia from Brazil, China, Indonesia and Thailand, as well as alleged countervailable subsidies in respect of A4 copy paper exported from China and Indonesia (Investigation 341). Following the investigation the Minister accepted the recommendations contained in <i>Anti-Dumping Commission Report No. 341</i> (REP 341) and a dumping duty notice was published in respect of A4 copy paper exported to Australia from all exporters in Brazil, China, Indonesia (excluding Pt Pabrik Kertas Tjiwi Kimia Tbk (Tjiwi Kimia)) and Thailand. A countervailing duty notice was published in respect of A4 copy paper exported to Australia from all exporters in China except for UPM (China) Co. Ltd and Asia Symbol (Guangdong) Paper Co. Ltd. The countervailing investigation in respect of A4 copy paper exported from Indonesia was terminated as the volume of A4 copy paper exported from Indonesia in which a countervailable subsidy was received was negligible.
225	October 2013	The Commissioner initiated an investigation into the alleged dumping of uncoated A4 and A3 cut sheet paper exported to Australia from China (Investigation 225). This investigation was terminated on 7 August 2014 as a result of the Commissioner determining that the imports of the goods the subject of the investigation had either not been dumped, the dumping margin was negligible (less than 2 per cent) and/or that the total volume of exports to Australia from all Chinese exporters that had been dumped was negligible (less than 3 per cent).

Table 1: Previous investigations relevant to A4 copy paper since 2013

2.2.3 WTO Dispute DS529

Following a request by Indonesia, the WTO Dispute Settlement Body (WTO DSB) established a panel on 27 April 2018 to hear Indonesia's complaint regarding the measures imposed in relation to Indah Kiat and Pindo Deli following Investigation 341.

The final report of the WTO Panel in DS529 was published on 4 December 2019, and was adopted by the WTO DSB on 27 January 2020. The Panel found the measures imposed in relation to Indah Kiat and Pindo Deli were inconsistent with some provisions of the Anti-Dumping Agreement, and recommended that Australia bring its measures into conformity with its obligations under the Anti-Dumping Agreement.

A copy of the dispute panel's final report is available on the WTO's website¹¹.

Following adoption of the Panel Report by the WTO DSB, Indonesia and Australia reached an agreement on a reasonable period of time (the RPT) to comply with the

¹¹ See https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds529_e.htm.

rulings and recommendations of the WTO DSB. The RPT is a period of 8 months with the possibility of an extension of one month in the event of unforeseen delays. Accordingly, the RPT is set to expire on 27 September 2020. In the event of an extension, the RPT is set to expire on 27 October 2020.

2.3 Conduct of inquiry

2.3.1 Initiation of Review and Period of Review

The period of review established for Review 547 is 1 January 2019 to 31 December 2019 (review period).

In conducting the review under Division 5 of Part XVB of the Act (Division 5 Review), the Commission has adopted the methodologies that were clarified in the rulings and recommendations of the WTO DSB. The findings of the Panel's report in DS529 have been incorporated by the Commission in its conduct of the Review, including having regard to verified information from Investigation 341 where appropriate.

Submissions were received from interested parties in relation to the initiation of the review and the establishment of the review period.

2.3.1.1 Government of Indonesia submissions

The Government of Indonesia (GOI) submitted that the Panel's findings in DS529 require Australia to review its original dumping measures, not to conduct an entirely new proceeding that uses a 2019 review period.¹² The GOI further stated that the Commission's approach to using a 2019 review period was problematic given that both Indah Kiat and Pindo Deli had not exported to Australia during 2019. The GOI submitted that this would result in the establishment of an export price that was neither consistent with the Panel's findings nor the WTO Anti-Dumping Agreement. The GOI requested the Commission to conduct the review based on the data from the original investigation. The GOI also referenced the approaches taken by the European Union in WTO disputes DS473¹³ and DS480¹⁴ where data from the original cases was considered in implementing the WTO DSB's findings.

In a further submission¹⁵, the GOI considered that the Commission's questionnaires had imposed a burden which was beyond what was required to bring the measures into conformity. The GOI submitted that Australia's WTO obligation to bring its measures into conformity with WTO requirements prevailed over requirements under Australia's domestic law.

The GOI also stated that using an indexing or market adjustment methodology to construct the export price in the absence of exports would not produce a fair and

¹² EPR number 4.

¹³ Appellate Body Report, *EU - Anti-Dumping Measures on Biodiesel from Argentina*, WTO Document WT/DS473/15.

¹⁴ Panel Report, *EU - Anti-Dumping Measures on Biodiesel from Indonesia*, WTO Document WT/DS480/R.

¹⁵ EPR number 6.

objective outcome. The GOI stated that, unlike the establishment of normal value, the Anti-Dumping Agreement offered no methodology to construct an export price by reference to a surrogate export price. The GOI reiterated that the correct and reasonable methodology was to use the information from the original investigation period.

2.3.1.2 Submissions from Indah Kiat and Pindo Deli

At the time of submitting their respective responses to the exporter questionnaires (REQs), Indah Kiat and Pindo Deli made submissions¹⁶ in regard to the Commission's approach to the review. Both submissions made the following common points:

- The Commission's use of a 2019 review period was inconsistent with Australia's WTO obligations;
- The review's exporter questionnaire was extraordinarily burdensome and without corresponding justification. Both exporters advised that they had completed questionnaire responses for the original investigation period which had been subsequently verified by the Commission; and
- Rather than responding to the Panel's findings (in relation to the original investigation period), the Commission had commenced an entirely new inquiry requiring them to submit data for a period during which they had not exported. They submitted that this would result in the construction of an export price, which would not reasonably enable the determination of a margin of dumping for 2019, let alone for 2015.

Indah Kiat additionally submitted that the Commission was acting inconsistently with Australia's WTO obligations by failing to examine whether there was a WTO consistent basis for imposing the measures. Indah Kiat stated the Commission was not examining whether there was sufficient evidence of dumping for the original investigation but, instead, determining whether there is evidence of dumping in the review period (2019). Indah Kiat indicated that, if Australia had acted consistently with its obligations in the original investigation, the investigation would have been terminated in relation to Indah Kiat.

Pindo Deli additionally submitted that the Commission would be acting inconsistently with at least Article 9.2 of the Anti-Dumping Agreement if a dumping margin based on a constructed export price exceeded 14 per cent.

On 18 May 2020 Indah Kiat and Pindo Deli submitted¹⁷ that an expiry review would be capable of bringing the measures into conformity. Subsequently, Indah Kiat and Pindo Deli submitted¹⁸ that they disagreed that the Commission and the Minister were obliged to use the Review procedure under sections 269ZA and 269ZC because the Minister has an independent power to review and revoke the earlier notice by virtue of section 33(3) of the *Acts Interpretation Act 1901* (Cth) (AIA).

¹⁶ EPR numbers 8 and 9.

¹⁷ EPR number 15, Attachment E.

¹⁸ EPR number 16.

2.3.1.3 Submission from Paper Force

Paper Force (Oceania) Pty Ltd (Paper Force) submitted¹⁹ that the Commission's approach (to the review) was incorrect and not in accordance with WTO "guidelines".

2.3.1.4 Commission's consideration of submissions

WTO rules do not prescribe the ways in which an inconsistent measure may be brought into conformity with the relevant WTO agreement. Article 19.1 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes*, states that where a panel or the Appellate Body concludes that a measure is inconsistent with a covered agreement, "it shall recommend that the Member concerned bring the measure into conformity with that Agreement." In addition, Article 21.1 of the DSU requires "prompt compliance with the rulings and recommendations of the DSB". The Commission also notes that the DS529 Panel expressly denied Indonesia's request to suggest ways in which Australia could implement the Panel's recommendations, including Indonesia's submission that the measures at issue should be withdrawn.²⁰

The Commission considers in this circumstance a Division 5 Review under the Act enables the existing measures to be altered or revoked, as required, to bring the measures into conformity with the Anti-Dumping Agreement. The Commission's review is a review of an existing measure. The Commission has considered a range of information sources, including the information and data provided during the original investigation by interested parties, to ensure that the review is conducted in accordance with Part XVB of the Act and Australia's WTO obligations.

The Commission respectfully disagrees with the submissions of Indah Kiat and Pindo Deli that the Minister has an independent power to review and revoke the earlier notice by virtue of subsection 33(3) of the AIA. Subsection 33(3) of the AIA provides that a statutory power to make an instrument includes a power to revoke or vary it. Subsection 2(2) of the AIA provides that this is subject to a contrary intention appearing in the empowering statute. The Commission considers that a contrary intention does exist in Part XVB of the Act in the form of express powers for the Minister to vary or revoke measures²¹ coupled with a detailed framework for interested parties to challenge any decision of the Minister.

The Commission respectfully disagrees with the submissions of Indah Kiat and Pindo that an expiry review would be capable of bringing the measures into conformity.²² A continuation inquiry²³ requires an application from the original applicant for the measures, or by persons representing the whole or a portion of the Australian industry producing the goods covered by those measures. There is no power for an affected exporter, the Minister or the Commissioner to initiate a continuation inquiry. Furthermore, a

¹⁹ EPR number 2.

²⁰ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, paras. 8.5-8.6.

²¹ The Act, Division 5 (review of measures) and Division 6A (continuation inquiries).

²² The legal representative for Indah Kiat and Pindo Deli submitted that the Commission could have conducted an expiry review. For the purposes of this submission, the Commission considers that the reference to an expiry review is that of a continuation review under the Act. EPR number 15, Attachment E.

²³ Division 6A of Part XVB of the Act.

continuation inquiry seeks to determine whether the continuation of anti-dumping measures, in the form of a dumping duty notice, is justified. While a potential outcome is the withdrawal of the measures, this would only occur after the specified expiry day. Therefore, a continuation inquiry would not be capable of bringing the measures into conformity with the Anti-Dumping Agreement.

The Commission respectfully disagrees with the submissions put forward by the Government of Indonesia, Indah Kiat and Pindo Deli with respect to the Commission's determination of export prices. Article 2.3 of the Anti-Dumping Agreement expressly recognises that there may be circumstances where there is no export price, or where the export price may be unreliable. In such circumstances, an alternative method of determining an appropriate export price for comparison is required. This alternative basis may result in a "constructed" export price, and is calculated on the basis of the price at which the imported products are first resold to an independent buyer. If the imported product is not resold to an independent buyer, or if not resold as imported, the authorities may determine a reasonable basis on which to calculate the export price. This may include the use of facts available, including the use of the export price from a previous investigation or inquiry.

The Commission does not accept Indah Kiat's submission that if Australia had acted consistently with its obligations in the original investigation, the investigation would have been terminated in relation to Indah Kiat. As the Analysis of 2015 Dumping Margins chapter sets out (Chapter 3), the Commission considers that the measures were warranted in the original investigation, after implementing the Panel's findings in DS529. The Commission notes in this regard that the DS529 Panel declined to decide, inter alia, whether Australia had acted inconsistently with Article 9.3 of the Anti-Dumping Agreement and Article VI:2 of the GATT 1994 by virtue of having calculated and imposed anti-dumping duties in excess of the dumping margin as established under Article 2 of the Anti-Dumping Agreement.²⁴

2.3.2 Participation in the review – Questionnaire responses

2.3.2.1 Government of Indonesia

The GOI was invited to complete a government questionnaire and make submissions in relation to the review. Due to the impact of COVID-19, the GOI sought and was granted a one week extension to provide a questionnaire response and make submissions in relation to the review.

The GOI's questionnaire response was received on 27 April 2020. A public record version was placed on the public record.²⁵

2.3.2.2 Indonesian exporters

Both Indah Kiat and Pindo Deli submitted questionnaire responses on 20 April 2020. The Commission wrote to both companies on 27 April 2020 inviting further responses to the

²⁴ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 8.2.

²⁵ EPR number 11.

questionnaire. Indah Kiat and Pindo Deli subsequently advised that they would not be providing further responses to the questionnaire. Copies of the public record versions of the companies' questionnaire responses and further correspondence in relation to these questionnaires are available on the public record.²⁶

The Commission also made enquiries with other Indonesian producers and exporters, Tjiwi Kimia and the APRIL Group, to confirm if they were willing to provide information to the review. Both companies declined to provide information in relation to the review.

2.3.2.3 Australian industry

Australian Paper sought a two week extension to provide a response to the Australian industry questionnaire due to the impact of COVID-19. The Commission granted Australian Paper the two week extension. Australian industry provided its questionnaire response on 4 May 2020. A public record version of the questionnaire response is available on the public record.²⁷

2.3.2.4 Australian importers

The Commission sought information from both Paper Force and Special Equipment (Aust) Pty Ltd (Special Equipment), who both imported A4 copy from Indonesia during the review period. Paper Force declined to complete an importer questionnaire, indicating that it had not imported A4 copy paper from either Indah Kiat or Pindo Deli during the review period.²⁸ Special Equipment provided a limited response to the Australian importer questionnaire.²⁹

2.3.3 Information obtained from other parties

The Commission considered information obtained from interested parties as well as information supplied in Investigation 341. For the purpose of this review, the Commission also sought and obtained information from the following parties:

- Wood Resources International LLC (WRI);
- Fastmarkets RISI (RISI); and
- Hawkins Wright Ltd (Hawkins Wright),

WRI is an internationally recognized forest industry consulting firm that specializes in evaluations of global forest resources, wood raw-material markets (logs, woodchips and biomass), forest products trade, wood costs outlook, and forest industry developments worldwide.

²⁶ EPR numbers 13, 14 and 15 (attachments A, B and C).

²⁷ EPR number 12.

²⁸ EPR numbers 2 and 3.

²⁹ The importer questionnaire response from Special Equipment did not answer questions in Part D *Market situation & proper comparison*, or Part E *Proper comparison - Australian market*. Responses to questions for Part C *Sales and expenses* were partially provided.

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RISI provides price reporting and market analysis for the forest products sector, including forecasts, analysis, conferences and consulting services to stakeholders throughout the forest products supply chain.

Hawkins Wright provides consultancy services for the global pulp and paper industry markets, offering market analysis on issues of supply and demand, costs, and prices (including forecasts), covering all grades of pulp and paper, across all regions.

The information obtained from WRI, RISI, and Hawkins Wright, where relied upon by the Commission, is detailed where relevant throughout the SEF.

2.3.4 Submissions received from interested parties

Appendix A lists the submissions received by the Commission from interested parties. Where possible, each submission has been considered by the Commissioner in reaching the findings contained within this SEF.

The Commissioner received one submission from Australian Paper after 37 days from the publication of the notice initiating the review. In the Commissioner's opinion, having regard to this submission would have delayed the timely placement of the SEF on the public record.³⁰ As a result, the Commissioner will have regard to this submission following the publication of the SEF.

³⁰ EPR number 17.

3 ANALYSIS OF 2015 DUMPING MARGINS

3.1 Preliminary analysis

The WTO Dispute Panel in DS529 found that anti-dumping measures applying to A4 copy paper exported from Indonesia by Indah Kiat and Pindo Deli were inconsistent with the WTO Anti-Dumping Agreement. Specifically, the Panel found that Australia:

- had disregarded domestic sales of the two exporters as the basis for determining normal value without properly determining that because of the particular market situation, such sales did “not permit a proper comparison” (Article 2.2);
- did not establish both conditions in the first sentence of Article 2.2.1.1 were satisfied when rejecting the pulp component of the two exporter’s records on the basis of the term “normally”; and
- did not have a basis to use surrogate costs for the calculation of the two exporter’s pulp costs when constructing the cost of production, as a result of improperly rejecting the two exporters’ records. In addition, Australia did not provide a reasoned and adequate explanation as to why it made no adjustments for profit with regard to Indah Kiat’s pulp costs, or why it did not replace the costs of woodchips in constructing Indah Kiat’s cost of production of A4 copy paper (Article 2.2).

After taking into consideration the Panel’s findings in DS529, the Commission has reassessed the dumping margins found in the original investigation in relation to Indah Kiat and Pindo Deli.

In completing this reassessment the Commission has had regard to matters or information including:

- The Commission’s findings in REP 341;
- The ADRP’s findings in ADRP Report Number 55;
- The findings of the DS529 Panel;
- Indah Kiat and Pindo Deli’s exporter questionnaire responses and submissions in relation to Review 547; and
- the GOI’s questionnaire response and submissions in relation to Review 547.

This further assessment has confirmed that the exports of A4 copy paper from Indonesia by Indah Kiat and Pindo Deli in the original investigation period had been dumped and that the volume of dumped goods from Indonesia was not negligible.

Table 2, below, summarises the reassessed dumping margins for Indah Kiat and Pindo Deli in relation to their respective exports of A4 copy paper during 2015:

Country	Exporter	Original Dumping Margin	Re assessed Dumping Margin
Indonesia	Indah Kiat	30.0%	6.9%
	Pindo Deli	33.0%	33.1%

Table 2: 2015 Dumping margins

The Commission’s calculations of the 2015 export prices, normal values and dumping margins are contained at **Confidential Appendix 1**.

3.2 Verification of information

The Commission completed onsite verification of the exporter questionnaire response provided by Indah Kiat for the original investigation period (calendar year 2015). This onsite verification included both Indah Kiat's cost to make and sell (CTMS) data and sales data. The Commission found Indah Kiat's sales and CTMS data to be complete, relevant and accurate.

In relation to Pindo Deli, the Commission completed onsite verification of Pindo Deli's sales data for the original investigation period. The Commission found Pindo Deli's sales data to be complete, relevant and accurate. The Commission did not conduct an onsite verification of Pindo Deli's CTMS. Instead, the Commission compared this data to that of other exporters from Indonesia and was satisfied that it is comparable.

Both Indah Kiat and Pindo Deli provided copies of their 2015 financial statements with their exporter questionnaire responses. The financial statements for Indah Kiat included an independent auditor's report. The auditor's report contained an unqualified opinion stating that Indah Kiat's financial statements were in accordance with the Indonesian Financial Accounting Standards. The Commission was able to reconcile the sales data of Indah Kiat and Pindo Deli with their respective accounting records and financial statements. The Commission further reconciled the CTMS data of Indah Kiat with its audited financial statements.

3.3 Normal value methodology

The Commission has reconsidered the methodology and findings in relation to the normal values determined in REP 341.

3.3.1 Particular Market Situation and Suitability

Summary

The Commission found that there was a particular market situation in Indonesia during the original investigation period. Appendix 2 of REP 341 sets out the Commission's findings in respect of the market situation in Indonesia for the original investigation period.

Subsequent to REP 341 and in light of the findings of the WTO Panel in DS529, the Commission has reconsidered whether the situation in the market in Indonesia is such that domestic sales of A4 copy paper in Indonesia are not suitable for use in determining a normal value under subsection 269TAC(1) of the Act.

In determining whether domestic sales are not suitable, the question of suitability is informed by the determination of normal value under subsection 269TAC(1): that is, the price paid or payable for like goods sold in the ordinary course of trade for home consumption in the country of export in sales that are arms-length transactions by the exporter or, if like goods are not so sold by the exporter, by other sellers of the like goods.

In undertaking its assessment of whether sales are "suitable" for the purposes of subsection 269TAC(1), the Commission considered the relative effect of the market situation on domestic and export prices.

The assessment of the relative effect of the particular market situation on domestic and export prices requires a comparison of the existing relationship between price and cost in each market. Those relationships both define and are defined by the prevailing conditions of competition in each market. It is important that the relevant factual circumstances of each price, including its relationship with cost, is considered within the proper context of the relevant market: for the domestic sales price, the relevant market is the domestic market of the exporting country (i.e., Indonesia); for the export price, the relevant market is the country into which the goods are being sold (i.e., Australia).

In this case, the relationship between price and cost, and thus the prevailing conditions of competition, in Indonesia are materially different in comparison to the relationship between price and cost and the prevailing conditions of competition in Australia. Specifically, the effect of the market situation in Indonesia is an input cost decrease across all production that results in a lower level of competitive pricing throughout the market. This relationship defines the conditions of competition in Indonesia. The effect of the market situation on the domestic sales prices in Indonesia does not result in any competitive advantages or disadvantages between market players. In other words, it modifies the conditions of competition in a consistent manner for all market participants.

In Australia, where no market situation or input cost decrease exists, competitive pricing prevails at a higher level. The relationship between price and cost involves higher production costs that establish a higher minimum threshold for competitive prices. Under these circumstances, the effect of the market situation in Indonesia on the export price in Australia results in competitive advantages and disadvantages between market players. Specifically, Indonesian exporters enjoy a cost and price advantage that either manifests as an increased profit margin at the prevailing level of competitive pricing in the Australian market or a low export price that undercuts the prevailing level of competitive pricing. In other words, the effect of the market situation on export price is to modify the conditions of competition in Australia to the benefit of Indonesian exporters and, if that benefit manifests as a low price that undercuts the prevailing level of competitive pricing in Australia, to the detriment of all other market participants in that market.

Thus, the relative effect of the market situation on domestic and export prices is materially different in the relevant markets. For the reasons outlined above, the domestic sales prices are not suitable to use as the basis for "normal value" because they do not permit a proper comparison with export price for the purposes of determining the existence and margin of dumping in the Australian market.

Analysis

For the purposes of this Review, the Commission has had regard to the following statements in the DS529 WTO Panel report:

- "Where a "particular market situation" is found to exist, the investigating authority must examine whether "a proper comparison" of the domestic and the export price is permitted or not. We consider that the "proper comparison" language calls for an assessment in respect of the comparison of domestic and export prices."³¹

³¹ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.73.

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- “The ordinary meaning of the term “proper” is “suitable for a specified or implicit purpose or requirement; appropriate to the circumstances or conditions; ... apt, fitting; correct, right”. The term “comparison” can be understood as “the action, or an act, of comparing, or noting the similarities and differences of two or more things.”³²
- “It is implied here in Article 2.2 that the words “a proper comparison” refer to the comparison between the domestic price and the export price.”³³
- “[a] purely numerical comparison between the [domestic and export] prices may not reveal anything about whether the domestic price can be properly compared with the export price.”³⁴
- “The phrase “because of the particular market situation” makes clear that the qualitative assessment of whether the domestic and export prices can be properly compared should focus on how the particular market situation affects that comparison.”³⁵
- “[t]he investigating authority must examine the domestic sales in order to determine whether a proper comparison between the two prices is permitted in spite of the effect of the particular market situation.”³⁶
- “[w]hile a particular market situation may have an effect on both domestic and export prices, it does not follow that the impact on domestic and export prices will be the same.”³⁷
- “[h]ow domestic prices and export prices of an individual exporter are affected notwithstanding an equal decrease in input costs is likely to depend significantly upon a number of factors, including the prevailing conditions of competition in each market and the existing relationship between price and cost. We consider that an exporter may find itself with different options in respect of how to take advantage of an input cost decrease depending on market conditions in each market.”³⁸
- “[w]hether the exporter's domestic sales permit a proper price comparison with the export price is a question that can only be ascertained through an examination of relevant factual circumstances.”³⁹

³² Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.74. (footnotes omitted)

³³ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.74.

³⁴ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.75.

³⁵ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.75.

³⁶ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.76.

³⁷ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.76.

³⁸ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.80.

³⁹ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.81.

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- The point is to determine if there is a comparable domestic price (i.e. if there is “the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country” in the sense of the GATT 1994 Article VI:1(b) and Article 2.1 of the Anti-Dumping Agreement);⁴⁰
- A “particular market situation” may have no effect on export prices;⁴¹
- “...where a particular market situation was found to affect domestic market sales prices solely as a result of a decreased cost for an input that was used identically to produce merchandise for the domestic and export markets, the investigating authority was obligated to assess the effect of the particular market situation on the domestic price in relation to the effect on the export price when determining whether domestic prices permitted a proper comparison with those export prices.”⁴²
- “... we consider that, in at least some cases, differences in the impact on domestic and export sales could prevent a proper comparison.”⁴³

The comments of the Panel should be read in the context of Article 2.2 of the Anti-Dumping Agreement which states:

When there are no sales of the like product in the ordinary course of trade in the domestic market of the exporting country or when, because of the particular market situation or the low volume of the sales in the domestic market of the exporting country (footnote omitted), such sales do not permit a proper comparison, the margin of dumping shall be determined by comparison with a comparable price of the like product when exported to an appropriate third country, provided that this price is representative, or with the cost of production in the country of origin plus a reasonable amount for administrative, selling and general costs and for profits.

The Commission notes that the provisions of Part XVB of the Act are to be construed, as far as their language permits, consistently with Australia’s obligations under the Anti-Dumping Agreement.⁴⁴

Thus, in undertaking its assessment of whether sales are “not suitable” for the purposes of subsection 269TAC(1), the Commission will consider the relative effect of the market situation on both the domestic sales and export sales. If domestic sales and export sales are not equally impacted by the market situation, such sales may not be properly

⁴⁰ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.76.

⁴¹ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.75.

⁴² Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.90.

⁴³ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.57.

⁴⁴ *Schaefer Waste Technology Sdn Bhd v CEO Australian Customs Service* (2006) 156 FCR 94 at [48] (Jacobson J); cited with approval in *Minister for State for Home Affairs v Siam Polyethylene Co Ltd* (2010) 270 ALR 440 at [35] (Graham and Flick JJ).

compared. Such a finding may render domestic sales “not suitable” for the purposes of subsection 269TAC(1)

3.3.1.1 Market situation finding

The Commission identified a market situation in the Indonesian domestic market for A4 copy paper (see Appendix 2 of REP 341):

- "[t]he [two] main Indonesian producers of A4 copy paper ... are integrated paper producers with their own upstream raw materials and input facilities"⁴⁵ and that they "account for around 90 per cent of Indonesian [pulp] capacity";⁴⁶
- "50 to 60 per cent of total [pulp] production" in Indonesia is consumed in Indonesia.⁴⁷ The rest is exported;
- "no [export] tariff applied to ... pulp and ... there [were] no export quotas for pulp"⁴⁸ and "Latin American or Brazilian based benchmarks and Indonesian export based benchmarks are broadly aligned [and] reflect competitive market prices";⁴⁹
- policies and programs of the Government of Indonesia "have affected the structure and development of Indonesia's forestry sector and increased the supply of timber";⁵⁰
- "an export ban imposed by the [Government of Indonesia] on logs distorts the domestic supply of timber"⁵¹ and "the net impact of the export ban on Indonesian logs [is] ... reduced prices";⁵²
- "around 50 per cent of logs used by the Indonesian forestry sector are consumed in pulp production";⁵³
- "pulp is a key raw material input to paper"⁵⁴ and "typically comprises between 60 to 65 per cent of the total cost of A4 copy paper";⁵⁵

⁴⁵ REP 341, p. 173. (footnote omitted)

⁴⁶ REP 341, p. 167.

⁴⁷ REP 341, p. 167.

⁴⁸ REP 341, p. 170.

⁴⁹ REP 341, p. 165.

⁵⁰ REP 341, p. 168.

⁵¹ REP 341, p. 170.

⁵² REP 341, p. 172.

⁵³ REP 341, p. 166.

⁵⁴ REP 341, p. 151.

⁵⁵ REP 341, footnote 211, p. 151.

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- "the Indonesian pulp industry has [thus] been the largest beneficiary of the resulting increased access to timber"⁵⁶ and "the primary beneficiary of identified timber-related [Government of Indonesia] policies and programs was the Indonesian pulp industry";⁵⁷
- "[Government of Indonesia] programs have increased the availability of timber relative to demand and hence artificially lower[ed] prices for Indonesian logs and pulp ... [W]ithout these interventions, the price for timber and pulp [in Indonesia] would be above prices that prevailed during the investigation period";⁵⁸
- "the [Government of Indonesia's] support for the forestry and pulp industry ... is effected through programs that support the expansion of timber plantations and restrict timber exports. These programs have resulted in distortions in the Indonesian forestry and pulp industries and ultimately the domestic price for A4 copy paper";⁵⁹
- "Indonesian A4 copy paper producers have benefited through access to cheaper pulp including from related parties for integrated paper producers ... [A]ccess to cheap pulp has improved the international competitiveness of Indonesian paper producers ...";⁶⁰
- "without the[] interventions ... higher input costs would be reflected in higher domestic prices for A4 copy paper";⁶¹ and
- "the domestic price of Indonesian A4 copy paper is significantly below comparable regional benchmarks ... [T]he distortion of the domestic price for A4 copy paper directly results from Government of Indonesia involvement in the forestry and pulp industries through its support for development of timber plantations and prohibition on exporting of timber logs".⁶²

In summary, the Commission found:

- programs and policies of the Government of Indonesia and the export ban on logs increased the supply of logs in Indonesia and thereby lowered the price and cost of logs and hardwood pulp⁶³ in Indonesia;

⁵⁶ REP 341, p. 168.

⁵⁷ REP 341, p. 173.

⁵⁸ REP 341, p. 174.

⁵⁹ REP 341, p. 183.

⁶⁰ REP 341, p. 173.

⁶¹ REP 341, p. 174.

⁶² REP 341, pp. 173-174.

⁶³ The term "hardwood pulp" is used to refer to pulp that is made from hardwood trees such as acacia and eucalyptus, which is the predominant pulp used in the production of non-recycled A4 copy paper. The

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- the lowered cost and price of logs and hardwood pulp in Indonesia induced and allowed the main Indonesian A4 copy paper producers (Sinar Mas Group (SMG) and APRIL Group), which are integrated A4 copy paper producers with their own upstream pulp facilities,⁶⁴ to supply more A4 copy paper at each possible price point than they otherwise would have; and
- the resultant price of A4 copy paper in Indonesia was the end result of the interactions between those selling, and those buying, A4 copy paper in Indonesia. The resultant price of A4 copy paper in Indonesia was artificially low,⁶⁵ was significantly below regional benchmarks,⁶⁶ and reflected the lowered price and cost of logs and hardwood pulp in Indonesia that resulted from the programs and policies of the GOI.⁶⁷

The Commission notes that its finding of a market situation was not found to be inconsistent with Article 2.2 of the Anti-Dumping Agreement by the WTO Panel in DS529.

The Commission's framework for assessing whether because of the situation in the market in Indonesia sales of A4 copy paper are not suitable for use in determining a price under subsection 269TAC(1)

The Commission has considered whether because of the situation in the market, sales of A4 copy paper in Indonesia are not suitable for determining a price under subsection 269TAC(1). In undertaking its assessment of whether sales are not "suitable" for the purposes of subsection 269TAC(1), the Commission has considered the relative effect of the market situation on both the domestic sales and export sales. If domestic sales and export sales are not equally impacted by the market situation, such a finding may render domestic sales not "suitable" for the purposes of subsection 269TAC(1).

In undertaking this assessment of the impact of the situation in the market, the Commission has considered the prevailing conditions of competition in the domestic and export market for A4 copy paper and the existing relationship between price and cost in order to determine whether domestic and export prices can be properly compared. In undertaking an assessment of the prevailing conditions of competition, the Commission considered market structure, levels of import penetration and any competitive advantage arising from the market situation. In undertaking an assessment of the relationship

production of A4 copy paper also requires a small volume of pulp made from softwood trees such as pine. Such pulp is not produced in Indonesia.

⁶⁴ REP 341, p. 173.

⁶⁵ REP 341 states: "The Commission compared Indonesian and Chinese domestic prices with a number of regional benchmark prices to determine whether Indonesian and Chinese domestic prices [of A4 copy paper] were artificially low" (REP 341 section A2.7.4, p. 153); and refers to the finding of the Anti-Dumping Commission "that Indonesian domestic prices [of A4 copy paper] are artificially low" (REP 341, p. 167).

⁶⁶ REP 341 states: "[T]he domestic price of Indonesian A4 copy paper is significantly below comparable regional benchmarks" (REP 341, p. 173).

⁶⁷ "...[GOI] programs have increased the availability of timber relative to demand and hence artificially lower[ed] prices for Indonesian logs and pulp...[W]ithout these interventions, the price for timber and pulp would [have] be[en] above prices that prevailed during the investigation period and ... these higher input costs would [have] be[en] reflected in higher domestic prices for A4 copy paper" (REP 341, p. 174).

between price and cost, the Commission considered the effect of pulp costs on prices and the effect of the CTMS on prices and profits. These assessments are both qualitative and quantitative in nature. The Commission's evidence base for this assessment is contained in Appendix B.

This assessment of the relative effect of the market situation on both domestic and export prices of A4 copy paper has informed the Commission's determination as to whether sales are "not suitable" for determining a price under subsection 269TAC(1).

3.3.1.2 Prevailing conditions of competition

In assessing the prevailing conditions of competition in Indonesia and Australia, the Commission has considered a variety of source information provided by RISI, interested parties (including the GOI and relevant exporters) and Australian industry.

3.3.1.2.1 Market structure

3.3.1.2.1.1 Indonesia

The Indonesian domestic market for A4 copy paper is almost entirely supplied by Indonesian manufacturers. There are 62 private pulp and paper companies registered with the Indonesian Pulp and Paper Association, with all companies operating in the Indonesian copy paper industry being privately owned (the GOI is not a shareholder in any pulp or paper companies). Supply channels include small and large retailers, distributors and corporations. There is no price guidance for pulp and paper products in Indonesia.

The main Indonesian producers of A4 copy paper (with a combined production capacity of 2.2 million tonnes) are SMG and the APRIL Group, both of which are integrated paper producers with their own upstream raw materials and input facilities. This accords with the Commission's research that large copy paper companies in Indonesia are usually integrated and have their own upstream raw materials and inputs facilities.

3.3.1.2.1.2 Australia

The Australian market for A4 copy paper is characterised by a mix of Australian industry and imports from a number of countries. Australian Paper, a vertically integrated manufacturer of pulp, paper, envelopes and stationery, is the sole manufacturer of A4 copy paper in Australia.

Imports of A4 copy paper into Australia in 2015 from multiple import sources made up approximately 57 per cent of total consumption of A4 copy paper in the Australian market. Brazil, China, Indonesia and Thailand together supplied 52 per cent of the Australian market. Evidence indicates that the imported goods and domestically produced goods are used by the same or similar customers. Furthermore, domestically produced and imported A4 copy paper are easily substitutable.⁶⁸ The Commission estimates that the size of the Australian market during the original investigation period was approximately 210,000 tonnes. There is no price guidance for pulp and paper products in Australia.

⁶⁸ The goods produced by all exporters and the Australian industry are alike, have similar specifications and common end-uses.

3.3.1.2.2 Import penetration

3.3.1.2.2.1 Indonesia

The Indonesian A4 copy paper market is characterised by a combination of domestic integrated and non-integrated pulp and paper producers, with low levels of imports of A4 copy paper.

In 2015, copy paper accounted for 53 per cent of exports of wood free paper, having increased from 37 per cent in 2005 and 41 per cent in 2010. Indonesia exports copy paper to Asia (53 per cent); Europe (11 per cent); Middle East (12 per cent); and North America (8 per cent).⁶⁹

Import volumes of paper products into the Indonesian domestic market were less than one per cent of total domestic consumption of A4 copy paper in 2015.⁷⁰ A five per cent import tariff applies to paper products but there are no export tariffs or export quotas. The GOI has advised that import tariffs for paper products do not apply to free trade agreement countries.⁷¹

The Commission considers that the Indonesian A4 copy paper is characterised by a low level of import penetration.

3.3.1.2.2.2 Australia

In addition to Brazil, China, Indonesia and Thailand, 22 other countries were recorded as having exported A4 copy paper into Australia during the original investigation period.⁷² The largest country not subject to the investigation (i.e. not Brazil, China, Indonesia or Thailand), accounted for less than 2.5 per cent of imported copy paper.

The Commission examined the Australian Border Force (ABF) import database to identify importers of A4 copy paper in the original investigation period. The 10 largest importers accounted for over 99 per cent of imports from the nominated countries during the original investigation period.

The Commission considers that the Australian A4 copy paper market is characterised by a high level of import penetration, significantly higher than that of the Indonesian A4 copy paper market.

⁶⁹ REP 341, p. 172.

⁷⁰ ADC calculations; data sourced from RISI.

⁷¹ In 2010, Indonesia ratified the ASEAN Trade in Goods Agreement (ATIGA) regulation, which aims to increase trade among ASEAN countries by reducing the import duty to 0% on most goods. Indonesia is also a party to several free trade agreements that grant preferential tariff rates for imports into Indonesia. These include ASEAN–China FTA (ACFTA), ASEAN–Korea FTA (AKFTA), ASEAN–India FTA (AIFTA), ASEAN–Australian and New Zealand FTA (AANZFTA), and Indonesia–Japan Economic Partnership Agreement (IJEPA). These free trade agreements also results in reducing (if not zeroing) import duty of most goods.

Therefore, to determine the rate of import duties for capital goods and equipment, the Department must first identify the 10 digits tariff classification and the country of origin of the capital goods and equipment.

⁷² REP 341, p. 111.

3.3.1.2.3 Market conditions – pulp and paper

The Commission considers that while both the Indonesian and Australian markets for A4 copy paper are competitive markets, the dynamic nature of that competition in each market may be different.

3.3.1.2.3.1 Indonesia

In 2015, Indonesia produced more than 7 million tonnes of pulp (bleached hardwood kraft pulp, BHK). This 7 million tonnes of BHK pulp capacity is heavily concentrated in two companies: Asia Pulp and Paper (APP)⁷³ and APRIL. Together, APP and APRIL comprise about 90 per cent of Indonesia's BHK production capacity. BHK is the largest wood pulp grade produced in Indonesia, and it is also the dominant fibre source for paper production in the country. In 2015, apparent consumption of BHK in Indonesia was an estimated 3.5 million tonnes growing at an average of 1.7 per cent over the past 10 years. 50 to 60 per cent of total pulp production is consumed in Indonesia. The rest is exported. The main destination for Indonesian pulp exports is China (around 63 per cent of exports in 2015). The second largest importer of Indonesian pulp is Korea (14 per cent of exports).

Between 2005 and 2010, Indonesian copy paper production capacity increased by around 32 per cent (or 425,000 tonnes).⁷⁴ The primary source of this copy paper production growth has been the expansion of Indah Kiat's Perawang facility. Indonesian consumption of copy paper has grown strongly in recent years however there is a significant imbalance between domestic production and consumption, with Indonesia supplying almost all of its domestic copy paper demand and 70 per cent of Indonesian copy paper production exported.⁷⁵ SMG and APRIL Group are the main Indonesian producers of A4 copy paper, with a combined production capacity of 2.2 million tonnes.

3.3.1.2.3.2 Australia

The major raw material used in papermaking in Australia is wood pulp, including recycled pulp. At the Australian Paper mill in Maryvale in Gippsland, Victoria, which produces the goods, the majority of wood pulp used is produced on site and this is supplemented by up to 10 per cent imported softwood pulp.⁷⁶ The other two key materials used are calcite and starch, which for Australian Paper are both produced and supplied from within Australia.

The Australian market for A4 copy paper is subject to a significantly higher level of import penetration than that observed in the Indonesian domestic market for A4 copy paper. The Australian market is characterised by one domestic integrated pulp and paper producer but competes with multiple and varied import sources.

⁷³ APP is 100% owned by Sinar Mas Group.

⁷⁴ ADC calculations; data sourced from RISI.

⁷⁵ REP 341, p. 172.

⁷⁶ Australian Paper submitted information that the situation is different for certain overseas mills (including China), with all or most of the wood pulp manufactured elsewhere and may be purchased on the international market or, quite frequently, from related companies in the country of export.

Australian Paper has confirmed that it did not purchase pulp from any Indonesian suppliers in the original investigation period. The Commission has investigated whether other participants in the Australian market obtained Indonesian pulp in producing A4 copy paper. The evidence before the Commission indicates that while some market participants may have purchased Indonesian BHK pulp to produce A4 copy paper that is exported to Australia⁷⁷, the price at which the pulp is purchased is consistent with internationally traded prices of pulp.⁷⁸ Therefore, it does not appear that international producers of A4 copy paper who export the goods to Australia obtain pulp at the same reduced price as Indonesian producers (and exporters) of A4 copy paper do, including Indah Kiat and Pindo Deli.

3.3.1.3 Relationship between price and cost

The Commission's analysis of the prices of foreign produced A4 copy paper imported into Australia shows that Indonesian sourced A4 copy paper was the lowest priced in the Australian market in 2015 and the prices in the Indonesian domestic market were closely aligned.

The Commission considers there to be two types of costs, namely the cost to make the goods (CTM) and the selling, general and administrative costs (SG&A). Together they form the CTMS of the goods.

The Commission found that goods manufactured for domestic consumption are identical to, or have characteristics closely resembling, the goods exported to Australia. The Commission also found that Indah Kiat and Pindo Deli used the same pulp to manufacture A4 copy paper sold to the Indonesian domestic market and exported to Australia.⁷⁹ In terms of the CTM, the Commission observed that across similar models the CTM is the same on the Indonesian domestic market as it is on the Australian market for each producer.⁸⁰

In terms of SG&A costs, the Commission accepts that the SG&A for domestic sales may differ from SG&A for export sales, reflecting different costs that are incurred in each distinctly different market. Through the verification processes, the Commission verified the SG&A costs for each of the Indonesian producers including the methodology used to allocate SG&A costs for export and domestic sales. The Commission observes that SG&A is not generally a substantial part of overall costs, with purchases of logs and

⁷⁷ For example, the Chinese paper industry is heavily reliant on imported pulp. From 2005-2015, imported pulp accounted for, on average, around 60 per cent of total BHK pulp consumption. The Commission understands that pulp used to produce paper for export is typically imported, owing to issues around perceived quality differences and timber origin certification. See also REP 341, p. 154-155.

⁷⁸ In INV 341, the Commission considered whether the market situation in Indonesian domestic market may have impacted Indonesian export prices of pulp, such that other exporters were also able to purchase Indonesian pulp at reduced prices. The Commission assessed the export price of pulp from Indonesia and found it to be broadly aligned with Latin America and Brazilian based benchmarks. This suggests to the Commission that Indonesian pulp is exported at internationally competitive market prices.

⁷⁹ During the course of the Commission's onsite verification it was identified that one mill per exporter was used to manufacture A4 copy paper sold on the domestic market and exported to Australia.

⁸⁰ Confidential 547 PC Analysis – CTMS.

hardwood pulp being the predominant cost in A4 copy paper CTMS. An analysis of SG&A for each Indonesian producer showed that domestic and export SG&A were not significantly different.⁸¹

Analysis of the margins on cost achieved in the Indonesian domestic market shows that Indonesian producers achieved positive but low margins on cost.⁸² In contrast, the margins on cost achieved in the Australian market are significantly less than the margins on cost achieved in the Indonesian domestic market for Indah Kiat and Pindo Deli. The Commission also examined the margins on cost of an additional Indonesian producer, Riau Andalan Kertas (RAK), to inform its assessment.⁸³ In contrast, RAK achieved a meaningful margin in the Australian market that was greater than the margin they achieved in the Indonesian domestic market which is consistent with profit maximisation.

The Commission also analysed the proportion of sales by volume sold that were profitable on the Indonesian domestic and Australian markets.⁸⁴ Analysis shows of the goods sold show a higher volume of sales were profitable in the Indonesian domestic market than in the Australian market for all producers, except RAK.

In contrast to Indah Kiat and Pindo Deli, all A4 copy paper sold in the Australian market by RAK were profitable.⁸⁵

As established above, the Commission considers that the market situation benefits all Indonesian producers via low input costs on both the Indonesian domestic and Australian markets. Had the relationship between price and cost in the Australian market been the same as the relationship between price and cost in the Indonesian domestic market, the margins on cost in the Australian market would have been greater than the margins on cost in the Indonesian domestic market.

The Commission considers that the above analysis indicates that the Australian market for A4 copy paper is competitive and prices reflect competitive production costs. The Indonesian domestic market for A4 copy paper is also competitive. However, Indonesian domestic prices reflect Indonesian production costs as affected by the market situation. The Indonesian producers have the same cost for domestic production/sales and for export, and can fetch a higher export price. Noting the broader variability of prices in the Australian market and that only the Indonesian market participants retain the benefit of the market situation, their margins on cost should be higher in the Australian market than their margins on cost in Indonesia. In light of the preceding analysis, Indonesian producers are selling A4 copy paper at deeply discounted prices that undercut the Australian market. This discount reflects the cost saving associated with the cost of Indonesian pulp affected by the market situation.

⁸¹ Ibid.

⁸² Confidential 547 PC Analysis – Profit assessment tables.

⁸³ RAK is also an integrated pulp and paper producer who competes with Indah Kiat and Pindo Deli in both the Indonesian domestic market and the Australian market for A4 copy paper.

⁸⁴ Confidential 547 PC Analysis – Profit assessment tables.

⁸⁵ Confidential 547 PC Analysis – Profit assessment tables.

Therefore when considering the effects of the market situation, the relationship between price and cost in the Indonesian domestic market differs from the relationship between price and cost in the Australian market for A4 copy paper.

3.3.1.4 Conclusion on the effects of the situation in the market

The Commission considers that, due to the degree of price sensitivity in the Australian A4 copy paper market, price competition is a major condition of competition between the imported goods, and between the imported goods and the domestically produced goods. As such, the Commission considers that any pricing advantage owing to a market situation “affects prices” and is relevant to the consideration of the relative effect of the market situation on domestic sales and export sales.

The Commission considers, based on the evidence and analysis undertaken above, that Indonesian A4 copy paper producers have benefited through access to cheaper pulp including from related parties. Since all producers obtain this benefit, any advantage in pricing of one competitor over another arising from the market situation is competed away. Thus, the market situation does not create a *competitive* pricing advantage in the Indonesian domestic market, including Indah Kiat and Pindo Deli. Therefore, the Commission considers that the market situation has a net neutral effect on the prevailing conditions of competition and that it does not create a competitive pricing advantage in the Indonesian domestic A4 copy paper market.

In contrast, the Australian market is characterised by high levels of import penetration, relative to that of Indonesia, including multiple importers from differing countries of export. Furthermore, non-Indonesian participants in the Australian A4 copy paper market do not have access to the benefit of the low priced pulp, in the way Indonesian market participants do.⁸⁶ As such, one of the effects of the market situation is that, in terms of pricing, Indonesian producers of A4 copy paper benefit from a competitive advantage in the Australian market that they do not have in the Indonesian domestic market. In this way, the impact of the market situation in Indonesia on domestic sales is different from that on export sales.

As shown in Figure 1, an analysis of the domestic prices in Indonesia shows that the unit prices of A4 copy paper are closely aligned, with little overall price variance.⁸⁷ Through competition with each other, the prices of A4 copy paper in the Indonesian domestic market are driven down to competitive equilibrium prices that the Commission considers reflects, in part, the low input costs created by the situation in the market.

⁸⁶ As stated above, the Commission assessed the export price of pulp from Indonesia and found it to be broadly aligned with Latin America and Brazilian based benchmarks. This suggests to the Commission that Indonesian pulp is exported and sold at internationally competitive market prices, rather than at a reduced price.

⁸⁷ Confidential 547 PC analysis – Price assessment tables.

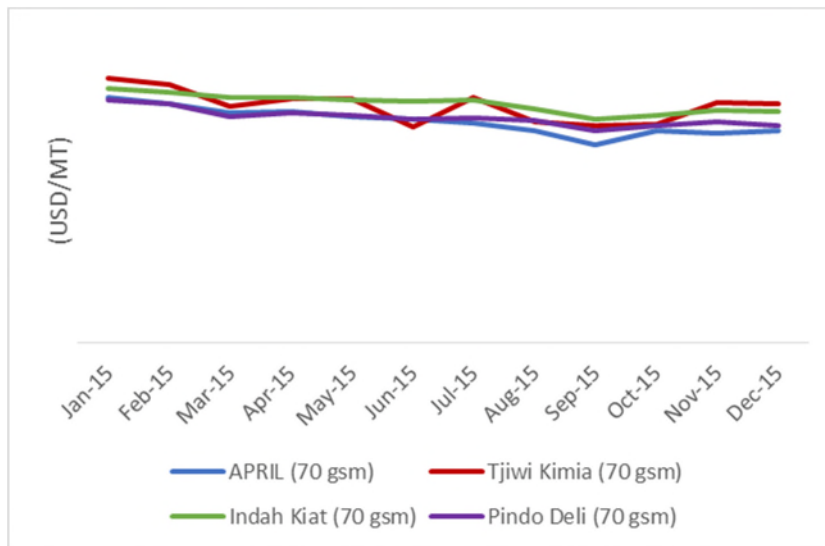


Figure 1: Indonesian domestic A4 copy paper unit price by producer

The Commission considers the price effect of the market situation on the Australian A4 copy paper market to be materially different. Australian Paper is the sole producer of A4 copy paper in Australia and sets prices relative to imports. Data provided by Australian Paper indicates that the Australian market for A4 copy paper is price sensitive.⁸⁸ Australian Paper's prices and the prices of the imported goods show a degree of correlation that indicates strong market competition in a market that is price sensitive. For example, the majority of sales at the retail level of trade occur at times when products are promoted and offered at a discounted price. This is the case for both imported A4 copy paper and A4 copy paper produced by Australian Paper.⁸⁹

In contrast to the Indonesian domestic market, the Australian market is supplied by domestic and foreign A4 copy paper producers with imports representing 57 per cent of total A4 copy paper sales in Australia.

An analysis of the prices of foreign-produced A4 copy paper imported into Australia shows that Indonesian sourced A4 copy paper was the lowest priced in the Australian market in 2015. In the same year, Indonesian exporters made up 22 per cent by volume of the Australian A4 copy paper market.

⁸⁸ This was verified at the Australian industry visit by evidence of pricing negotiations and by a comparison of prices.

⁸⁹ REP 341, pp. 105-106.

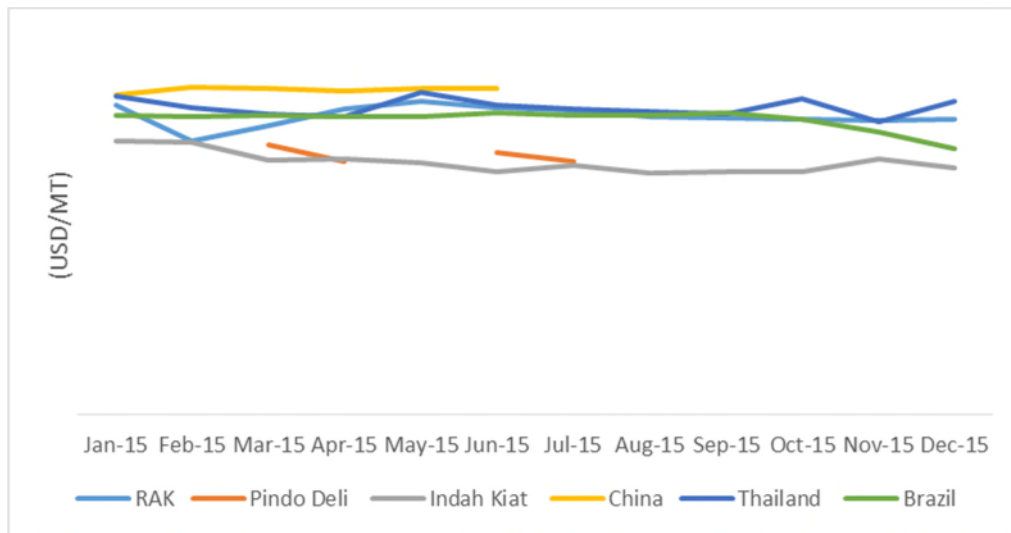


Figure 2: Comparison of Indonesian exporters and other countries AEP

Furthermore, Indah Kiat and Pindo Deli's export prices were the lowest compared to other import sources. The Commission analysed the price difference in percentage of Brazil, Chinese and Thai prices of A4 copy paper in Australia compared to Indah Kiat and Pindo Deli prices. At a minimum, prices from other import sources are roughly 17 per cent higher than Indah Kiat and Pindo Deli's export prices.⁹⁰

The Commission considers that this substantial difference in pricing compared to domestic and foreign (non-Indonesian) produced A4 copy paper is, in part, attributable to the market situation in Indonesia. The Commission considers that, if not for the low pulp costs, Indonesian exporters would have more likely set their prices higher which would have been more consistent with the prevailing market price of A4 copy paper in Australia.

The Commission observes that the low level of import penetration in the Indonesian A4 copy paper market, together with the effects of the market situation provides the market conditions for all Indonesian producers to price A4 copy paper at significantly low prices domestically, which they proceeded to do.

The Commission considers that the benefit enjoyed by the Indonesian exporters due to the market situation in Indonesia, in the form of a competitive pricing advantage in the Australian export market, resulted in the Indonesian exporters selling at lower export prices and undercutting other producers in the Australian market. The Commission considers that the prices in the Indonesian domestic market reflect Indonesian production costs, which are affected by the market situation in Indonesia. In contrast, the prices in the Australian market reflect production costs unaffected by the market situation in Indonesia.

The Commission considers this effect of the market situation has given Indonesian exporters a competitive pricing advantage in the Australian market not available to other

⁹⁰ Confidential Appendix 547 PC analysis – Price assessment tables.

producers, such as those from Australia and other countries.⁹¹ By comparison, the market situation affects the prevailing conditions of competition in the Australian market in a way that is different to the effect on the prevailing conditions of competition in the Indonesian domestic market.

3.3.1.5 Findings on whether because of the situation in the market for A4 copy paper, sales are not suitable for determining a price under subsection 269TAC(1)

The Commission considers that the situation in the market in Indonesia for A4 copy paper has differently impacted the price paid or payable for the like goods in the Indonesian market, compared to the export sales of the like goods in the Australian market. The Commission considers that, having assessed the effect of the market situation on domestic and export prices, that a proper comparison is not permitted. That is, the situation in the market in Indonesia has had a different effect on the price of A4 copy paper in the Indonesian domestic market as compared to the Australian export market.

The Commission considers that the market situation has a neutral impact on the prevailing conditions of competition in the Indonesian domestic market. In contrast, the situation in the market has given Indonesian exporters a competitive pricing advantage in the Australian market, not available to other (international or Australian) producers. Indah Kiat and Pindo Deli have used this advantage, undercutting other producers. The Commission considers that the effect of the market situation in terms of the relationship between price and cost is also different on Indonesian domestic and Australian prices, respectively.

The Commission considers that Indah Kiat and Pindo Deli's domestic sales for A4 copy paper, being the price paid or payable for the goods, is differently impacted by the market situation in Indonesia, compared to the export sales of the like goods. The Commission considers that for the purposes of subsection 269TAC(2)(a)(ii), the impact of the market situation is such that sales in the Indonesian market are not suitable for determining a price under subsection 269TAC(1).

As such, the Commission has considered the alternative method for determining normal value as provided for in the Act under subsection 269TAC(2)(c). Namely, normal values must be constructed⁹² or determined on the basis of third country sales.⁹³

3.3.1.6 Determination of the normal values under subsection 269TAC(2)(c)

The Commission has constructed normal values under subsection 269TAC(2)(c). In relation to determining the cost of production or manufacture for the purposes of subsection 269TAC(5A)(a), subsection 43(2) of the Regulations requires that, if an exporter keeps records relating to the like goods which are in accordance with generally accepted accounting principles (GAAP), and those records reasonably reflect competitive

⁹¹ The Commission considered whether the market situation in Indonesian domestic market may have impacted Indonesian export prices of pulp. The Commission assessed the export price of pulp from Indonesia and found it to be broadly aligned with Latin America and Brazilian based benchmarks. This suggests to the Commission that Indonesian pulp is traded at internationally competitive market prices.

⁹² Subsection 269TAC(2)(c).

⁹³ Subsection 269TAC(2)(d).

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market costs associated with the production or manufacture of like goods, then the cost of production must be worked out using the exporter's records.

Subsection 43(2) of the Regulation implements Australia's obligations under Article 2.2.1.1 of the WTO Anti-Dumping Agreement. Article 2.2.1.1 of the Anti-Dumping Agreement states in relevant part:

For the purpose of paragraph 2, costs shall normally be calculated on the basis of records kept by the exporter or producer under investigation, provided that such records are in accordance with the generally accepted accounting principles of the exporting country and reasonably reflect the costs associated with the production and sale of the product under consideration.

The Commission notes below the findings of the WTO Dispute Panel in DS529 in this regard:

- "...to rely on the flexibility provided by the term "normally", the investigating authority has to consider whether the records satisfy the two explicit conditions and establish that, although the records are in accordance with GAAP of the exporting country and reasonably reflect the costs associated with the production and sale of the product under consideration, it nonetheless finds a compelling reason distinct from the two explicit conditions, to disregard them."⁹⁴
- "...in relying on "normally", the investigating authority should give meaning to the whole of the obligation in Article 2.2.1.1, first sentence, and should therefore examine whether the records satisfy the two explicit conditions and provide a satisfactory explanation as to why, nonetheless, it finds compelling reasons to disregard them."

Subsection 43(2) of the Regulation permits the discarding of costs in circumstances where those costs:

- are not in accordance with GAAP; or
- do not reasonably reflect competitive market costs associated with the production or manufacture of like goods.

In determining whether costs reasonably reflect competitive market costs associated with the production or manufacture of like goods, the Commission will determine whether those costs reasonably reflect the costs associated with the production or manufacture of like goods **and** are competitive market costs.

The Commission may determine, pursuant to subsection 43(2) of the Regulation, that while costs may be in accordance with GAAP and may reasonably reflect the costs associated with the production or manufacture of the like goods, as the costs actually incurred by the producer, they may not be *competitive market costs*, that are suitable for the purpose of constructing normal value. In those circumstances, it is the Commission's practice to provide a reasoned explanation as to why those costs do not reflect

⁹⁴ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper* (Indonesia), para. 7.117.

competitive market costs that are suitable for the purpose of constructing normal value, including any relevant particular market situation finding.

3.4 *Dumping margin – Indah Kiat*

3.4.1 Export price

Indah Kiat sold A4 copy paper to Australian customers through a range of trading companies to the importer, Paper Force. The goods were therefore not purchased by the importer from the exporter and for this reason export prices could not be established under subsection 269TAB(1)(a) or 269TAB(1)(b) of the Act. Accordingly, the Commission determined export prices in accordance with subsection 269TAB(1)(c), namely, having regard to all the circumstances of the exportation. The Commission based Indah Kiat's export prices on the invoiced price from the exporter to the trader less transport and other charges arising after exportation.

3.4.2 Normal value

As outlined in Appendix D, the Commission considers that there is a market situation for A4 copy paper in Indonesia, and that because of the market situation, sales in the domestic Indonesian A4 copy market do not permit a proper comparison with export prices in the original investigation period. On this basis, in this case, the Commission considers domestic sales are not suitable for use in determining the normal value and the Commission has constructed the normal value under subsection 269TAC(2)(c) of the Act.

The Commission is satisfied that Indah Kiat's records were kept in accordance with Indonesian GAAP and reasonably reflect the costs associated with the production of like goods, as the costs actually incurred by Indah Kiat. The Commission has assessed whether the costs of production as reported in Indah Kiat's records reasonably reflect competitive market costs that are suitable for the purpose of constructing normal value. The Commission's approach to selecting a relevant benchmark and the adjustments made to that benchmark to ensure that they were relevant to the circumstances of Indah Kiat are contained in Appendix C of this report. The benchmark indicates that competitive market woodchip prices, after relevant adjustments, were materially higher during the period than the costs of woodchip recorded in Indah Kiat's records. The Commission considers that the amount for woodchips in the records of Indah Kiat reflect the "particular market situation". The Commission considers that the programs and policies of the GOI and the export ban on logs increased the supply of logs in Indonesia and thereby lowered the price and cost of logs, woodchips and hardwood pulp in Indonesia. This induced and allowed the main Indonesian A4 copy paper producers to supply more A4 copy paper at each possible price point than they otherwise would have. The Commission considers that the lowered price and cost of logs, woodchips and hardwood pulp is reflected in the woodchip and pulp cost in the records of Indah Kiat and does not reflect competitive market prices. The Commission is therefore satisfied that while the woodchip costs recorded in Indah Kiat's records may reasonably reflect the costs associated with the production or manufacture of the goods, they do not reasonably reflect competitive market costs associated with the production or manufacture of the goods that are suitable for the purpose of constructing normal value.

Having regard to all relevant information, the Commission believes that it is appropriate to use Indah Kiat's records, but only after an adjustment is made to the records relating to

the cost of woodchips. In doing so, the Commission has considered the circumstances of Indah Kiat and adjusted the records to incorporate the woodchip costs that would be incurred in Indonesia without the distortion arising from the influence of the GOI.

Normal values for Indah Kiat were constructed, in line with the model matching criteria applied in Investigation 341, using the cost of production of the goods for each model based on weight, measured in grams per square metre (gsm). The Commission has therefore constructed a normal value, having regard to:

- the cost of production of the exported goods under subsection 43(2) of the Regulation (adjusted as set out above);
- the weighted average SG&A costs using the information set out in Indah Kiat's records relating to domestic sales of like goods during the original investigation period under subsection 44(2) of the Regulation; and
- the profit achieved on domestic sales of like goods in the ordinary course of trade (OCOT) in accordance with subsection 45(2) of the Regulation.

3.4.3 Adjustments

To ensure the normal value is comparable with the export price of goods exported to Australia at Free On Board (FOB) terms, the Commission has considered the adjustments in Table 3 necessary in accordance with subsection 269TAC(9).

Adjustment Type	Deduction/addition
Domestic credit	Deduct the cost of domestic credit
Domestic inland transport	Deduct the cost relating to inland transport
CMI fixed sales margin	Deduct the cost of the CMI fixed sales margin

Table 3: Summary of adjustments

3.4.4 Dumping margin

The Commission has calculated a dumping margin in respect of the goods exported to Australia by Indah Kiat for the original investigation period. The margin is 6.9 per cent.

The Commission's calculations are included at **Confidential Appendix 1**.

3.5 Dumping margin – Pindo Deli

3.5.1 Export price

Pindo Deli sold A4 copy paper to Australian customers through a range of trading companies to the importer Paper Force. The goods were therefore not purchased by the importer from the exporter and for this reason export prices could not be established under subsection 269TAB(1)(a) or 269TAB(1)(b) of the Act. Accordingly, the Commission determined export prices in accordance with subsection 269TAB(1)(c), namely, having regard to all the circumstances of the exportation. The Commission based Pindo Deli's export prices on the invoiced price from the exporter to the trader less transport and other charges arising after exportation.

3.5.2 Normal value

As outlined in Appendix D, the Commission considers that there is a market situation for A4 copy paper in Indonesia, and that because of that market situation, sales in the domestic Indonesian A4 copy paper market do not permit a proper comparison with export prices in the original investigation period. On this basis, in this case, the Commission considers domestic sales are not suitable for use in determining the normal value and the Commission has constructed the normal value under subsection 269TAC(2)(c) of the Act.

The Commission has no information to indicate that Pindo Deli's records are not kept otherwise than in accordance with Indonesian GAAP and reasonably reflect the costs associated with the production of like goods as the costs actually incurred by Pindo Deli. The Commission has assessed whether the costs of production as reported in Pindo Deli's records reasonably reflect competitive market costs that are suitable for the purpose of constructing normal value.

The Commission's approach to selecting a relevant benchmark and the adjustments made to that benchmark to ensure that they were relevant to the circumstances of Pindo Deli are contained in Appendix C of this report. The benchmark indicates that competitive market pulp prices were materially higher during the period than the costs of pulp recorded in Pindo Deli's records. The Commission considers that amount for pulp in the records of Pindo Deli reflect the "particular market situation". The Commission considers that the programs and policies of the GOI and the export ban on logs increased the supply of logs in Indonesia and thereby lowered the price and cost of logs, woodchips and hardwood pulp in Indonesia. This induced and allowed the main Indonesian A4 copy paper producers to supply more A4 copy paper at each possible price point than they otherwise would have. The Commission considers that the lowered price and cost of logs and hardwood pulp is reflected in the pulp cost in the records of Pindo Deli and does not reflect a competitive market price. The Commission is therefore satisfied that while the pulp costs recorded in Pindo Deli's records may reasonably reflect the costs associated with the production or manufacture of the goods, they do not reasonably reflect competitive market costs associated with the production or manufacture of like goods that are suitable for the purpose of constructing normal value.

Having regard to all relevant information, the Commission believes that it is appropriate to use Pindo Deli's records, but only after an adjustment is made to the records relating to the costs of pulp. In doing so, the Commission has considered the circumstances of Pindo Deli and adjusted the records to incorporate the pulp costs that would be incurred in Indonesia without the distortion arising from the influence of the GOI.

Normal values for Pindo Deli were constructed, in line with the model matching criteria applied in Investigation 341, using the cost of production of the goods for each model based on gsm. The Commission has therefore constructed a normal value, having regard to:

- the cost of production of the exported goods under subsection 43(2) of the Regulation (adjusted as set out above);
- the weighted average SG&A cost using the information set out in Pindo Deli's records relating to domestic sales of like goods during the original investigation period under subsection 44(2) of the Regulation; and

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- the profit achieved on domestic sales of like goods in the OCOT in accordance with subsection 45(2) of the Regulation.

3.5.3 Adjustments

To ensure the normal value is comparable with the export price of goods exported to Australia at FOB terms, the Commission has considered the following adjustments necessary in accordance with subsection 269TAC(9):

Adjustment Type	Deduction/addition
Domestic credit	Deduct the cost of domestic credit
Domestic inland transport	Deduct the cost relating to inland transport
CMI fixed sales margin	Deduct the cost of the CMI fixed sales margin

Table 4: Summary of adjustments

3.5.4 Dumping margin

The Commission has calculated a dumping margin in respect of the goods exported to Australia by Pindo Deli for the original investigation period. The margin is 33.1 per cent.

The Commission's calculations are included at **Confidential Appendix 1**.

4 THE GOODS, LIKE GOODS AND THE AUSTRALIAN INDUSTRY PRODUCING LIKE GOODS

4.1 Preliminary findings

The Commissioner considers that the locally manufactured A4 copy paper are a like good to those subject to the anti-dumping measures.

4.2 Legislative framework

In order to be satisfied whether the revocation of measures would lead, or be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the measures are intended to prevent, the Commissioner firstly determines whether the goods produced by the Australian industry are “like” to the imported goods. Subsection 269T(1) 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.

The definition of like goods is relevant in the context of this review in determining the normal value of goods exported to Australia and the goods subject to the dumping duty notice.

The Commission’s framework for assessing like goods is outlined in Chapter 2 of the *Dumping and Subsidy Manual*⁹⁵ (the Manual). 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:

- i. physical likeness;
- ii. commercial likeness;
- iii. functional likeness; and
- iv. production likeness.

The Commissioner must also consider whether the “like” goods are in fact produced in Australia. Subsection 269T(2) specifies that for goods to be regarded as being produced in Australia, they must be either wholly or partly manufactured in Australia. Under subsection 269T(3), in order for the goods to be considered as partly manufactured in Australia, at least one substantial process in the manufacture of the goods must be carried out in Australia.

4.3 The goods

The goods the subject of the anti-dumping measures (the goods) 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

⁹⁵ Dumping & Subsidy Manual – November 2018.

(210mm x 297mm) (also commonly referred to as cut sheet paper, copy paper, office paper or laser paper).

Further information on the subject goods specifies that 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.

4.4 Tariff classification

The goods are generally, but not exclusively, classified to the following tariff subheadings and statistical codes in Schedule 3 to the *Customs Tariff Act 1995*.

Tariff subheading	Statistical code
4802.56.10	03
4802.56.10	09

Table 5: Tariff subheadings

These tariff classifications and statistical codes may include goods that are both subject and not subject to the review. The listing of these tariff classifications and statistical codes are for convenience or reference only and do not form part of the goods description. Please refer to the goods description for authoritative detail regarding goods the subject of this review.

4.5 The Australian industry

The Commission is satisfied that Australian Paper is a producer of A4 copy in Australia and wholly manufacturers the goods in Australia. The Commission also finds that Australian Paper, as the sole manufacturer of A4 copy paper in Australia, represents the Australian industry.

In making this assessment, the Commission has relied on information provided in Australian Paper's questionnaire response, findings in Investigations 341 and 463 and publically available information.

4.6 Like goods

The following analysis outlines the Commission's assessment of whether the locally produced goods are identical to, or closely resemble, the goods the subject of the review and are therefore like goods. This assessment is based on information provided during this review and information from Investigations 341 and 463.

4.6.1 Physical likeness

The Commission has previously found that both the imported goods and the goods produced by the Australian industry are physically alike in all practical aspects being white paper cut in rectangular sheets of the same dimensions and are typically wrapped in reams of 500 sheets, but may also sold in packs containing different numbers of sheets.

During the course of completing the Australian Industry verification it was noted that Australian Paper imports a very small amount of 'presentation grade' A4 copy paper. Australian Paper advised that it did manufacture this grade of paper. Australian Paper provided information that indicated that presentation grade paper typically had a higher gsm than 80 gsm and had a smoother surface. Australian Paper advised the smoother finish results in improved print outcomes.

Overall, the Commission considers that end-users would recognise A4 copy as being white copy paper with the same dimensions. Unless placed side by side, the average end user would be unlikely to notice any physical difference between them. Consequently, the Commission considers that, whilst A4 copy paper may be differentiated in relation to slight variations in its stated physical characteristics, these variations are not sufficient to establish that these products are not physically alike.

4.6.2 Commercial likeness

The Commission considers that imported goods and the goods produced by the Australian industry are commercially similar as they compete in the same market and market segments. There is direct head-to-head competition between imported goods and the goods produced by the Australian industry for goods wrapped and sold as their own mill brands, purchasers' private label brands and generic brands. Both importers and Australian industry supply A4 copy paper into the same market segments. It has been found in prior investigations that some suppliers source and offer for sale both imported A4 copy paper and A4 copy paper purchased from Australian Paper.

4.6.3 Functional likeness

The Commission considers that the imported and locally produced A4 copy paper are functionally alike as they have the same end use, including high speed and low speed copying, printing and general use in business, education and home offices as well as in small offset printers.

This is consistent with the findings in Investigations 341 and 463. Although the export countries in those investigations differ to the countries the subject of this review, the Commission considers the finding applies equally in this matter.

4.6.4 Manufacturing likeness

The Commission considers that the paper production and finishing processes are substantially identical across the large scale industry. While some mills may use paper pulp purchased from bleached pulp mills located elsewhere, others have their own bleached pulp mills on site.

The imported goods and the goods produced by the Australian industry appear to be manufactured using equipment and processes which are alike in all significant practical aspects. This includes the way in which the paper is formed, drained and pressed before ultimately being cut to the correct diameter.

4.7 Commission's assessment

Based on the above assessment, the Commissioner is preliminarily satisfied that the goods wholly manufactured by Australia Industry are like to imported A4 copy paper.

4.8 Model control codes

The model control code (MCC) structure is used to model match export models to identical or the most comparable domestic models and to determine the profitability of domestic sales in the OCOT. The Commission implemented the use of MCC structures on 9 August 2018, which was after the completion of Investigation 341. Further information on the Commission's approach to using MCC structures is contained in ADN 2018/128.⁹⁶

ADN 2020/028 published on initiation of this review proposed the following MCC structure.

Category	Sub-category	Identifier	Sales Data	Cost data
Weight (grams per square metre (gsm))	70 gsm > 71 gsm to 80 gsm > 81 gsm to 85 gsm > 85 gsm to 90 gsm > 91 gsm to 100 gsm	70 80 85 90 100	Mandatory	Mandatory
Recycled content	100% 50% to 99% 30% to 49% 1% to 29% 0%	R100 R50 R30 R10 N	Mandatory	Mandatory

Table 6: Commission's Proposed MCC structure

4.8.1 Submissions regarding proposed MCC structure

Australian Paper submitted⁹⁷ that they considered that the MCC structure should be limited to recycled content and proposed that the recycled content should be amended to the following subcategories.

Category	Recycled Content
1	0%-20%
2	21%-79%
3	80%-100%

Table 7: Australian Paper's Proposed MCC structure

Australian Paper advised that they considered there is limited and, in most cases, negligible connection between recycled content of A4 copy paper and the selling price.

⁹⁶ A copy of ADN 2018/128 is available at https://www.adcommission.gov.au/sites/default/files/adcom-public-record/2018_128.pdf.

⁹⁷ EPR number 7.

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Australian Paper considered that it was unreasonable for the Commission to consider recycled content specificity beyond the three categories they had proposed.

Australian Paper also submitted that gsm should not be included in establishing the categories for the MCC. They advised that gsm historically has not driven price differentiation. Australian Paper stated its submission and during the verification of its questionnaire response that it is unlikely for a cost benefit to exist in producing paper with a lower weight content and that average users can discern little difference between papers of different weights.

Australian Paper also provided information on the impact of recycled content paper and differing gsm on costs.

In determining the MCC structure, the Commission has regard to differences in physical characteristics that give rise to distinguishable and material differences in price. Unit costs may also be taken into account in assessing differences in physical characteristics where the Commission is reasonably satisfied that those cost differences affect price comparability.

The Commission has compared Australian Paper's proposed MCC subcategories in relation to recycled content to its sales data for 2019. This analysis identified a general correlation between the proposed recycled content subcategories and Australian Paper's pricing.

In regard to gsm content, the Commission notes that analysis of the Indonesian domestic sales of A4 copy during the original investigation period identified pricing variances based on gsm in the Indonesian domestic market. Further information provided by Australian Paper in its questionnaire response also indicates that there is a consistent price differential between gsm grades in the Indonesian domestic market.⁹⁸

As consequence, the Commission proposes to adopt the following MCC structure after considering Australian Paper's submission.

Category	Sub-category	Identifier	Sales Data	Cost data
Weight (grams per square meter (gsm))	70 gsm > 71 gsm to 80 gsm > 81 gsm to 85 gsm > 85 gsm to 90 gsm > 91 gsm to 100 gsm	70 80 85 90 100	Mandatory	Mandatory
Recycled content	0%-20% 21%-79% 80%-100%	R20 R79 R100	Mandatory	Mandatory

Table 8: Revised MCC structure

⁹⁸ EPR number 12, Australian Paper Questionnaire response, Confidential Attachment E-1_Indonesia Bi Annual Paper Tracking April 2020.

5 AUSTRALIAN MARKET FOR A4 COPY PAPER OVER THE REVIEW PERIOD

5.1 Preliminary findings

The Commission finds that the Australian market for A4 copy paper is supplied by the Australian industry and imports from a number of countries. The exporters subject to this review did not supply to the Australian market during the review period.

5.2 Approach to analysis

For this review, the Commission examined data from the ABF import database and verified financial data from Australian Paper.

5.3 Australian market

5.3.1 Market structure

Australian Paper advised that in Australia, cut sheet paper (copy paper, office paper or laser paper) is predominantly A4 (210 mm x 297 mm) in size and 80 gsm in weight with a much smaller quantity sold in other sizes (i.e. A3 and A5) which are not the goods subject to this review. In addition to 80 gsm paper, small quantities of 70, 75, 90 and 100 gsm paper are also sold in Australia. Copy paper is also offered in a variety of coatings or finishes, whiteness and differing percentages of recycled content (from no recycled content to 100 per cent recycled content).

5.3.2 Sources of supply

Following the verification of Australian Paper's data and an examination of the ABF import database, the Commission confirmed that the Australian market for the goods is supplied by Australian Paper (as the sole Australian manufacturer) and imports from a number of countries. Significant sources of imported A4 copy paper over the review period ranked by volume include Indonesia, China, Thailand, Malaysia and Germany.

5.3.3 Market segments, distribution and brand segmentation

Australian Paper confirmed key market segments for A4 copy paper in the Australian market include retail, corporate stationers, resellers and to a lesser extent the original equipment manufacturer (OEM) sectors. These market segments act as intermediaries between the manufacturer and the downstream (end user) consumer. They are not limited to purchasing from one market segment or supplier but can purchase both locally produced and imported paper from various sources. This freedom to purchase from various sources also extends to the end users market. The market segments in the Australian market are illustrated in Figure 3.

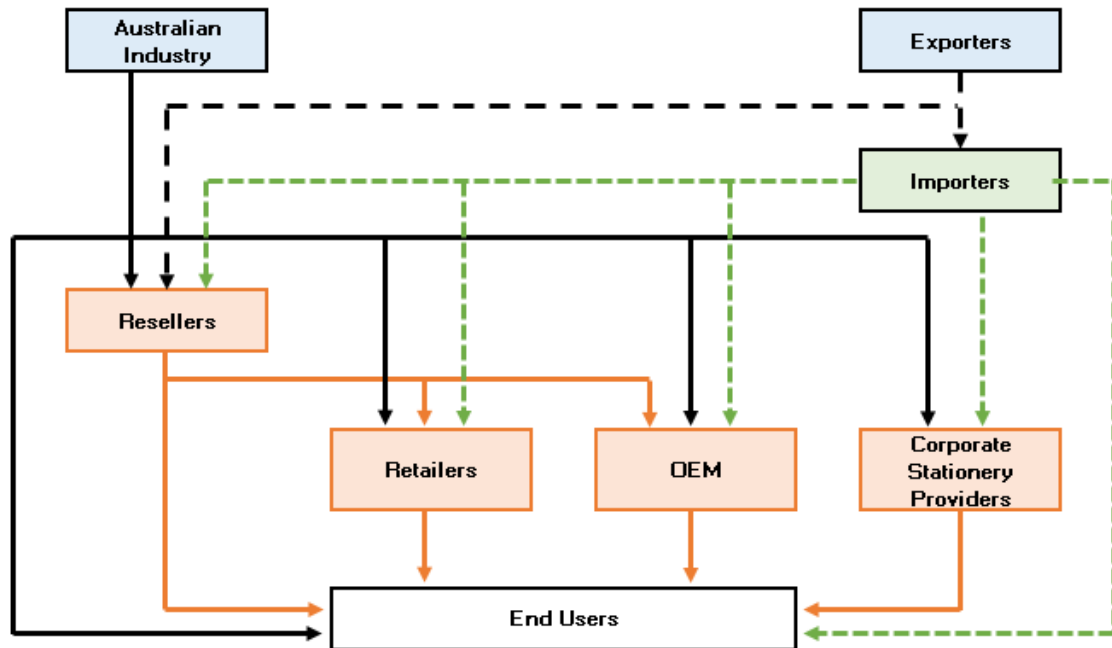


Figure 3: Segments in the Australian Market

Australian Paper stated that supply channels are concentrated through a limited number of national resellers and retailers.

End users of A4 copy paper fall into three basic categories of consumers:

- home and home offices/small office;
- medium and large business, government and education; and
- industrial users including instant printing and in-plant printing operations.

The three broad A4 copy paper brand segments sold in the Australian market are:

- manufacturer brands;
- private label/customer owned brands; and
- plain or generic labelled brands.

Australian Paper considers A4 copy paper to be highly commoditised and noted that price, brand recognition and promotions are key attributes that influence purchasing decisions and consumer preferences. Other than price and brand recognition, Australian Paper claimed that even with this brand segmentation, end users discern little physical or functional differences between the brands.

The Commission is not aware of any significant market consolidation, new entrants or exits during the review period.

5.3.4 Market size and demand

In its questionnaire response, Australian Paper categorised the Australian market as 'mature' and estimated that the Australian market had been contracting since 2014. The Commission examined data from the ABF import database and verified data from the Australian industry member and estimated the size of the Australian A4 copy market. This

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analysis, shown in Figure 4, shows the Australian market for A4 copy paper has contracted in size since 2015. The Commission observes that the information provided by Australian Paper follows the same annual contraction pattern.

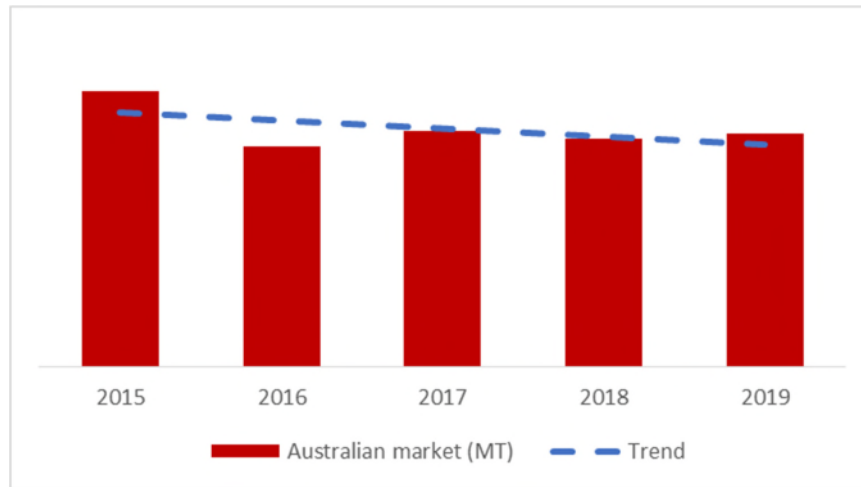


Figure 4: Australian market for A4 copy paper

Australian Paper stated that the falling trend in demand was approximately 3-5 per cent over the medium term. Australian Paper notes that stability in the size of the Australian market has traditionally been underpinned by population and labour force growth. Australian Paper claimed that growth in economic activity and population was no longer an accurate predictor of copy paper demand. Australian Paper noted the falling demand means the only way to increase sales volumes was to increase market share through competition.

The Commission considers demand for A4 copy paper is not subject to seasonal fluctuations and is not aware of any geographic segmentation.

5.3.5 Market trends

Demand for A4 copy paper has decreased over time with an increased use of digital alternatives by end users contributing to falling demand. Australian Paper stated that this fall in demand contributes to increased price sensitivities for buyers.

5.3.6 Competition in the Australian market

In the Australian market there are no significant direct product substitutes and locally produced and imported A4 copy paper are sold through the same supply channels to the same end users. Products compete directly across the range of A4 copy paper sold in Australia.

Australian Paper stated that supply channels are concentrated through a limited number of national resellers and retailers, which leads to increased market buying power for the resellers and retailers. Australian Paper also noted that A4 copy paper manufacturers try to secure market share by offering direct supply contracts to these organisations. The Commission observed that Australian Paper supplied A4 copy paper to a variety of market segments with the majority of sales going to retailers and reseller buying groups.

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Investigations 341 and 463 identified that A4 copy paper is price sensitive and that price is the key driver for sales. The Commission also established that the price of imported A4 copy paper was a relevant consideration during contract, tender and price negotiations.

The Commission identified that Australian Paper offers a variety of discounts and rebates to purchasers as an incentive to increase volumes purchased. Discounts and rebates are paid periodically as agreed with the purchaser.

Further, the evidence before the Commission indicates that there is significant transparency in the pricing of A4 copy paper, such that customers in various channels and segments of the market are aware of prices in the market.

The Commission considers the declining size of the Australian market contributes to increased price competition and competition for market share.

6 ECONOMIC CONDITION OF THE AUSTRALIAN INDUSTRY OVER THE REVIEW PERIOD

6.1 Approach to and purpose of analysis

This chapter considers the economic condition of the Australian industry during the review period. The analysis detailed in this chapter is based on verified financial information submitted by Australian Paper and import data from the ABF for both the original investigation period, previous inquiries into A4 copy paper and the current review. The Commission has focused on data from 1 January 2015 for the purposes of this review. Analysis of data enables the Commission to identify trends in the economic condition of the Australian industry from the imposition of anti-dumping measures. The original data and analysis on which the Commission has relied to assess the economic position of the Australian industry is at **Confidential Attachment 2**.

6.2 Findings in prior investigations

In investigation 341 the Commission found that Australian Paper had experienced injury in the form of:

- loss of sales volume;
- price suppression;
- price depression;
- reduced profits and profitability; and
- reduced revenue from A4 copy paper.

Investigation 463 found that Australian Paper experienced injury in the form of:

- price suppression in 2017 and 2018;
- price depression in 2017;
- reduced revenue in 2017 and 2018
- decreased profits and profitability in 2017 and 2018;
- reinvestment unattractiveness; and
- reduced return on investment/sales.

6.3 Verification of Australian industry questionnaire response

Australian Paper provided a detailed response to the Australian industry questionnaire, including data relating to its Australian sales, export sales, CTMS and information on the Australian industry, market situation and proper comparison. The Commission conducted a remote verification of the information provided in Australian Paper's questionnaire response.

6.3.1 Australian industry manufacturing like goods

During that verification process, the Commission found:

- Australian Paper is an Australian proprietary company, limited by shares, and registered with the Australian Securities and Investments Commission (ASIC). The name 'Australian Paper' is used as a business or trading name for Paper Australia

Pty Ltd. Australian Paper is a manufacturer of pulp, paper, envelopes and stationery.

- Australian Paper does not have related customers or suppliers.
- Australian Paper's manufacturing facilities relevant to A4 copy paper production are situated at its Maryvale mill. The Maryvale mill is located in the Gippsland region of Victoria. Australian Paper provided an explanation of its production process for A4 copy paper, its production facilities and financial systems.
- The Commission is satisfied as a result of the verification that: A4 copy paper manufactured by Australian Paper is like to the goods subject to the review;⁹⁹ at least one substantial process of manufacture of A4 copy paper is carried out in Australia;¹⁰⁰ the like goods were, therefore, wholly or partly manufactured in Australia by Australian Paper;¹⁰¹ and there is an Australian industry, consisting of Australian Paper, which produce like goods in Australia.¹⁰²

6.3.2 Verification of MCCs

Australian Paper proposed changes to the MCC structure (including changes to the sub-category groupings) proposed for this review set out in *Anti-Dumping Notice Number 2020/028* (ADN 2020/028)¹⁰³ in a submission dated 21 April 2020.¹⁰⁴ Australian Paper's submission is considered in section 4.8 of this report.

Australian Paper provided sales and cost data classified in accordance with their proposed MCC structure. Noting that Australian Paper only produces 80 gsm paper, the Commission considers the absence of this MCC category in its sales and cost data to be immaterial.

Consequently, there is sufficient detail in the sales data for the Commission to apply its revised MCC structure (see Table 8, Revised MCC structure).

6.3.3 Verification of Australian sales data

The Commission verified the completeness, relevance and accuracy of the Australian sales listings by reconciling selected data submitted to audited financial statements and to source documents in accordance with ADN No. 2016/30. The Commission did not identify any exceptions during this process and is satisfied that the sales data provided in the questionnaire response by Australian Paper is complete, relevant and accurate. The verification did not find evidence to suggest that sales transactions to domestic customers were not arms length. Details of this verification process are contained in the verification work program and its relevant attachments, at **Confidential Attachment 3**.

⁹⁹ Section 269T(1).

¹⁰⁰ Section 269T(3).

¹⁰¹ Section 269T(2).

¹⁰² Section 269T(4).

¹⁰³ EPR number 1.

¹⁰⁴ EPR number 7.

Accordingly, the Commission considers Australian Paper's sales data suitable for analysing the economic performance of its A4 copy paper operations from 1 January 2019 to 31 December 2019.

6.3.4 Verification of CTMS data

The Commission verified the reasonableness of the method used to allocate the cost information, in accordance with ADN No. 2016/30. Table 9 outlines the allocation method applied to each cost item.

Cost item	Method applied
Raw materials	Actual costs of raw materials consumed, as recorded in the production report, are allocated to A4 copy paper on a weighted average per tonne basis. Raw materials costs are split between domestic/export and A4/other paper types using sales data.
Manufacturing overheads	Utilities and finance charges are reported on an actual cost basis. Other manufacturing overheads costs are reported on a standard cost basis, as recorded in the production and management reports. Manufacturing overheads are allocated to A4 copy paper on a weighted average per tonne basis. Overhead costs are split between domestic/export and A4/other paper types using sales data.
Labour	The proportion of direct labour costs is calculated as a percentage of total labour costs using management reports. This percentage is applied against standard labour costs, as recorded in production and management reports, and allocated to A4 copy paper on a weighted average per tonne basis. Labour costs are split between domestic/export and A4/other paper types using sales data.
Depreciation	Standard depreciation costs, as recorded in the production and management reports, are allocated to A4 copy paper on a weighted average per tonne basis. Depreciation costs are split between domestic/export and A4/other paper types using sales data.
Packaging	Standard packaging costs, as recorded in the production and management reports, are allocated to A4 copy paper on a weighted average per tonne basis. Packaging costs are split between domestic/export and A4/other paper types using sales data.
Variance	The unit variance between actual and standard costs is calculated and applied on a weighted average per tonne basis.

Table 9: Cost calculation methodology

The Commission verified the completeness, relevance and accuracy of the CTMS data by reconciling selected data submitted to audited financial statements and to source documents in accordance with ADN No. 2016/30. The Commission identified the exceptions outlined below during this verification process.

No.	Exception	Resolution
1	An examination of the March 2019 data provided by Australian Paper showed that there was a discrepancy between the values reported in the CTMS	The Commission sought an explanation from Australian Paper regarding these discrepancies. Australian Paper identified a calculation error that stemmed from a

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No.	Exception	Resolution
	appendices and the CTM allocation spreadsheet used to determine these values. This discrepancy occurred across many category of costs in the CTMS.	misclassification of one model. Australian Paper submitted new appendices and a revised CTM allocation spreadsheet which resolved the discrepancies.
2	An examination of the packaging unit costs for export sales of category 3 (80%-100% recycled content) paper showed that it was referencing the relevant costs for 2017 instead of 2019.	The error was confirmed with Australian Paper. Australian Paper submitted an updated CTM allocation spreadsheet which resolved the discrepancies for the like goods.

Table 10: Exceptions during verification of completeness, relevance and accuracy of CTMS data

The Commission is satisfied that the CTMS data provided in the questionnaire response by Australian Paper, after any required amendments as outlined in the exception table above, is complete, relevant and accurate. Details of this verification process are contained in the verification work program and its relevant attachments, at **Confidential Attachment 3**.

Accordingly, the Commission considers Australian Paper's CTMS data suitable for analysing the economic performance of its A4 copy paper operations from 1 January 2019 to 31 December 2019.

6.4 Economic condition of Australian industry

6.4.1 Volume effects

6.4.1.1 Sales volume

Figure 5 presents Australian Paper's total sales volumes for the goods in the Australian market since January 2015. The sales volumes have fluctuated year-on-year with a slight increase in the last year. Following the imposition of measures, import volumes have decreased over the 5-year period.

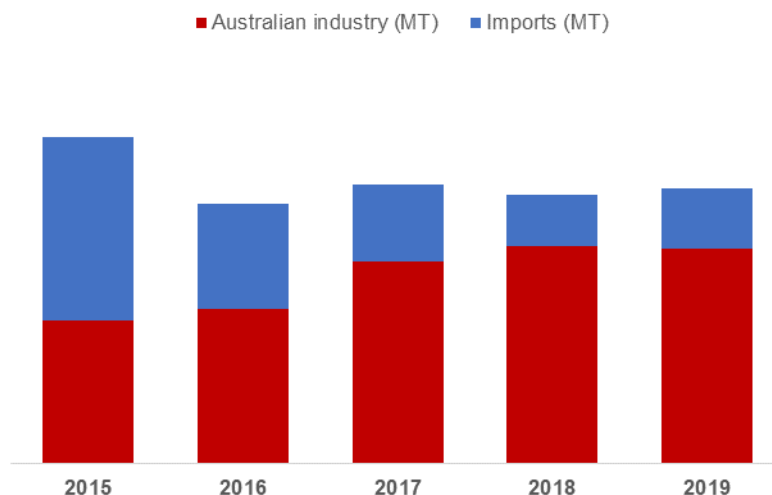


Figure 5: Australian market sources (metric tonnes)

6.4.1.2 Market share

Figure 6, below, shows movements in market share in the Australian A4 copy paper market over the past 5-year period. Australian Paper has increased its market share post the imposition of measures, this appears to have been driven by a sustained decrease in imported A4 copy paper over the same period.

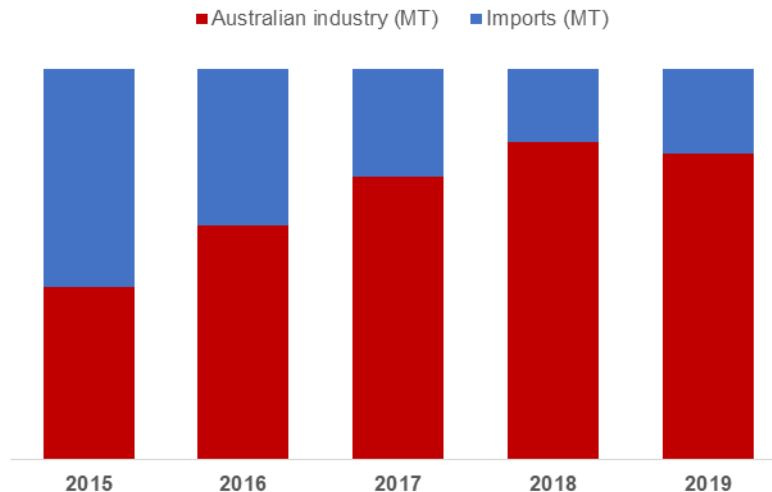


Figure 6: Australian market share (%)

6.4.2 Price effects

Figure 7 compares Australian Paper's unit price and unit CTMS for A4 copy paper from 2015. The figure shows that:

- Between 2015 and 2017 unit prices fell, but increased between 2017 and 2019 to a point where they were marginally higher in 2019 compared to 2015.
- Unit CTMS increased between 2015 and 2016, fell in 2017, before increasing in 2018 and 2019. Unit CTMS was materially higher in 2019 compared to 2015.
- Unit prices exceeded unit CTMS in 2015 and 2017, but were below unit CTMS in 2016, 2018 and 2019.

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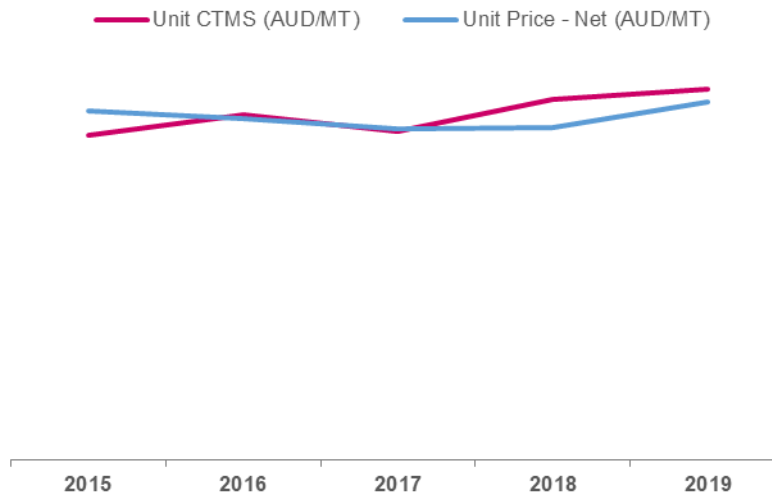


Figure 7: Unit CTMS and unit price, all grades

Figure 8 shows total revenue and quantity sold over the 5-year period. Australian Paper experienced increasing sales quantity and total revenue over the period, with both showing a strong upward trend. While the quantities sold increased from 2015 to 2018, they decreased slightly in 2019.

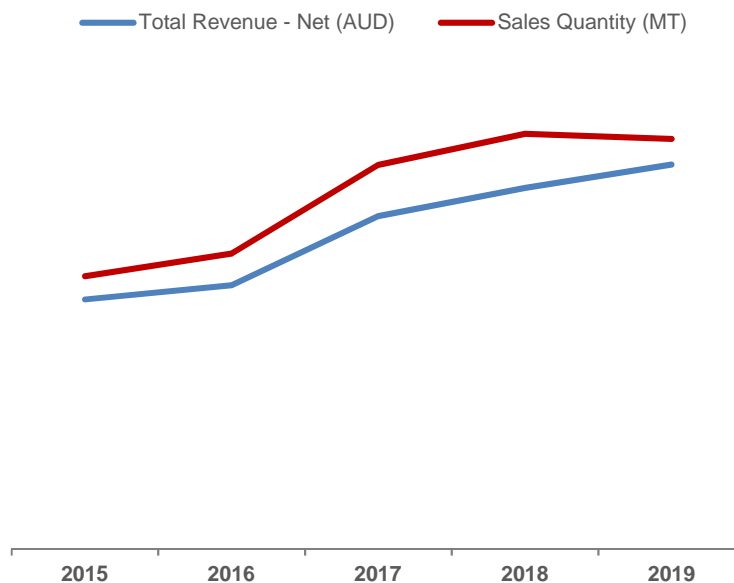


Figure 8: Total revenue versus sales quantities

6.4.3 Profit effects

While there has been a general increase in both total revenue and quantities sold over the 5-year period, Australian Paper experienced positive unit profit and profitability in 2015 and 2017 only, which was consistent with unit prices being higher than unit CTMS in those years. However, despite increased total revenue and quantities sold in the other years, Australian Paper experienced negative unit profit and profitability in 2016, 2018 and 2019 during which unit CTMS was higher than unit prices. Figure 9 shows there was a significant fall in unit profit and profitability from 2015 to 2016 and from 2017 to 2018.

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From 2018 to 2019 there was a slight recovery as the gap between unit price and unit CTMS narrowed. However, despite this narrowing gap between unit price and unit CTMS, along with the decrease in the quantity sold in 2019, the recovery, while improved, did not result in positive unit profit or profitability in 2019.

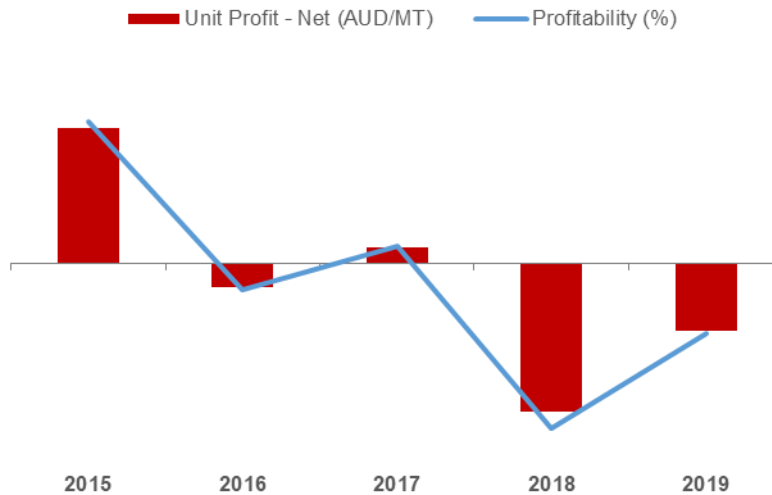


Figure 9: Profits and profitability

6.4.4 Other injury factors

The Commission makes the following observations on the information provided by Australian Paper in relation to other injury factors between 1 January 2015 and 31 December 2019:

- asset values have remained stable over the period with a downward fluctuation in 2016 rectified in the following three years;
- capital investment has trended upwards over the period;
- actual production of like goods has increased slightly over the period and capacity utilisation has remained stable.

7 VARIABLE FACTORS REVIEW – 2019

7.1 *Preliminary findings*

The Commission finds that the respective variable factors, being export price and normal value, relevant to the taking of anti-dumping measures as they affect Indah Kiat and Pindo Deli have changed.

The revised variable factors have resulted in different dumping margins, relevant to interim dumping duty (IDD) for A4 copy paper exported to Australia from Indonesia by Indah Kiat and Pindo Deli.

7.2 *Exporter questionnaires and responses*

Upon initiation of this review, the Commission provided Indah Kiat and Pindo Deli with exporter questionnaires to complete. Indah Kiat and Pindo Deli provided responses to the exporter questionnaires, however declined to provide information relevant to establishing the variable factors for 2019¹⁰⁵.

7.3 *Particular Market Situation and Suitability*

The Commission found that there was a particular market situation in Indonesia during the original investigation period.

The Commission has completed a further assessment for the review period. Appendix D sets out the Commission's findings in relation to the 2019 particular market situation assessment and whether, because of the market situation in Indonesia, sales of A4 copy paper in the Indonesian domestic market are not suitable for determining a price under subsection 269TAC(1) for the review period.

The Commission considers that the factors that resulted in the particular market situation finding in Investigation 341 continue to exist in the Indonesian domestic market for A4 copy paper in the review period. As a consequence, the Commission considers that the particular market situation in the Indonesian A4 copy paper market continued to exist in 2019.

In undertaking its assessment of whether sales are "suitable" for the purposes of subsection 269TAC(1), the Commission has taken the same approach as outlined in section 3.3.1. The Commission considers this approach is also relevant for the purposes of the review period based on the evidence before it.

As such, the Commission has considered the alternative method for determining normal value as provided for in the Act under subsection 269TAC(2)(c). Namely, normal values must be constructed¹⁰⁶ or determined on the basis of third country sales.¹⁰⁷

¹⁰⁵ EPR numbers 13 and 14.

¹⁰⁶ Subsection 269TAC(2)(c).

¹⁰⁷ Subsection 269TAC(2)(d).

7.3.1 Determination of the normal values under subsection 269TAC(2)(c)

The Commission has constructed normal values under subsection 269TAC(2)(c). In relation to determining the cost of production or manufacture for the purposes of subsection 269TAC(5A)(a), subsection 43(2) of the Regulations requires that, if an exporter keeps records relating to the like goods which are in accordance with generally accepted accounting principles (GAAP), and those records reasonably reflect competitive market costs associated with the production or manufacture of like goods, then the cost of production must be worked out using the exporter's records.

Subsection 43(2) of the Regulation implements Australia's obligations under Article 2.2.1.1 of the Anti-Dumping Agreement. Article 2.2.1.1 of the Anti-Dumping Agreement states in relevant part:

For the purpose of paragraph 2, costs shall normally be calculated on the basis of records kept by the exporter or producer under investigation, provided that such records are in accordance with the generally accepted accounting principles of the exporting country and reasonably reflect the costs associated with the production and sale of the product under consideration.

The Commission notes below the findings of the WTO Dispute Panel in DS529 in this regard:

"...to rely on the flexibility provided by the term "normally", the investigating authority has to consider whether the records satisfy the two explicit conditions and establish that, although the records are in accordance with GAAP of the exporting country and reasonably reflect the costs associated with the production and sale of the product under consideration, it nonetheless finds a compelling reason distinct from the two explicit conditions, to disregard them."¹⁰⁸

"...in relying on "normally", the investigating authority should give meaning to the whole of the obligation in Article 2.2.1.1, first sentence, and should therefore examine whether the records satisfy the two explicit conditions and provide a satisfactory explanation as to why, nonetheless, it finds compelling reasons to disregard them."

Subsection 43(2) of the Regulation permits the discarding of costs in circumstances where those costs:

- are not in accordance with GAAP; or
- do not reasonably reflect competitive market costs associated with the production or manufacture of like goods.

In determining whether costs reasonably reflect competitive market costs associated with the production or manufacture of like goods, the Commission will determine whether those costs reasonably reflect the costs associated with the production or manufacture of like goods **and** are competitive market costs.

¹⁰⁸ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper* (Indonesia), para. 7.117.

The Commission may determine, pursuant to subsection 43(2) of the Regulation, that while costs may be in accordance with GAAP and may reasonably reflect the costs associated with the production or manufacture of the like goods as the costs actually incurred by the producer, they may not be *competitive market costs* that are suitable for the purpose of constructing normal value. In those circumstances, it is the Commission's practice to provide a reasoned explanation as to why those costs do not reflect competitive market costs that are suitable for the purpose of constructing normal value, including any relevant particular market situation finding.

Given that both Indah Kiat and Pindo Deli did not provide sales and cost data relevant to the review period, the Commission has constructed normal values by using the exporters' 2015 records and making relevant adjustments for changes in costs between 2015 and 2019. The methodology applied by the Commission to make these changes was:

- A cost report was obtained from RISI which was relevant to Indonesia and the exporters. This cost report contained quarterly cost data for the relevant mills between 2015 and 2019. These costs were broken down into cost categories relating to fibre, chemicals, energy, labour, materials & maintenance and sheeting. The Commission calculated the relative change in each cost category between each respective quarter in 2015 and 2019¹⁰⁹. The Commission used these relative changes to adjust the relevant costs;
- The Commission obtained wholesale price index data for the period between 2015 and 2019 relating to manufacturing industries in Indonesia (the MWPI). This information was obtained from Badan Pusat Statistik (Statistics Indonesia). The Commission calculated the relative change in the MWPI between 2015 and 2019. The Commission used the relative change in the MWPI to adjust relevant costs in each exporters' SG&A costs. Some SG&A costs were adjusted, where applicable, based on the cost data provided by the RISI. Some costs were not adjusted as the Commission considered these costs were not subject to inflation;
- Finance costs were adjusted by the relative movement in the bank commercial lending rates between 2015 and 2019. These rates were obtained from the Bank of Indonesia; and
- The Commission used the verified profit margins of the exporters established in Investigation 341 in the constructed normal value to establish profit margins in 2019 on the basis that there is no evidence before the Commission that this had changed.

7.4 Indah Kiat

7.4.1 Export price

Export price is determined in accordance with section 269TAB.

¹⁰⁹ The change was calculated by determining the change in the value between the relevant quarter in 2015 and 2019. This change was then used to calculate the relative change between the periods. This relative change was then applied to the actual cost recorded in the 2015 cost records to derive a 2019 cost.

Indah Kiat advised the Commission they did not export A4 copy paper to Australia during the review period.¹¹⁰

The Commission has also examined previous volumes of A4 copy paper exported to Australia by Indah Kiat. This examination included data from both the ABF import database and Indonesian export data provided by Australian Paper as part of their questionnaire response¹¹¹.

This information indicated there were some exports by Indah Kiat to Australia in the review period under the relevant Indonesian tariff code and subheading. Upon further examination, the Commission identified these exports were predominantly coloured paper, which are not included in the goods description.

For the other exports, the Commission could not adequately assess the nature of the goods and because the relevant importer provided a limited response to the Commission's exporter questionnaire, the Commission is not satisfied these goods also satisfy the goods description. The Commission notes that these inadequately described exports represented a negligible volume of all the exports by Indah Kiat, being less than 0.5 per cent of Indah Kiat's exports examined and determined to be coloured paper. Further, the Commission's examination of the ABF import database indicates that Indah Kiat was not listed as a supplier of any A4 copy paper covered by the goods description imported into Australia during the review period.

On the basis of this information, the Commissioner considers Indah Kiat did not export the goods in the review period.

As Indah Kiat did not export A4 copy paper during the review period, the Commission has considered whether the requirements of subsection 269TAB(2A) have been met, and accordingly, whether Indah Kiat's export price should be determined under subsection 269TAB(2B).

Subsection 269TAB(2A) specifies that the export price of the goods exported to Australia may be determined by the Minister in accordance with subsection 269TAB(2B) if:

- (a) the price is being ascertained in relation to an exporter of those goods (whether the review is of the measures as they affect a particular exporter of those goods, or as they affect exporters of those goods generally); and
- (b) the Minister determines that there is insufficient or unreliable information to ascertain the price due to an absence or low volume of exports of those goods to Australia by that exporter having regard to the following:
 - (i) previous volumes of exports of those goods to Australia by that exporter;
 - (ii) patterns of trade for like goods; and

¹¹⁰ EPR number 13.

¹¹¹ EPR number 12.

- (iii) factors affecting patterns of trade for like goods that are not within the control of the exporter.

Section 269TAB(2B) provides that, for the purposes of subsection 269TAB(2A), the export price of those goods is the price determined by the Minister to be the export price, having regard to any of the following:

- (a) a previous export price for the goods exported to Australia by Indah Kiat, established in accordance with subsection 269TAB(1), for a decision of a kind mentioned in subsection 269TAB(2D);
- (b) the price paid or payable for like goods sold by Indah Kiat in arm's length transactions for exportation from Indonesia to a third country determined by the Minister to be an appropriate third country; or
- (c) an export price for like goods exported to Australia from Indonesia by another exporter or exporters established in accordance with subsection 269TAB(1) for a decision mentioned in subsection 269TAB(2D).

The Commission's consideration of these sections is set out below.

7.4.1.1 Exporter of the goods – subsection 269TAB(2A)(a)

The Commission generally identifies the exporter as a principal in the transaction, located in the country of export from where the goods were shipped, that gave up responsibility by knowingly placing the goods in the hands of a carrier, courier, forwarding company, or its own vehicle for delivery to Australia; or a principal in the transaction, located in the country of export, that owns, or previously owned, the goods but need not be the owner at the time the goods were shipped.¹¹²

In addition, and pursuant to subsection 269TAB(2C), in the absence of exports of A4 copy paper to Australia by Indah Kiat, during the review period the Commission considers that such exports to have occurred for the purposes of applying sections 269TAB(2A) and (2B). To determine whether Indah Kiat is an exporter of the goods, the Commissioner has thus examined Indah Kiat's exports to Australia in the original investigation period, being 1 January 2015 to 31 December 2015.

In relation to the goods previously exported to Australia, the Commission observed the following:

- Indah Kiat manufactured the goods located in the country of export;
- Indah Kiat arranged for transportation of the goods to the port of export;
- Indah Kiat paid for the port handling charges;
- Indah Kiat transacted through a range of traders with an Australian importer, in relation to those goods; and
- Indah Kiat had knowledge that the goods were destined for Australia.

¹¹² Anti-Dumping Commission, *Dumping and Subsidy Manual* (November 2018), p. 29.

- In light of these factors, the Commission considers that Indah Kiat is the exporter of the goods.

7.4.1.2 Insufficient or unreliable information – subsection 269TAB(2A)(b)

The Commission's consideration of whether there is insufficient or unreliable information to ascertain Indah Kiat's export price is set out below.

7.4.1.2.1 Previous volumes of exports by Indah Kiat –subsection 269TAB(2A)(b)(i)

In light of the above information, the Commission's assessment is that Indah Kiat's exports of A4 copy paper commenced to decline after the original investigation period (1 January 2015 to 31 December 2015) and subsequently ceased, with no exports of the goods occurring during the review period. The previous volumes of exports by Indah Kiat to Australia of A4 copy paper is reflected in Figure 10 below.

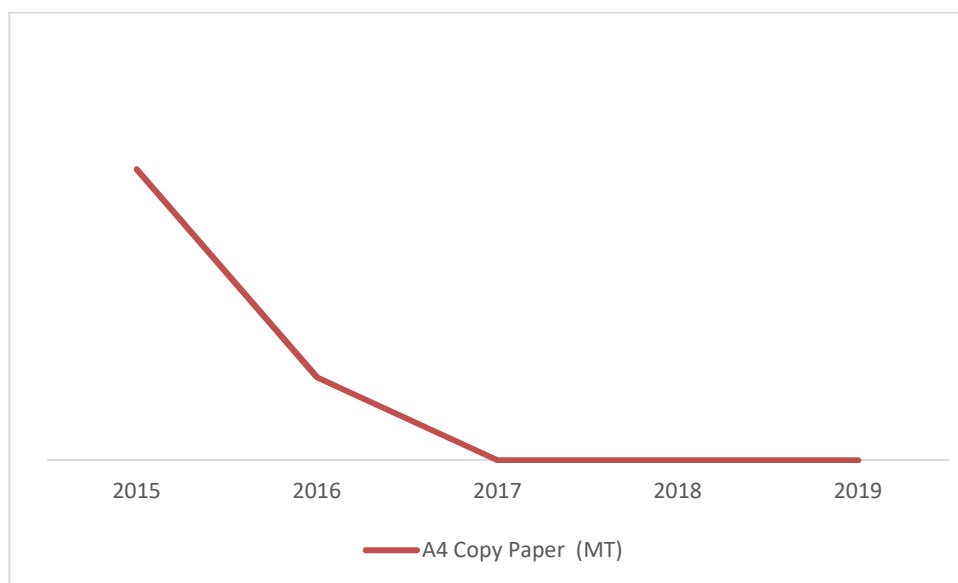


Figure 10: Indah Kiat exports to Australia

7.4.1.2.2 Patterns of trade for like goods – subsection 269TAB(2A)(b)(ii)

The Commission has examined the patterns of trade for like goods. The Commission has examined both the imports of A4 copy paper into Australia from all sources and domestic sales by Australian industry. This examination indicates a decline in market size since 2015 and that the Australian market continues to be supplied by both locally produced and imported A4 copy paper. In addition, as previously stated the Commission observes that sources and volumes of imported A4 copy paper have fluctuated since 2015.¹¹³

The Commission also observes that A4 copy paper continues to be exported to Australia from Indonesia after 2015. This is in contrast to the cessation of imports from Indah Kiat. The Commission notes that imports from Indonesia during the review period have been supplied by both an Indonesian exporter not subject to anti-dumping measures and by another Indonesian exporter subject to anti-dumping measures.

¹¹³ Further information in relation to imports of A4 copy paper is included in Chapter 6 of this SEF.

On the basis that A4 copy paper continues to be supplied from multiple countries, including Indonesia, and there is continuing demand in Australia for A4 copy paper, the Commission considers that Indah Kiat's low volume of exports to Australia during the review period, does not reflect an absence of exports of like goods to Australia generally (by all exporters)

7.4.1.2.3 Factors affecting patterns of trade – subsection 269TAB(2A)(b)(iii)

The Commission notes that the explanatory memorandum for the *Customs Amendment (Anti-Dumping Measures) Bill 2017* (Cth) (*Amendment Act*) identifies factors that may affect patterns of trade for like goods that are not within the control of the exporter. Such factors may include supply disruptions or natural events (such as flood, drought or fire) that affect production levels.

Indah Kiat did not provide information on its production levels, domestic sales and third country sales for the review period. The Commission's review of Indah Kiat's website¹¹⁴ does not identify any information to indicate that Indah Kiat ceased or substantially reduced manufacturing copy paper during the review period or was impacted by supply disruptions or natural events.

Australian Paper also provided information relating to exports of A4 copy paper by Indah Kiat which indicated that Indah Kiat exported the goods to third countries in the review period.¹¹⁵ Australian Paper advised this information was sourced from TradeData International Pty Ltd, who ultimately sourced the data from Indonesian Customs in a raw form, prior to the data being subject to any adjustments made by the Indonesian Statistics Bureau. On the basis that the information provided by Australian Paper was purchased from a reputable firm which sources its data from the GOI, and subject to any submissions following the SEF, the Commissioner has no reason to doubt its reliability.

Based on this information, the Commission is satisfied that Indah Kiat exported A4 copy paper to third countries during the review period and has not identified any factor that affected Indah Kiat's patterns of trade that are not within its control.

7.4.1.3 Commission's consideration – subsection 269TAB(2A)

Having regard to the above, the Commission considers that there is insufficient or unreliable information to ascertain an export price for Indah Kiat due to an absence of exports to Australia during the review period. Indah Kiat has previously exported the goods to Australia and, whilst imports of A4 copy paper to Australia have declined generally since the original investigation, A4 copy paper continues to be imported from multiple countries, including Indonesia. In addition, the Commission has not identified any other factors affecting the patterns of trade that are beyond Indah Kiat's control.

Therefore, the Commission considers it appropriate for the Minister to determine the export price for Indah Kiat under subsection 269TAB(2B).

¹¹⁴ <http://www.iktangerang.com/> and www.asiapulppaper.com as accessed during June 2020.

¹¹⁵ EPR number 12, Confidential Attachment A-10.1.2_Tradedata Indo export code 48025690.

7.4.1.4 Determination of export price – subsection 269TAB(2B)

7.4.1.4.1 Previous export price – subsection 269TAB(2B)(a)

An export price for Indah Kiat was determined under subsection 269TAB(1) for the purposes of publishing the notice under subsections 269TG(1) and (2) with respect to the original investigation. The decisions to publish notices under subsections 269TG(1) and (2) are of a kind mentioned in subsection 269TAB(2D).

For these reasons, the Commissioner is satisfied that it is permissible for the Minister to determine the export price having regard to the export price of Indah Kiat as determined in the original investigation.

7.4.1.4.2 Third country export price – subsection 269TAB(2B)(b)

The Commission sought information regarding Indah Kiat's export price of A4 copy paper to third countries. Indah Kiat did not provide this information for the review period.

As noted above, Australian Paper provided information in relation to Indah Kiat's exports of A4 copy paper to third countries. As stated above, the Commission considers this information to be reliable. However, the Commissioner considers there are nevertheless limitations in the information insofar as it does not provide a precise and granular level of detail required for the purposes of determining an export price. Specifically, the Commissioner has the following concerns about using the information provided by Australian Paper to determine Indah Kiat's export price:

- The data set is constituted by a larger range of goods than covered by the goods description in this review. The data set includes some descriptive information but the Commission is not satisfied that there is sufficient detail to exclude exports which are not the goods for the purposes of establishing an export price;
- The terms of the sales to third countries are insufficiently detailed. For example, the Commission cannot adequately establish the terms and circumstances of the export sales including, but not necessarily limited to, the credit terms, inland transport costs and actual delivery terms of the sale. Consequently, the Commission is unable to adequately consider what adjustments, if any, may be required to the normal value to ensure comparability with the export price; and
- There is insufficient information contained in the data to enable the Commission to positively determine whether the prices paid or payable are arm's length transaction prices, as required by the terms of subsection 269TAB(2B)(b).

As a result, while it may be permissible for the Minister to determine the export price having regard to the price paid or payable for like goods sold by Indah Kiat to third countries, there are concerns with respect to the information available to the Commission to ensure precision in the calculation of the export price.

7.4.1.4.3 Another exporter's export price – subsection 269TAB(2B)(c)

Export prices for like goods exported to Australia by other exporters from Indonesia have been determined under subsection 269TAB(1) for the purposes of publishing the notice under subsections 269TG(1) and (2) with respect to the original investigation. The decisions to publish notices under sections 269TG(1) and (2) are of a kind mentioned in subsection 269TAB(2D). However, that decision was not made during the period

beginning two years before the day the Commissioner published notice of this review and ending the day the notice of review is published, as required by subsection 269TAB(2E).

For these reasons, the Commissioner considers it is not permissible for the Minister to determine the export price having regard to the export price of like goods exported to Australia by other exporters from Indonesia.

7.4.1.5 Commission's consideration – subsection 269TAB(2B)

Based on the above reasoning, the Commissioner considers it is preferable to determine Indah Kiat's export price based on its previous export price established under subsection 269TAB(1), pursuant to subsection 269TAB(2B)(a).

The Commission considers this is the preferable method to determine Indah Kiat's export price due to the concerns outlined above in relation to the information the Commission has in respect of Indah Kiat's exports to third countries and the Commissioner's view it is not open for the Minister to use the export price determined previously for other Indonesian exporters of like goods.

The Commission notes that the sales relevant to establishing that export price were subject to onsite verification by the Commission in Indonesia. The Commission's onsite verification confirmed that Indah Kiat's sales data was accurate, relevant and complete.

7.4.1.6 Adjustments to the export price – subsection 269TAB(2G)

Subsection 269TAB(2G) enables the Minister to make adjustments to the export price ascertained under subsection 269TAB(2B) to reflect what the export price would have been had there not been an absence or low volume of exports by Indah Kiat. Such adjustments may include:

- adjustments due to exports relating to earlier times (timing adjustment); and
- adjustments due to exports relating to not identical goods (specification adjustment).

The Commission notes that export prices of A4 copy paper from all countries into Australia have changed subsequent to 2015 when the previous export price was established. This is illustrated in Figure 11 below.

PUBLIC RECORD

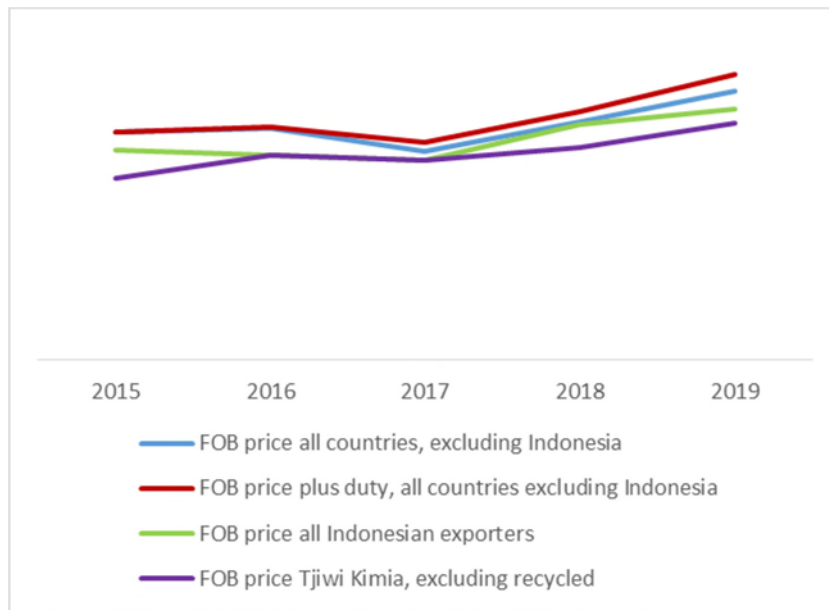


Figure 11: Weighted average export prices, all countries 2015-2019

Consequently, the Commission considers that a timing adjustment will provide a more accurate reflection of what Indah Kiat's export price would have been during the review period.

The Commission used import data from the ABF import database to establish an index value to make the timing adjustment to Indah Kiat's 2015 export price established under Section 269TAB(1). The index value was calculated using relevant¹¹⁶ import prices of Indonesian exporter, Tjiwi Kimia.

The Commission considers that the import prices of Tjiwi Kimia provide the most suitable proxy to determine the timing adjustment, based on the information before it, for the following reasons:

- Verified 2015 export prices of Indah Kiat and Tjiwi Kimia show a high level of correlation in pricing for relevant models of A4 copy paper compared to other Indonesian exporters.¹¹⁷ Both Indah Kiat and Tjiwi Kimia provided Australian export sales listings to the Commission for Investigation 341. The Commission compared each exporter's respective export prices to common Australian end customers during 2015. This analysis established that there was immaterial differences in pricing between Indah Kiat and Tjiwi Kimia to those common customers.¹¹⁸ The same degree of similarity in pricing was not evident when comparing weighted average export prices of other Indonesian exporters into Australian during 2015.

¹¹⁶ Tjiwi Kimia sold certain types of A4 recycled copy paper not sold by Indah Kiat.

¹¹⁷ The Commission notes that, although the export prices of both Indah Kiat and Tjiwi Kimia showed a high level of correlation for certain types of A4 copy paper, Tjiwi Kimia was found not to be dumping in relation to certain other types of recycled A4 copy paper which were not exported by Indah Kiat.

¹¹⁸ Confidential Common Customer Price Analysis.

- Exports made by Tjiwi Kimia in 2019 were to the same importer that both Indah Kiat and Tjiwi Kimia exported to in 2015. Examination of the terms of sales for Tjiwi Kimia and Indah Kiat in 2015 to this importer found that the terms of sale were similar and no information has been provided by either Pindo Deli, Indah Kiat or Paper Force to indicate that the terms of sales for Tjiwi Kimia have changed since 2015.¹¹⁹ During the original investigation, the exporters also advised that the process for negotiating sales with Paper Force for each exporter were similar.
- The data obtained from both the exporters and the common importer in Investigation 341 enabled the Commission to identify products within Tjiwi Kimia's 2019 importations that had sufficiently similar product characteristics to Indah Kiat's importations in 2015 so as not to require the Commission to make any specification adjustments under subsection 269TAB(2G)(b).
- When assessing the accuracy of the Import data, the Commission was able to reconcile the import database specified 2015 export price to the verified export price for Tjiwi Kimia in 2015 to within a small margin of difference, confirming a high level of correlation in the ABF data to actual transaction data for Tjiwi Kimia.

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7.4.2 Normal value

As outlined above and in Appendix D, the Commission considers that there is a market situation for A4 copy paper in Indonesia. The Commission considers that because of the situation in the market in Indonesia, domestic sales are not suitable for use in determining the normal value and the Commission has constructed the normal value under section 269TAC(2)(c) of the Act.

As specified in REP 341, the Commission is satisfied that Indah Kiat's records were kept in accordance with Indonesian GAAP during 2015 and reasonably reflected the costs associated with the production of the goods for 2015 as the costs actually incurred by Indah Kiat. The Commission assessed whether the 2015 costs of production as reported in Indah Kiat's records reasonably reflect competitive market costs that are suitable for the purpose of constructing normal value. The Commission's approach to selecting the relevant benchmark and the adjustments made to that benchmark to ensure that they were relevant to the circumstances of Indah Kiat for the review period are contained in Appendix D of this report. The benchmark indicated that competitive market woodchip prices, after relevant adjustments¹²¹, were materially higher during 2015 than the costs of woodchip recorded in Indah Kiat's records in 2015. The Commission considered that amount for the woodchips in the records of Indah Kiat reflected the "particular market situation" established in 2015. The Commission was therefore satisfied that the woodchip costs recorded in Indah Kiat's records may reasonably reflect the costs associated with the production or manufacture of the goods in 2015. However, the Commission also considered that they did not reasonably reflect competitive market costs associated with

¹¹⁹ The similar terms included the terms of payment, shipping terms and sales were largely sold through common trading entities.

¹²⁰ Tjiwi Kimia's 2015 export price was verified as part of Investigation 341.

¹²¹ See Appendix E for a description of the adjustments made.

the production or manufacture of the goods that are suitable for the purpose of constructing normal value (Appendix E refers).

Having regard to all relevant information, the Commission believes that it is appropriate to use Indah Kiat's records from the original investigation period for determining normal values in 2019, but only after:

- an adjustment is made to the records relating to the cost of woodchips in 2019; and
- a timing adjustment is made to reflect the changes in costs between 2015 and 2019.

In doing so, the Commission has considered the circumstances of Indah Kiat and adjusted the records to incorporate the woodchip costs in 2019 that would be incurred in Indonesia without the distortion arising from the influence of the GOI, which caused the particular market situation. Further information on the adjustments made to the benchmark are included in Appendix E.

Normal values for Indah Kiat were constructed, in line with the model matching criteria applied in Investigation 341, using the cost of production of the goods for each model based on weight, measured in gsm in 2015 and adjusted to reflect a 2019 cost. The Commission has therefore constructed a normal value, having regard to:

- the cost of production of the exported goods under subsection 43(2) of the Regulation (adjusted as set out above);
- the weighted average SG&A costs using the information set out in Indah Kiat's records relating to domestic sales of like goods during the 2015 investigation period and adjusted to 2019 costs under subsection 44(2) of the Regulation; and
- the profit achieved on domestic sales of like goods in the ordinary course of trade (OCOT) in 2015 in accordance with subsection 45(2) of the Regulation.

7.4.2.1 Adjustments to normal value

To ensure the normal value is comparable to the export price of goods exported to Australia at Free On Board (FOB) terms, the Commission has considered the adjustments in Table 11 necessary in accordance with subsection 269TAC(9).

Adjustment Type	Deduction/addition
Domestic credit	Deduct the cost of domestic credit
Domestic inland transport	Deduct the cost relating to inland transport
CMI fixed sales margin	Deduct the cost of the CMI fixed sales margin

Table 11: Summary of adjustments

7.4.3 Dumping margin

The Commission has calculated a dumping margin in respect of the goods exported to Australia by Indah Kiat for the review period. The margin is **0.1 per cent**.

The Commission's calculations are included at **Confidential Appendix 2**.

7.5 Pindo Deli

7.5.1 Export price

Export price is determined in accordance with section 269TAB.

Pindo Deli advised the Commission they did not export A4 copy paper to Australia during the review period.¹²²

The Commission has also examined previous volumes of A4 copy paper exported to Australia by Pindo Deli. This examination included data from both the ABF import database and Indonesian export data provided by Australian Paper as part of their questionnaire response¹²³.

This information indicated there were no exports by Pindo Deli to Australia in the review period under the relevant Indonesian tariff code and subheading. On the basis of this information, the Commissioner considers there was an absence of exports of the goods by Pindo Deli in the review period.

As Pindo Deli did not export A4 copy paper during the review period, the Commission has considered whether the requirements of subsection 269TAB(2A) have been met, and accordingly, whether Pindo Deli's export price should be determined under subsection 269TAB(2B).

Subsection 269TAB(2A) specifies that the export price of the goods exported to Australia may be determined by the Minister in accordance with subsection 269TAB(2B) if:

- (c) the price is being ascertained in relation to an exporter of those goods (whether the review is of the measures as they affect a particular exporter of those goods, or as they affect exporters of those goods generally); and
- (d) the Minister determines that there is insufficient or unreliable information to ascertain the price due to an absence or low volume of exports of those goods to Australia by that exporter having regard to the following:
 - (iv) previous volumes of exports of those goods to Australia by that exporter;
 - (v) patterns of trade for like goods; and
 - (vi) factors affecting patterns of trade for like goods that are not within the control of the exporter.

Subsection 269TAB(2B) provides that, for the purposes of subsection 269TAB(2A), the export price of those goods is the price determined by the Minister to be the export price, having regard to any of the following:

¹²² EPR number 8.

¹²³ EPR number 12.

- (d) a previous export price for the goods exported to Australia by Indah Kiat, established in accordance with subsection 269TAB(1), for a decision of a kind mentioned in subsection 269TAB(2D);
- (e) the price paid or payable for like goods sold by Indah Kiat in arm's length transactions for exportation from Indonesia to a third country determined by the Minister to be an appropriate third country; or
- (f) an export price for like goods exported to Australia from Indonesia by another exporter or exporters established in accordance with subsection 269TAB(1) for a decision mentioned in subsection 269TAB(2D).

The Commission's consideration of these sections is set out below.

7.5.1.1 Exporter of the goods – subsection 269TAB(2A)(a)

The Commission generally identifies the exporter as a principal in the transaction, located in the country of export from where the goods were shipped, that gave up responsibility by knowingly placing the goods in the hands of a carrier, courier, forwarding company, or its own vehicle for delivery to Australia; or a principal in the transaction, located in the country of export, that owns, or previously owned, the goods but need not be the owner at the time the goods were shipped.¹²⁴

In addition, and pursuant to subsection 269TAB(2C), in the absence of exports of A4 copy paper to Australia by Pindo Deli, during the review period the Commission considers that such exports to have occurred for the purposes of applying subsections 269TAB(2A) and (2B). To determine whether Pindo Deli is an exporter of the goods, the Commissioner has thus examined Pindo Deli's exports to Australia in the original investigation period, being 1 January 2015 to 31 December 2015.

In relation to the goods previously exported to Australia, the Commission observed the following:

- Pindo Deli manufactured the goods located in the country of export;
- Pindo Deli arranged for transportation of the goods to the port of export;
- Pindo Deli paid for the port handling charges;
- Pindo Deli transacted through a range of traders with an Australian importer, in relation to those goods; and
- Pindo Deli had knowledge that the goods were destined for Australia.

In light of these factors, the Commission considers that Pindo Deli is the exporter of the goods.

7.5.1.2 Insufficient or unreliable information – subsection 269TAB(2A)(b)

The Commission's consideration of whether there is insufficient or unreliable information to ascertain Pindo Deli's export price is set out below.

¹²⁴ Anti-Dumping Commission, *Dumping and Subsidy Manual* (November 2018), p. 29.

7.5.1.2.1 *Previous volumes of exports by Pindo Deli –subsection 269TAB(2A)(b)(i)*

In light of the above information, the Commission's assessment is that Pindo Deli's exports of A4 copy paper commenced to decline after the original investigation period (1 January 2015 to 31 December 2015) and subsequently ceased, with no exports of the goods occurring during the review period. The previous volumes of exports by Pindo Deli to Australia of A4 copy paper is reflected in Figure 12.

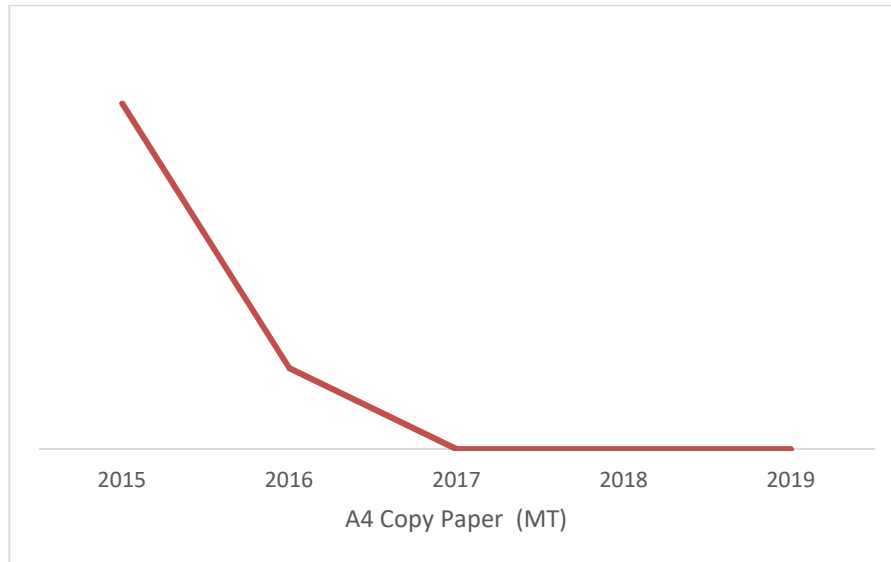


Figure 12: Pindo Deli export volumes to Australia

7.5.1.2.2 *Patterns of trade for like goods – subsection 269TAB(2A)(b)(ii)*

The Commission has examined the patterns of trade for like goods. The Commission has examined both the imports of A4 copy paper into Australia from all sources and domestic sales by Australian industry. This examination indicates a decline in market size since 2015 and that the Australian market continues to be supplied by both locally produced and imported A4 copy paper. In addition, as previously stated the Commission observes that sources and volumes of imported A4 copy paper have fluctuated since 2015.¹²⁵

The Commission also observes that A4 copy paper continues to be exported to Australia from Indonesia after 2015. This is in contrast to the cessation of imports from Pindo Deli. The Commission notes that imports from Indonesia during the review period have been supplied by both an Indonesian exporter not subject to anti-dumping measures and by another Indonesian exporter subject to anti-dumping measures.

On the basis that A4 copy paper continues to be supplied from multiple countries, including Indonesia, and there is continuing demand in Australia for A4 copy paper, the Commission considers that Pindo Deli's low volume of exports to Australia during the review period, does not reflect an absence of exports of like goods to Australia generally (by all exporters).

¹²⁵ Further information in relation to imports of A4 copy paper is included in Chapter 6 of this SEF.

7.5.1.2.3 *Factors affecting patterns of trade – subsection 269TAB(2A)(b)(iii)*

The Commission notes that the explanatory memorandum for the Amendment Act identifies factors that may affect patterns of trade for like goods that are not within the control of the exporter. Such factors may include supply disruptions or natural events (such as flood, drought or fire) that affect production levels.

Pindo Deli did not provide information on its production levels, domestic sales and third country sales for the review period. The Commission's review of the internet page of Pindo Deli's parent company, Asia Pulp & Paper (APP)¹²⁶, established that the company is likely still operating and offering for sale writing paper products, provided limited information on its operation.

Australian Paper also provided information relating to exports of A4 copy paper from Indonesia which indicated that Pindo Deli has ceased exporting the goods to third countries since 2018¹²⁷. The discontinuation of exports is reflected in Figure 13.

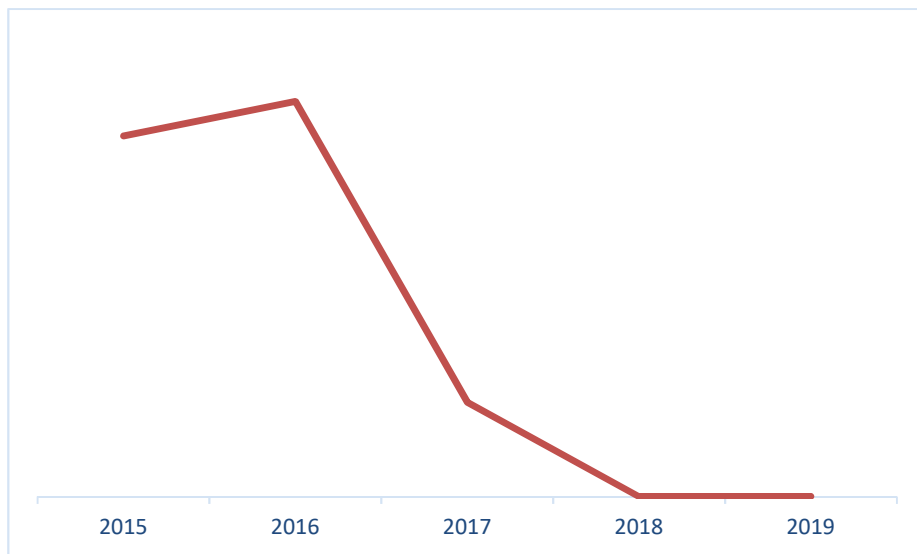


Figure 13: Pindo Deli export volumes to third countries

Australian Paper advised this information was sourced from TradeData International Pty Ltd, who ultimately sourced the data from Indonesian customs in a raw form, prior to the data being subject to any adjustments made by the Indonesian statistics bureau. On the basis that the information provided by Australian Paper was purchased from a reputable firm which sources its data from the GOI, and subject to any submissions following the SEF, the Commissioner has no reason to doubt its reliability.

Based on this information, the Commission has identified that Pindo Deli has ceased exporting A4 copy paper, but has not identified any factors that may be affecting Pindo Deli's patterns of trade let alone whether these factors are within its control.

¹²⁶ <https://asiapulppaper.com/>

¹²⁷ EPR number 12, Confidential Attachment A-10.1.2_Tradedata Indo export code 48025690.

7.5.1.3 Commission's consideration – subsection 269TAB(2A)

Having regard to the above, the Commission considers that, for Pindo Deli, there is insufficient or unreliable information to ascertain an export price due to an absence of exports to Australia during the review period. Pindo Deli has previously exported the goods to Australia and, whilst imports of A4 copy paper to Australia have declined generally since the original investigation, A4 copy paper continues to be imported from multiple countries, including Indonesia. In addition, the Commission has not positively identified any factors affecting the patterns of trade that are beyond Pindo Deli's control.

Therefore, the Commission considers it appropriate for the Minister to determine the export price for Pindo Deli under subsection 269TAB(2B).

7.5.1.4 Determination of export price – subsection 269TAB(2B)

7.5.1.4.1 Previous export price – subsection 269TAB(2B)(a)

An export price for Pindo Deli was determined under subsection 269TAB(1) for the purposes of publishing the notice under subsections 269TG(1) and (2) with respect to the original investigation. The decisions to publish notices under subsections 269TG(1) and (2) are of a kind mentioned in subsection 269TAB(2D).

For these reasons, the Commissioner is satisfied that it is permissible for the Minister to determine the export price having regard to the export price of Pindo Deli as determined in the original investigation.

7.5.1.4.2 Third country export price – subsection 269TAB(2B)(b)

The Commission sought information regarding Pindo Deli's export price of A4 copy paper to third countries. Pindo Deli did not provide this information for the review period.

As noted in section 7.5.1 above, Australian Paper provided information in relation to Pindo Deli's exports of A4 copy paper to third countries. This data indicates that Pindo Deli did not export A4 copy paper during the review period. Consequently, the Commission considers that third country sales are not available to establish an export price for Pindo Deli.

7.5.1.4.3 Another exporter's export price – subsection 269TAB(2B)(c)

Export prices for like goods exported to Australia by other exporters from Indonesia have been determined under subsection 269TAB(1) for the purposes of publishing the notice under subsections 269TG(1) and (2) with respect to the original investigation. The decisions to publish notices under subsections 269TG(1) and (2) are of a kind mentioned in subsection 269TAB(2D). However, that decision was not made during the period beginning two years before the day the Commissioner published notice of this review and ending the day the notice of review is published, as required by subsection 269TAB(2E).

For these reasons, the Commissioner considers it is not permissible for the Minister to determine the export price having regard to the export price of like goods exported to Australia by other exporters from Indonesia.

7.5.1.5 Commission's consideration – subsection 269TAB(2B)

Based on the above reasoning, the Commissioner considers it is preferable to determine Pindo Deli's export price based on its previous export price established under subsection 269TAB(1), pursuant to subsection 269TAB(2B)(a).

The Commission considers this is the preferable method to determine Pindo Deli's export price due to the concerns outlined above in relation to the lack of sales to third countries and the Commissioner's view it is not open for the Minister to use the export price determined previously for other Indonesian exporters of like goods.

The Commission notes that the sales relevant to establishing that export price were subject to onsite verification by the Commission in Indonesia. The Commission's onsite verification confirmed that Pindo Deli's sales data was accurate, relevant and complete.

7.5.1.6 Adjustments to the export price – subsection 269TAB(2G)

Subsection 269TAB(2G) enables the Minister to make adjustments to the export price ascertained under subsection 269TAB(2B) to reflect what the export price would have been had there not been an absence or low volume of exports by Pindo Deli. Such adjustments may include:

- adjustments due to exports relating to earlier times (timing adjustment); and
- adjustments due to exports relating to not identical goods (specification adjustment).

The Commission notes that import prices of A4 copy paper from all countries into Australia have changed subsequent to 2015 when the previous export price was established. This is illustrated in Figure 14.

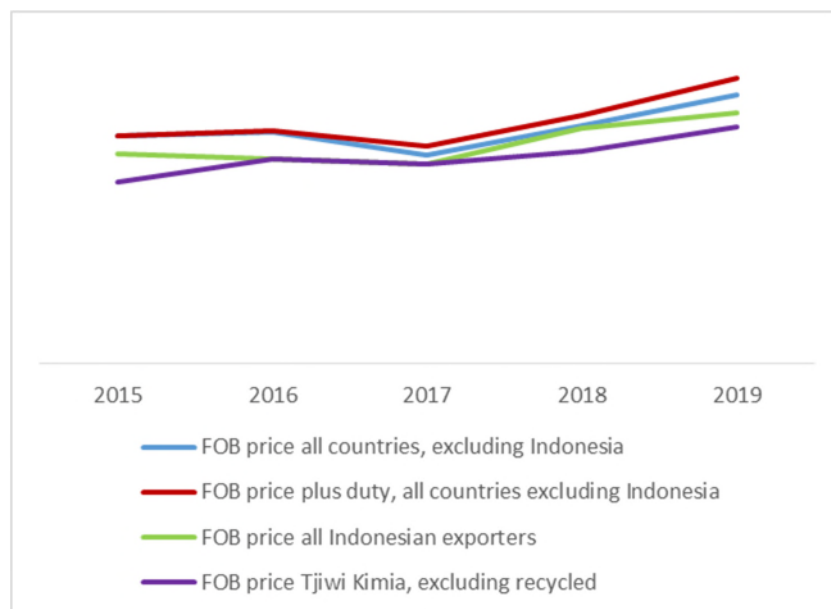


Figure 14: Weighted average export prices, all countries 2015-2019

Consequently, the Commission considers that a timing adjustment will provide a more accurate reflection of what Pindo Deli's export price would have been during the review period.

The Commission used import data from the ABF import database to establish an index value to make the timing adjustment to Pindo Deli's 2015 export price established under Subsection 269TAB(1). The index value was calculated using relevant¹²⁸ import prices of Indonesian exporter, Tjiwi Kimia¹²⁹. The Commission considers that the import prices of Tjiwi Kimia provide the most suitable proxy to determine the timing adjustment, based on the information the Commission has before it, for the following reasons:

- Verified 2015 export prices of Pindo Deli and Tjiwi Kimia show a high level of correlation in pricing compared to other Indonesian exporters. Both Pindo Deli and Tjiwi Kimia provided Australian export sales listings to the Commission for Investigation 341. The Commission compared each exporter's respective export prices to common Australian end customers during 2015. This analysis established that there was immaterial differences in pricing between Pindo Deli and Tjiwi Kimia to those common customers.¹³⁰ The same degree of similarity in pricing was not evident when comparing the average weighted export prices of other Indonesian exporters into Australia during 2015.
- Exports made by Tjiwi Kimia in 2019 were to the same importer that both Pindo Deli and Tjiwi Kimia exported to in 2015. Examination of the terms of sales for Tjiwi Kimia and Pindo Deli in 2015 to this importer found that the terms of sale were similar and no information has been provided by either Pindo Deli, Indah Kiat or Paper Force to indicate that the terms of sales for Tjiwi Kimia have changed since 2015.¹³¹ During the original investigation, the exporters also advised that the process for negotiating sales with Paper Force for each exporter were similar.¹³²
- The data obtained from both the exporters and the common importer in Investigation 341 enabled the Commission to identify products within Tjiwi Kimia's 2019 importations that had sufficiently similar product characteristics to Pindo Deli's importations in 2015 so as not to require the Commission to make any specification adjustments under subsection 269TAB(2G)(b).
- When assessing the accuracy of the Import data, the Commission was able to reconcile the ABF import database specified 2015 export price to the verified

¹²⁸ Tjiwi Kimia sold certain types of A4 recycled copy paper not sold by Pindo Deli.

¹²⁹ The Commission notes that, although the export prices of both Pindo Deli and Tjiwi Kimia showed a high level of correlation for certain types of A4 copy paper, Tjiwi Kimia was found not to be dumping in relation to certain other types of recycled A4 copy paper which were not exported by Pindo Deli.

¹³⁰ Confidential Common Customer Price Analysis.

¹³¹ The similar terms included the terms of payment, shipping terms and sales were largely sold through common trading entities.

¹³² The Commission requested Importer, Paper Force (Oceania) Pty Ltd (Paper Force) to provide a questionnaire response to the review in relation to its imports of A4 copy paper during the review period. Paper Force declined to complete the questionnaire.

export price for Tjiwi Kimia in 2015¹³³ to within a small margin of difference, confirming a high level of correlation in the ABF data to actual transaction data for Tjiwi Kimia.

7.5.2 Normal value

As outlined above and in Appendix D, the Commission considers that there is a market situation for A4 copy paper in Indonesia. The Commission considers that because of the situation in the market in Indonesia, domestic sales are not suitable for use in determining the normal value and the Commission has constructed the normal value under section 269TAC(2)(c) of the Act.

As specified in Investigation 341, the Commission is satisfied that Pindo Deli's records were kept in accordance with Indonesian GAAP during 2015 and reasonably reflected the costs associated with the production of the goods for 2015, as the costs actually incurred by Pindo Deli. The Commission assessed whether the 2015 costs of production as reported in Pindo Deli's records reasonably reflected competitive market costs that are suitable for the purpose of constructing normal value. The Commission's approach to selecting the relevant benchmark and the adjustments made to that benchmark to ensure that they were relevant to the circumstances of Pindo Deli for the review period are contained in Appendix E of this report. The benchmark indicated that competitive market pulp prices were materially higher during 2015 than the costs of pulp recorded in Pindo Deli's records in 2015. The Commission considered that amount for pulp in the records of Indah Kiat reflected the "particular market situation" established in 2015. The Commission was therefore satisfied that while the pulp costs recorded in Pindo Deli's records may reasonably reflect the costs associated with the production or manufacture of the goods in 2015, they did not reasonably reflect competitive market costs associated with the production or manufacture of the goods that are suitable for the purpose of constructing normal value (Appendix E refers).

Having regard to all relevant information, the Commission believes that it is appropriate to use Pindo Deli's records from 2015 for determining normal values in 2019, but only after:

- an adjustment is made to the records relating to the cost of pulp in 2019; and
- a timing adjustment is made to reflect the changes in costs between 2015 and 2019.

In doing so, the Commission has considered the circumstances of Pindo Deli. It then adjusted the records to incorporate the pulp costs in 2019 that would be incurred in Indonesia without the distortion arising from the GOI's policy, which caused the particular market situation. Further information on the adjustments made to the benchmark are included in Appendix E.

Normal values for Pindo Deli were constructed, in line with the model matching criteria applied in Investigation 341, using the cost of production of the goods for each model based on weight, measured in gsm in 2015 and adjusted to reflect a 2019 cost. The Commission has therefore constructed a normal value, having regard to:

¹³³ Tjiwi Kimia's 2015 export price was verified as part of Investigation 341.

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- the cost of production of the exported goods under subsection 43(2) of the Regulation (adjusted set out above);
- the weighted average SG&A costs using the information set out in Pindo Deli's records relating to domestic sales of like goods during the 2015 investigation period and adjusted to 2019 costs under subsection 44(2) of the Regulation; and
- the profit achieved on domestic sales of like goods in the ordinary course of trade (OCOT) in 2015 in accordance with subsection 45(2) of the Regulation.

7.5.2.1 Adjustments to normal value

To ensure the normal value is comparable to the export price of goods exported to Australia at FOB terms, the Commission has considered the following adjustments necessary in accordance with subsection 269TAC(9):

Adjustment Type	Deduction/addition
Domestic credit	Deduct the cost of domestic credit
Domestic inland transport	Deduct the cost relating to inland transport
CMI fixed sales margin	Deduct the cost of the CMI fixed sales margin

Table 12: Summary of adjustments

7.5.3 Dumping margin

The Commission has calculated a dumping margin in respect of the goods exported to Australia by Pindo Deli for the review period. The margin is **17.5 per cent**.

The Commission's calculations are included at **Confidential Appendix 2**.

8 REVOCATION REVIEW

8.1 Preliminary finding

The Commissioner proposes to recommend to the Minister that the notice be revoked in its application to Pindo Deli and Indah Kiat, pursuant to section 269ZDA(1)(a)(ii).

The Commissioner considers it is appropriate to recommend revoking the measures applying to Pindo Deli and Indah Kiat, pursuant to section 269ZDA(1)(a)(ii) on the basis that the evidence before him does not demonstrate any recommencement of exports by Pindo Deli and exports by Indah Kiat to Australia would cause material injury to Australian Industry.

In addition, and pursuant to section 269ZDA(1A), a revocation review notice in relation to the measures has been published¹³⁴ and the Commissioner is not satisfied as a result of this review that revoking the anti-dumping measures applying to Pindo Deli and Indah Kiat would lead, or be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the measures are intended to prevent.

8.2 Legislative framework

The Commission must, after conducting a review of the anti-dumping measures, give a report to the Minister recommending that either:¹³⁵

- a) the notice remains unaltered,
- b) the notice be revoked in its application to a particular exporter or a particular kind of goods or revoked generally, or
- c) that the notice have effect in relation to a particular exporter or to exporters generally, as if different variable factors had been ascertained.

In addition, pursuant to subsection 269ZDA(1A)(b), when considering whether to revoke the measures, and following the publication of a revocation review notice in relation to the review, the Commissioner must make a revocation recommendation unless satisfied as a result of the review that revoking the measures would lead, or be likely to lead, to a continuation of, or a recurrence of, the dumping or subsidisation and material injury that the measures are intended to prevent.

8.3 The Commission's approach

In assessing whether to recommend the Minister to revoke the application of an anti-dumping notice, the Commission considers the likelihood of whether dumping and material injury will continue or recur, the Manual provides that the Commission conduct a current and prospective examination.¹³⁶

¹³⁴ EPR number 1, ADN 2018028.

¹³⁵ Section 269ZDA(1)(a).

¹³⁶ Dumping and Subsidy Manual November 2018, p. 168.

The Commission's assessment of the likelihood of certain events occurring and their anticipated effect necessarily requires an assessment of a hypothetical situation. This view has been supported by the ADRP in the context of continuation inquiries, which noted that the Commission must consider what will happen in the future should a certain event (in this instance, being the revocation of the measures) occur.¹³⁷ However, the Commissioner's conclusions and recommendation must nevertheless be based on facts.¹³⁸

In examining the likelihood of the dumping and material injury continuing or recurring, the Commissioner has had regard to the Federal Court's guidance in *Siam Polyethylene Co Ltd v Minister for Home Affairs (No. 2)*.¹³⁹ In that case the Federal Court stated that the context in which the word "likely" appeared in subsection 269ZHF(2) suggested that Parliament used that word to convey "more probable than not", rather than a lesser degree of certainty.¹⁴⁰ The Commission considers it is preferable to accept a similar construction with respect to the meaning of the word "likely" contained in the revocation test in subsection 269ZDA(1A).

The Manual also notes that the term 'likely' has been taken to mean 'probable' within the WTO Jurisprudence.¹⁴¹

The Commission considers that to make a positive finding that the recurrence of dumping or material injury is likely, the Commissioner must attain a reasonable level of satisfaction, having regard to relevant facts and reliable sources of information.

8.4 Australian industry questionnaire response

In its questionnaire response, Australian Paper submitted it was opposed to the revocation of the anti-dumping measures applying to Indah Kiat and Pindo Deli.

Australian Paper provided information on the production capacity and utilisation rates of the Asia Pulp and Paper (APP) group of companies, of which Indah Kiat and Pindo Deli are members.¹⁴² Australian Paper submitted that this information demonstrated that both Indah Kiat and Pindo Deli had significant production capacity and that this was not being fully utilised. Australian Paper also provided information to indicate that Indonesian producers were export oriented.¹⁴³

Australian Paper also submitted that both Indah Kiat and Pindo Deli had largely ceased exporting to Australia, with a "clear switch to exports from the affiliated APP paper

¹³⁷ ADRP Report No. 44 (Clear Float Glass) refers.

¹³⁸ Ibid.

¹³⁹ [2009] FCA 838.

¹⁴⁰ Ibid, [49] (Rares J).

¹⁴¹ 168, citing Panel report *United States – Anti-Dumping Duty on Dynamic Random Access Memory Semiconductors (DRAMs) of one Megabit or above*, WTO Doc WT/DS99/R (29 January 1999) [6.46].

¹⁴² EPR number 12, p. 18 and Confidential Attachment A-10.1.1.- RISI Indonesian capacity report UWF.

¹⁴³ Ibid.

producer and exporter PT Tjiwi Kimia that is not the subject of the measures”. Australian Paper submitted that all three had historically exported through the one importer, Paper Force. Australian Paper claimed that Paper Force was owned by APP.¹⁴⁴

Australian Paper, referencing a confidential attachment, submitted that Indah Kiat, as a vertically integrated producer, had a cost advantage over non-integrated producers Pindo Deli and Tjiwi Kimia.

Australian Paper claimed that the removal or reduction of the dumping measures applying to Indah Kiat and Pindo Deli would give APP the ability and incentive to move supply from Tjiwi Kimia. Should this occur, Australian Paper stated that there would be “little doubt that injury to the domestic industry would be resumed as a result”.

Australian Paper noted the dumping margins for Indah Kiat and Pindo Deli and the degree of price undercutting previously identified for Indonesian exporters in the original investigation period. Australian Paper submitted that Indah Kiat and Pindo Deli were key contributors to the injury identified by the Commission in Investigation 341.

In the event of the measures being revoked, Australian Paper submitted that the underutilised capacity of both exporters and Indah Kiat’s low cost position, would result in them re-establishing supply into the Australian market. This would in turn result in increased price competition and price undercutting of Australian Paper’s prices. Australian Paper submitted that this would ultimately have a material impact on its profit and profitability.

Full copies of Australian Paper’s submissions are available on the EPR.¹⁴⁵

8.5 Pindo Deli

To assess whether the notice applying to Pindo Deli should be revoked and the likelihood of whether the dumping and material injury that the measures are intended to prevent would recur if the measures were revoked, the Commission has considered:

- The likelihood of Pindo Deli recommencing exports if the measures were revoked; and
- If Pindo Deli did recommence exports, whether those exports would be at dumped prices or would otherwise cause material injury, if the measures were revoked.

In the original investigation, the Assistant Minister¹⁴⁶ determined the dumping margin for Pindo Deli to be 33 per cent. As specified in Chapter 7, the preliminary dumping margin established in this review for Pindo Deli is 17.5 per cent.

¹⁴⁴ Similar claims by Australian Paper were investigated by the Commission in Investigation 341. The Commission found that ‘the Commission is satisfied that there is no legal relationship between Paper Force and the SMG exporters and that transactions between those parties are arms length’; REP 341, p. 53.

¹⁴⁵ EPR numbers 7, 12 and 17.

¹⁴⁶ Craig Laundry, Assistant Minister for Industry, Innovation and Science, Parliamentary Secretary to the Minister for Industry, Innovation and Science (Assistant Minister).

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The Commission examined the information available to it. This included Pindo Deli's export volumes during and prior to the original investigation period. The Commission also examined the Indonesian export data provided by Australian Paper.¹⁴⁷

As previously noted, analysis of ABF import data showed that Pindo Deli's exports to Australia were consistently less than 1 per cent of the total Indonesian exports to Australia, in each year between 2012 and 2015.¹⁴⁸ These export volumes to Australia then declined and subsequently ceased after the imposition of measures, with no exports of A4 copy paper during the review period. This is reflected in Table 13 below.

Pindo Deli	2012	2013	2014	2015
Imports as portion of total Indonesian imports into Australia	0.38%	0.02%	0.02%	0.13%
Imports as portion of total Australian market	0.05%	0.01%	0.03%	0.03%

Table 13: Pindo Deli export volumes to Australia

Examination of the Indonesian export data provided by Australian Paper also indicates that Pindo Deli has not exported any A4 copy paper to Australia or any third countries under the relevant Indonesian tariff code for A4 copy paper since 2018.¹⁴⁹ This is reflected in Figure 15.

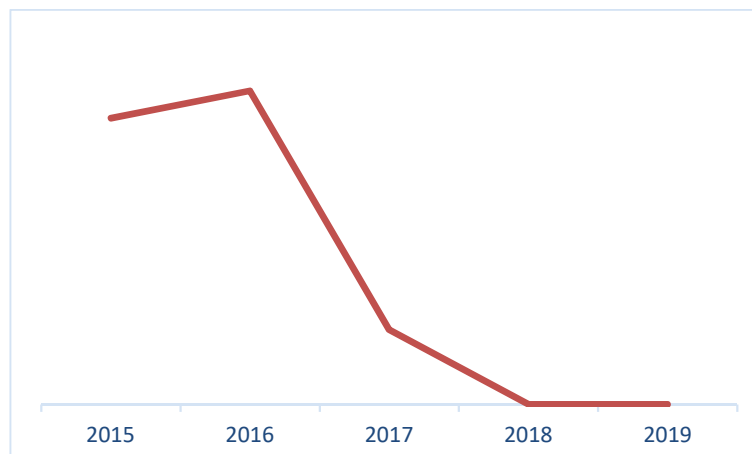


Figure 15: Pindo Deli third country export volumes 2015 to 2019

As a result, the Commission presently considers that Pindo Deli has ceased exporting A4 copy paper from Indonesia to any country since 2018.

In its questionnaire response, Australian Paper stated:¹⁵⁰

¹⁴⁷ EPR number 12, Confidential Attachment A-10.1.2_Tradedata Indo export code 48025690.

¹⁴⁸ Attachment: Australian Import Data Analysis.

¹⁴⁹ EPR number 12, Confidential Attachment A-10.1.2_Tradedata Indo export code 48025690.

¹⁵⁰ Australian industry Questionnaire response, p. 20.

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it is clear that APP has the ability and incentive to switch capacity across any of its Indonesia mills should the measures applied to Pindo Deli and Indah Kiat be reduced or removed...[and that]...[t]here can be little doubt that injury to the domestic industry would be resumed as a result.

Australian Paper continued that the dumping margins for Indah Kiat and Pindo Deli and the degree of price undercutting identified for these Indonesian exporters, were key contributors to the injury identified by the Commission in Investigation 341.¹⁵¹

The Commission disagrees with Australian Paper's assessment with respect to Pindo Deli.

The evidence before the Commission is that, since 2018, Pindo Deli has stopped exporting, both to Australia and to other countries. The Commission is not satisfied that the evidence before it demonstrates that it is likely that Pindo Deli would recommence exports to Australia if the measures were revoked. Without a recurrence of exports, there cannot be a recurrence of dumping, or injury caused by dumping.

Further, for the purposes of the injury and causation assessment in Investigation 341 the Commission completed a cumulative assessment of the causation of injury of imports from all subject countries. This assessment did not include an individual assessment of Pindo Deli's causation of injury to Australian Paper during the original investigation.

Subsection 269TAE(1) sets out factors which may be considered when determining whether material injury to Australian industry would be caused. Subsection 269TAE(1)(a) provides that the quantity of the goods likely to be exported to Australia is one such factor. Further, subsection 269TAE(2AA) requires that any determination of material injury must be based on facts, and not allegations.

During the original investigation period, and in the three years prior, the volume of exports of A4 copy paper by Pindo Deli to Australia was less than 0.4 per cent of all Indonesian exports of A4 copy paper to Australia. On this basis, and in the absence of evidence demonstrating the contrary, the Commission considers, even if Pindo Deli recommenced exporting A4 copy paper to Australia, the volume of its exports would be similarly low and thus not exceed negligible volumes.

The Commission is not satisfied that this volume of exports from Pindo Deli, even if at dumped prices, would lead, or be likely to lead, to material injury to the Australian industry.

Accordingly, the Commission is not satisfied that revocation of the measures would lead, or be likely to lead, to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent.

¹⁵¹ Australian industry Questionnaire response, p. 21.

8.6 Indah Kiat

In the original investigation, the Assistant Minister determined the dumping margin for Indah Kiat to be 30 per cent. As specified in Chapter 7, the preliminary dumping margins established in this review for Indah Kiat is 0.1 per cent.

As previously noted,¹⁵² Indah Kiat's export volumes of A4 copy paper declined and subsequently ceased after the imposition of measures, with no exports of A4 copy paper to Australia during the review period.

Australian Paper submitted that Indah Kiat was the largest pulp and paper producer in Indonesia, with a production capacity of 1.45 million tonnes. Australian Paper also advised that it understood that Indah Kiat's Perawang facility had a cash cost advantage that was approximately 33 per cent below the next most efficient APP facility of Tjiwi Kimia. Australian Paper submitted that the lower cash position and higher output capability would result in Indah Kiat recommencing exports to Australia.

As stated above, subsection 269TAE(1) sets out factors which may be considered when determining whether material injury would be caused to Australian industry. Relevant to Indah Kiat, subsection 269TAE(1)(aa) provides that the size of the dumping margin is one such factor. Further, subsection 269TAE(2AA) requires that any determination of material injury must be based on facts and not allegations.

In this case, the Commission found that Indah Kiat's dumping margin in the review period was 0.1 per cent. On this basis, and in the absence of evidence demonstrating the contrary, the Commission considers that even if Indah Kiat recommenced exporting A4 copy paper to Australia, those exports would not result in a dumping margin above negligible levels.

Accordingly, the Commission is not satisfied that this level of dumping is likely to cause material injury to the Australian industry. Therefore, the Commission is not satisfied that revocation of the measures would lead, or be likely to lead, to a continuation for, or recurrence of, the material injury that the measures are intended to prevent.

8.6.1 Conclusion

For the reasons outlined above, the Commissioner considers that even if Pindo Deli and Indah Kiat recommenced exporting A4 copy paper to Australia, due to the negligible volumes of the goods that would be exported and the negligible dumping margin that would result, respectively, the exports are not likely to cause material injury to Australian industry.

Accordingly, subject to submissions received in response to this SEF, the Commissioner proposes to recommend to the Minister that the notice be revoked in its application to Pindo Deli and Indah Kiat, pursuant to section 269ZDA(1)(a)(ii).

¹⁵² Section 7.4.1.2.1.

9 NON-INJURIOUS PRICE

9.1 Preliminary assessment of NIP

Where the Minister is required to determine interim dumping duty (IDD) in respect of the goods and a dumping duty notice has been published in respect of those goods, subsection 8(5BA) of the Dumping Duty Act applies. Subsection 8(5BA) requires the Minister, in determining the IDD payable, to have regard to the 'lesser duty rule' which requires consideration of the desirability of fixing a lesser amount of duty, such that the export price, together with IDD and any ICD, do not exceed the non-injurious price (NIP).¹⁵³

The Minister is not required to, (but may) have regard to the desirability of fixing a lesser amount of duty in certain circumstances. These include:

- where there is a situation in the market that renders domestic selling prices unsuitable for the purpose of determining normal value under subsection 269TAC(1);
- where there is an Australian industry in respect of like goods consisting of at least two small to medium sized enterprises (as defined in the Customs (Definition of "small-medium enterprise") Determination 2013); and
- where the country in relation to which the subsidy has been provided, has not complied with Article 25 of the Agreement on Subsidies and Countervailing Measures for the compliance period.

9.2 Commissioner's proposed recommendation

The Commissioner proposes to recommend that the Minister does not, in a notice under the Dumping Duty Act, determine that the duty payable on the goods exported to Australia from Indah Kiat and Pindo Deli be ascertained by reference to the NIP.

The Commissioner proposes to recommend that the Minister continue to be satisfied that, in accordance with subsection 269TAC(2)(a)(ii), that the situation in the Indonesian market for A4 copy paper continues and that sales are not "suitable" for the purposes of subsection 269TAC(1).

Accordingly, for this review, the Commissioner considers that the Minister is not required to have regard to the desirability of applying the lesser duty rule under the Dumping Duty Act.

The Commissioner proposes to recommend that the full dumping and subsidy margins be applied to any duties taken in relation to the goods exported to Australia from Indah Kiat and Pindo Deli.

¹⁵³ Under sections 269TACA(a) and (c), the NIP of the goods exported to Australia is the minimum price necessary to prevent the injury, or a recurrence of the injury, to the Australian industry caused by dumped or subsidised goods.

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The Commissioner notes that, notwithstanding the proposed recommendation, the Minister is not obliged to, but still may, consider applying a lesser amount of duty.

10 PRELIMINARY FINDINGS AND PROPOSED RECOMMENDATIONS

10.1 Preliminary findings

The Commissioner has conducted a review of anti-dumping measures as they apply to the export of A4 copy paper from Indonesia to Australia by Indah Kiat and Pindo Deli.

The Commissioner has found preliminarily that, in relation to Indah Kiat:

- the variable factors of export price and normal value relevant to the taking of the measures have changed and that the relevant dumping margin applying to Indah Kiat for the review period is 0.1 per cent;
- the Minister is not required to have regard to the desirability of applying the lesser duty rule (but still may choose to do so); and
- that revoking the measures applying to Indah Kiat would not lead, or not likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the measures are intended to prevent.

The Commissioner has found preliminarily that, in relation to Pindo Deli that:

- the variable factors of export price and normal value relevant to the taking of the measures have changed and that the relevant dumping margin applying to Pindo Deli for the review period is 17.5 per cent;
- the Minister is not required to have regard to the desirability of applying the lesser duty rule (but still may choose to do so); and
- that revoking the measures applying to Pindo Deli would not lead, or not be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the measures are intended to prevent.

10.2 Proposed recommendation

Based on the preliminary findings of this Statement of Essential Fact (SEF 547) and the facts relied upon, pursuant to section 269ZDA(1)(a)(ii), the Commissioner proposes to recommend to the Minister that the dumping duty notice be revoked in its application to A4 copy paper exported from Indonesia to Australia by Indah Kiat and Pindo Deli.

It is further recommended that the Minister's decision in this matter take effect from 12 March 2020, which is not earlier than the date of publication of the notice under section 269ZC indicating the Commissioner's proposal to undertake the revocation review, pursuant to section 269ZDB(6)(a).

The effect of this proposed recommendation will be that interim dumping duties will not apply to the goods entered for home consumption on and after 12 March 2020, and that any relevant importers who had paid such duties would be eligible for a refund.

11 APPENDICES AND ATTACHMENTS

Confidential Appendix 1	Original investigation period: Calculations for reassessment of 2015 export prices, normal values and dumping margins for Pindo Deli and Indah Kiat.
Confidential Appendix 2	Review period: Calculations for 2019 export prices, normal values and dumping margins for Pindo Deli and Indah Kiat.
Confidential Appendix 3	Review period: Calculations and data relating to the verification and assessment of the economic condition of Australian industry.
Non Confidential Appendix A	List of Submissions to Review 547.
Non Confidential Appendix B	Original investigation period: Assessment of conditions of competition and relationship between costs and prices in Australia and Indonesia.
Non Confidential Appendix C	Original investigation period: Cost benchmarks.
Non Confidential Appendix D	Review period: Particular market situation and suitability of domestic sales.
Non Confidential Appendix E	Review period: Cost benchmarks.

APPENDIX A LIST OF SUBMISSIONS

Date	Interested party	EPR document number
27 Mar 2020	Paper Force (Oceania) Pty Ltd	2
2 Apr 2020	Government of Indonesia	4
20 Apr 2020	Government of Indonesia (letter)	6
21 Apr 2020	Paper Australia Pty Ltd (Australian Paper)	7
21 Apr 2020	PT Pindo Deli Pulp and Paper Mills (Pindo Deli)	8
21 Apr 2020	PT Indah Kiat Pulp & Paper Tbk (Indah Kiat)	9
19 Jun 2020	Australian Paper	17

APPENDIX B 2015 ASSESSMENT OF CONDITIONS OF COMPETITION AND RELATIONSHIP BETWEEN COSTS AND PRICES IN AUSTRALIA AND INDONESIA

B1 Australian A4 copy paper market

B1.1 Market characteristics

B1.1.1 Market structure and participants

The Australian market for A4 (210 mm x 297 mm) copy paper or cut sheet paper (copy paper, office paper or laser paper) is predominantly 80 gsm in weight. In addition to 80 gsm paper, small quantities of 70, 75, 90 and 100 gsm paper are also sold in Australia. Copy paper is offered in a variety of whiteness and differing percentages of recycled content (from no recycled content to 100 per cent recycled content).

End users of A4 copy paper fall into three basic categories of consumers:¹⁵⁴

- home and home offices/small office;
- medium and large business, government and education; and
- industrial users including instant printing and in-plant printing operations.

Based on the information before it, the Commission considers the key market segments or supply channels for A4 copy paper in the Australian market include retail, corporate stationers, resellers and original equipment manufacturer (OEM) sectors.¹⁵⁵ These market segments act as intermediaries between the manufacturer and the downstream (end user) consumer. Companies within the market segments are not limited to purchasing from one market segment or supplier and can purchase both domestically produced and imported paper from various sources.¹⁵⁶ This freedom to purchase from various sources also extends to the end users market. The Commission observes that domestically produced and imported A4 copy paper have been supplied through each of the above mentioned supply channels to each of the identified end users in the Australian market.¹⁵⁷ The market segments in the Australian market is illustrated in Figure B1.¹⁵⁸

¹⁵⁴ REP 341, p. 30.

¹⁵⁵ REP 341, p. 98.

¹⁵⁶ REP 341, p. 93.

¹⁵⁷ REP 341, p. 30.

¹⁵⁸ REP 341, p. 98.

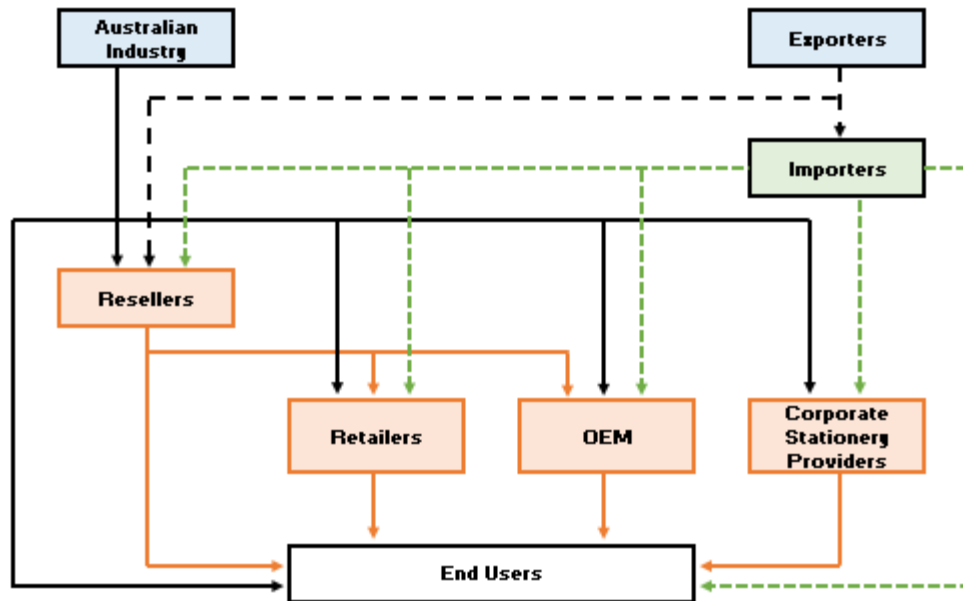


Figure B1: Market segments for A4 copy paper in the Australian market

The Commission understands that the retail sector typically supplies small end users, such as homes, home offices and small offices/businesses. Resellers typically supply the large business and government sector, whereas corporate stationery suppliers typically supply the smaller businesses in specific regional areas. However, the Commission notes that there is some “leakage” of sales between each of the market segments. For example, some suppliers in the retail sector supply customers traditionally supplied by the reseller segment and some customers in the retail or corporate stationery supply segment are being supplied through the reseller segment using internet purchasing services.¹⁵⁹

Australian Paper stated that supply channels are concentrated through a limited number of national resellers and retailers.

In terms of brand segmentation, the Commission understands that there are three broad A4 copy paper brand segments sold in the Australian market and these are:

- manufacturer brands;
- private label/customer owned brands; and
- plain or generic labelled brands.

The size of the Australian market in terms of both domestically produced and imported A4 copy paper is shown in Figure B2.¹⁶⁰ The Australian market experienced increases in the 2013 and 2014 years but a decline during 2015. Despite that decline, the market in 2015 is still larger than in 2012.

¹⁵⁹ REP 341, p. 30.

¹⁶⁰ Commercial in confidence ABF and Australian Paper data in 547 – Confidential 2015 Competition Cost Price Assessment.

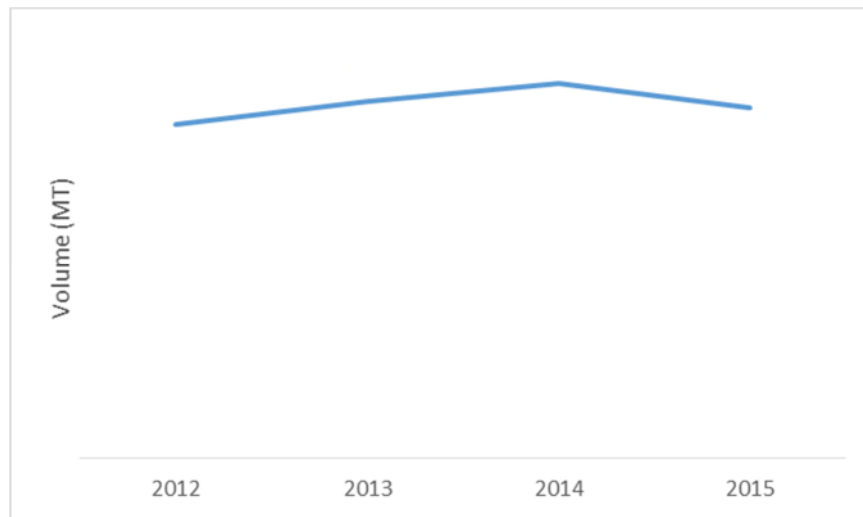


Figure B2: Trend in Australian market by volume

The Commission is not aware of any significant market consolidation, new entrants or exits during 2015.

The Australian industry member Australian Paper is vertically integrated in the manufacture of pulp, paper, envelopes and stationery.

B1.1.2 Market sources

The Commission confirmed that the Australian market for the goods is supplied by Australian Paper and has not identified any other manufacturers of A4 copy paper in Australia. The Australian market is also supplied by imports from a number of countries as shown in Figure B3.¹⁶¹ Significant sources of imported A4 copy paper in 2015 ranked by volume include China, Indonesia, Thailand and Brazil.

¹⁶¹ Ibid.

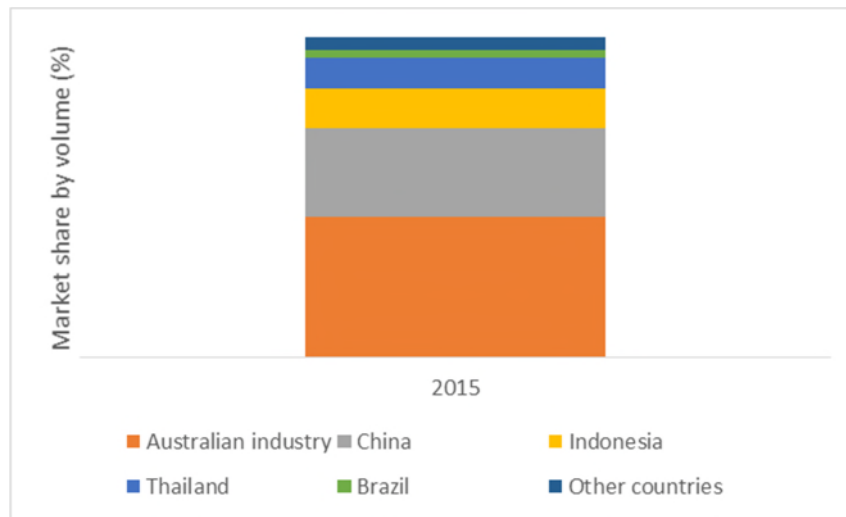


Figure B3: Market share by volume of sources of A4 copy paper in the Australian market

B1.1.3 Market size

The Commission estimates that in 2015 approximately 210,000 metric tonnes of A4 copy paper was supplied from local and imported manufacturers.¹⁶²

B1.1.4 Regulatory framework

The Commission is not aware of any specific competition policy or regulation specific to the manufacture or sale of A4 copy paper other than those described under Australian consumer¹⁶³, workplace safety¹⁶⁴, competition¹⁶⁵ and business¹⁶⁶ regulations.

The Commission is not aware of any specific taxation regulation specific to the manufacture or sale of A4 copy paper in Australia.

The Commission is aware that there is a *Code of Practice for Timber Production*¹⁶⁷ that market participants will be required to comply with if they intend to harvest timber in Australia. The Commission is not aware of any other licences that are specific to the manufacture or sale of A4 copy paper.

The Commission is not aware of any statutory minimum industry standards relevant to the manufacture of A4 copy paper sold in the Australian market.

¹⁶² Ibid.

¹⁶³ Refer to consumer laws on the Australian Consumer Law website at www.consumerlaw.gov.au.

¹⁶⁴ Refer to work health and safety regulation on www.business.gov.au/work-health-and-safety.

¹⁶⁵ Refer to the national statutory framework on Australian Competition and Consumer Commission's website at www.accc.gov.au.

¹⁶⁶ Refer to business regulation on www.business.gov.au/regulations.

¹⁶⁷ 'Code of Practice for Timber Production', on ablis.business.gov.au.

The Commission is not aware of any relevant import restrictions relating to the importation of the goods.

The Commission is not aware of any relevant product safety or warranty regulations for A4 copy paper.

B1.1.5 Structural barriers to entry and trade

The Commission is not aware of any entry restrictions for new participants in the Australian market relevant to the manufacture or sale of A4 copy paper.

The Commission is not aware of any restrictions to resources ownerships.

The Commission is not aware of any statutory minimum industry standards relevant to the manufacture of A4 copy paper sold in the Australian market. Suppliers offer A4 copy paper with various accreditations. These include:

- Forest Stewardship Council (FSC) – the FSC aims to promote responsible forest management worldwide and the logo indicates that the paper is from responsibly sourced materials.
- Programme for Endorsement of Forest Certification (PEFC) – the PEFC is an international organisation dedicated to promoting sustainable forest management and the logo indicates that the paper is from sustainably managed forests.
- Australian Forestry Standard (AFS) – the AFS is an Australian standard endorsed by the PEFC and the logo indicates that the paper is from sustainably managed sources in Australia.

An examination of the Australian Patents database did not find any specific patents relevant to A4 copy paper.¹⁶⁸ The Commission made enquiries and aside from copyright and trademarks associated with brand ownership is not aware of any other copyright restrictions specific to the manufacture or sale of A4 copy paper in Australia.

The Commission acknowledges that paper manufacturing and forestry are a capital intensive industries which presents structural barriers to trade. According to the Australian Bureau of Statistics, manufacturing was the eighth highest capital-intensive industry and agriculture, forestry and fishing was the third highest.¹⁶⁹

B1.1.6 Demand

The Commission has not observed any seasonal variability in the demand for A4 copy paper. As shown in Figure B2, demand from 2012 to 2015 has shown a small increase over time. Australian Paper advised that the Australian A4 copy paper market is a 'mature' market and that growth in population and in the Australian workforce has offset

¹⁶⁸ IP Australia on www.ipaustralia.gov.au.

¹⁶⁹ 'Trends in The Labour Income Share in Australia', Australian Bureau of Statistics, on <https://www.abs.gov.au/ausstats/abs@.nsf/Lookup/5260.0.55.002Feature+Article32016-17>

declining per capita use of cut sheet paper, keeping the overall market size relatively stable year on year.¹⁷⁰

Demand for A4 copy paper comes from three basic categories of consumers:

- home and home offices/small office;
- medium and large business, government and education; and
- industrial users including instant printing and in-plant printing operations.

B1.2 Product characteristics

B1.2.1 A4 copy paper products offered for sale and brand segmentation

In the Australian market, the goods under consideration are offered for sale in various weights (from 70 gsm to 100 gsm), whiteness and degree of recycled source material content. For the goods under consideration there are three broad brand segmentations in the Australian market:

- manufacturer brands;
- private label/customer owned brands; and
- plain or generic labelled brands.

Notwithstanding these brand categories, Australian Paper claimed that end users are unlikely to discern significant physical or functional differences between brands, other than brand recognition and price, particularly where promotions are in place.¹⁷¹

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, gsm, brightness, recycled content and 'type of' whiteness are secondary characteristics. These secondary characteristics may be used by manufacturers to differentiate between products for marketing and pricing purposes.¹⁷² While the Commission is aware that different brands reflect a perceived difference in quality, it is not aware of any verifiable differences in quality.

The Commission is not aware of any supply differences in the availability of different types of A4 copy paper for sale in Australia.

B1.2.2 Information on end uses

The Commission understands that A4 copy paper sold in Australia is used in a range of applications including high speed and low speed copying, printing (both on computer

¹⁷⁰ REP 341, p. 31.

¹⁷¹ REP 341, p. 25 and p. 106.

¹⁷² Ibid.

printers and small offset printers) or other graphic purposes. The Commission is not aware of any differences in use by source.

B1.2.3 *Product consumption and consumer preferences*

The Commission considers A4 copy paper to be highly commoditised and noted that price, brand recognition and promotions are key attributes that influence purchasing decisions and consumer preferences.¹⁷³

The Commission identified that A4 copy paper is price sensitive and that price is the key driver for sales in Australia.¹⁷⁴ Brand recognition and promotions are key attributes that influence purchasing decisions and consumer preferences.¹⁷⁵

The Commission considers that there is no market substitute for A4 copy paper in Australia.

B1.3 Price and competition characteristics

B1.3.1 *Commercial characteristics*

The Australian market for A4 copy paper is supplied by Australian Paper and imports sourced from various countries. The Commission observes that domestically produced and imported A4 copy paper compete directly in the same market sectors and through similar distribution channels. Evidence indicates that the domestically produced and imported A4 copy paper are used by the same or similar customers. Evidence also indicates that there are a range of supply arrangements including contracted and uncontract sales. Furthermore, domestically produced and imported A4 copy paper are easily substitutable. Imported A4 copy paper and the copy paper manufactured by the Australian industry are alike, have similar specifications and common end-uses.¹⁷⁶

B1.3.2 *Competition characteristics*

The Commission considers A4 copy paper is a highly price sensitive product and while there are other factors that are considered during contract and tender negotiations, price is an important factor. During INV 341, a detailed analysis was completed on the retail and reseller market segments, which account for a significant proportion of sales in the Australian market. The Commission analysed the verified weighted average selling price of A4 copy paper sold by Australian Paper and verified importer data for 2015. Based on verified data, the Commission found that there was significant price competition between the imported goods and also between the imported goods and the like domestic goods. The Commission also observed that retail sales data provided clearly indicated that there

¹⁷³ Ibid.

¹⁷⁴ REP 341, pp. 105-106.

¹⁷⁵ REP 341, p. 25, p. 68 and p. 106.

¹⁷⁶ REP 341, p. 25.

was evidence of direct competition. The nature of this competition was also confirmed through discussions with a major retailer.¹⁷⁷

During INV 341, the Commission held meetings with two resellers to gain a better understanding of the circumstances surrounding the awarding of a 2014 tender and the nature of competition between the two companies in the reseller (or business to business) market. As a result of these discussions, the Commission confirmed that both resellers are competing in the reseller market. Further, advice from one reseller indicated that it had lost sales to the other which likely resulted in further price competition.¹⁷⁸

The evidence obtained by the Commission supports Australian Paper's contention that it had to reduce its offered prices in tendering processes in an effort to compete with lower priced imported A4 copy paper and that Australian Paper had lost tenders to these imported goods.

The Commission considers that import offers and movements in the price of imported A4 copy paper are leveraged by customers to negotiate prices with Australian Paper in tender processes, and that Australian Paper must respond to the price of imported products by reducing its price offers to remain competitive.¹⁷⁹ Australian Paper's prices and the prices of the imported goods show a degree of correlation that indicates strong market competition in a market that is price sensitive.¹⁸⁰

The Commission considers that, due to the degree of price sensitivity in the market, price competition is a major condition of competition between the imported goods and between the imported goods and the domestically produced goods.¹⁸¹

Marketing campaigns, promotions and advertising are used by various participants in the Australian market to promote their A4 copy paper products, range and brands. Different paper characteristics may be used by manufacturers to differentiate between products for marketing and pricing purposes.¹⁸² Price reductions such as discounts and rebates are used in the Australian market by various participants.¹⁸³

B1.3.3 Production and production costs

Australian Paper use market intelligence and forecasts to manage production scheduling and smooth supply. Australian Paper determine their production mix based on production scheduling and market intelligence about supply/demand dynamics. Australian Paper describe their production scheduling and mix as very agile.

¹⁷⁷ REP 341, pp. 92-93.

¹⁷⁸ REP 341, p. 95.

¹⁷⁹ REP 341, p. 107.

¹⁸⁰ REP 341, p. 105.

¹⁸¹ REP 341, p. 93.

¹⁸² REP 341, p. 25 and p. 106.

¹⁸³ REP 341, pp. 48-49 and p. 106.

In general terms, production costs for A4 copy paper increase as the quantity of recycled content increases. As an integrated producer, Australian Paper is capable of transforming logs to woodchips and woodchips to pulp for its own production. Australian Paper sources its logs domestically with only a small volume of bleached long fibre logs being imported. In 2015, pulp raw materials represented a material proportion of the CTMS for A4 copy paper for Australian Paper.

B2 Indonesian A4 copy paper market

B2.1 Market characteristics

B2.1.1 Market structure and participants

The Indonesian market for A4 (210 mm x 297 mm) copy paper or cut sheet paper (copy paper, office paper or laser paper) is predominantly sold in 70 and 80 gsm in weight. In addition to 70 and 80 gsm paper, smaller quantities of 100 gsm paper is also sold in Indonesia. Copy paper is offered in a variety of whiteness.¹⁸⁴

Indonesian consumers of A4 copy paper vary in size from individual consumers to large international businesses. On the evidence before the Commission, end users of A4 copy paper fall into three basic categories of consumers:

- home and home offices/small office;
- medium and large business, government and education; and
- commercial/industrial users including instant printing and in-plant printing operations.

Based on the information before it, the Commission considers the key market segments or supply channels for A4 copy paper in the Indonesian market include retail and resellers/distributors sectors.¹⁸⁵ These market segments act as intermediaries between the manufacturer and the downstream (end user) consumer. The market segments in the Indonesian market is illustrated in Figure B4.

¹⁸⁴ Verified domestic sales data as part of Investigation 341.

¹⁸⁵ REP 341, p. 53.

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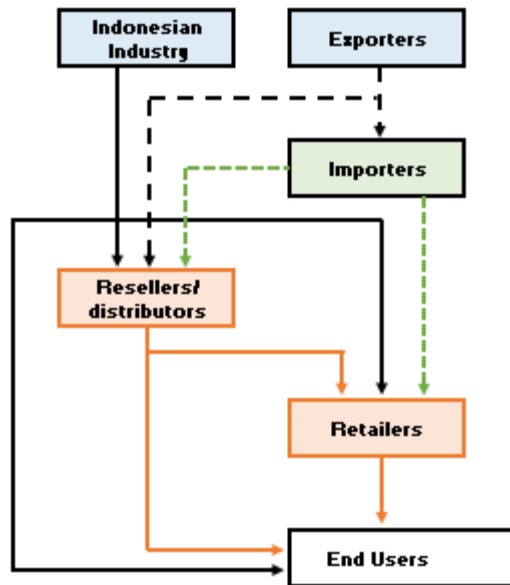


Figure B4: Market segments for A4 copy paper in the Indonesian market

An Indonesian producer, APRIL Group, stated that the Indonesian market is fully commercial, mature and extensive with multiple buyers and sellers operating in the market making it highly competitive.¹⁸⁶

The consumption trend of the Indonesian market in terms of both domestically produced and imported A4 copy paper is shown in Figure B5.¹⁸⁷

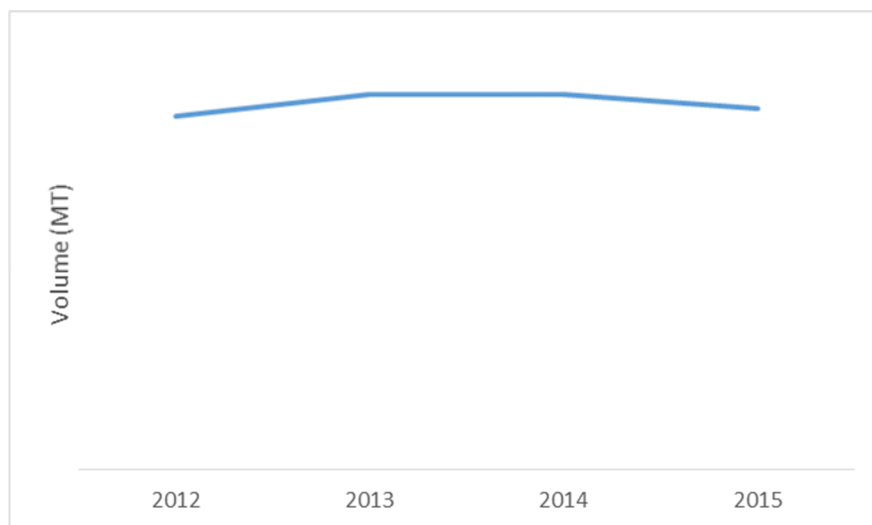


Figure B5: Trend in Indonesian market by volume

¹⁸⁶ Case 341, EPR number 18, p. 44.

¹⁸⁷ Commercial in confidence GOI and RISI data in 547 – Confidential 2015 Competition Cost Price Assessment.

The GOI indicated that there are 62 private pulp and paper companies registered with the Indonesian Pulp and Paper Association in 2015.¹⁸⁸ The Commission is not aware of any significant market consolidation, new entrants or exits during 2015.

The Indonesian markets consists of integrated paper producers with their own upstream raw materials and input facilities as well as non-integrated producers. The main Indonesian producers of A4 copy paper (with a combined production capacity of 2.2 million tonnes) are the Sinar Mas Group¹⁸⁹ and the APRIL Group¹⁹⁰. Within the Sinar Mas Group, Indah Kiat is a fully vertically integrated producer whereas Tjiwi Kimia and Pindo Deli are partially vertically integrated producers. Within the APRIL Group, RAK is a vertically integrated producer.

B2.1.2 Market sources

An examination of the data provided by the GOI and cooperating exporters in their responses to questionnaires identified that a small volume of uncoated copy paper was imported. The Indonesian market for uncoated copy paper was predominantly supply by domestic paper manufacturers as shown in Figure B6.



Figure B6: Market share by volume of sources of uncoated copy paper in the Indonesian market

B2.1.3 Market size

Based on data and information provided by the GOI, cooperating exporters and statistics from RISI, the Commission estimates that in 2015 approximately 480,000 metric tonnes of uncoated copy paper was supplied from local and imported manufacturers.

¹⁸⁸ EPR number 11, p. 10.

¹⁸⁹ Sinar Mas Group refers to: PT Indah Kiat Pulp & Paper Tbk; PT Pindo Deli Pulp and Paper Mills; PT Pabrik Kertas Tjiwi Kimia Tbk.

¹⁹⁰ APRIL Group refers to PT Riau Andalan Pulp and Paper (RAPP) and its other affiliated cross-owned companies.

B2.1.4 *Regulatory framework*

The Commission is not aware of any specific competition policy or regulation relevant to the manufacture or sale of A4 copy paper other than those described under Indonesian laws and regulations, including permits and licensing. The Commission notes the policies and regulations mentioned in the Appendix 2 of REP 341.

The Commission is aware that there may be some specific taxation regulation relevant to the manufacture or sale of A4 copy paper in Indonesia.¹⁹¹ The Government of Indonesia also stated that there were no special taxation regulations that apply only to the copy paper industry.¹⁹²

The Government of Indonesia stated that all copy paper manufacturers in Indonesia need to hold an industrial license (Ijin Usaha Industri/IUI) for production.

The Commission understands that all exporters of copy paper are required to obtain an environmental certification called SVLK (Sistem Verifikasi Legalitas Kayu). SVLK is a mandatory system by the Government of Indonesia, to ensure that wood products and raw materials obtained or derived, are from sources whose origin and management meet certain legal requirements.

The Commission understands that market participants are required to hold a 'HPH' licence to harvest timber in the natural forest and/or a 'HTI' licence to establish and harvest timber from plantations. The Commission also understands that market participants would need to obtain a licence issued by the Ministry of Trade to import raw materials used in the manufacturing of copy paper. The Commission is not aware of any other licences that are specific to the manufacture or sale of A4 copy paper.

B2.1.5 *Structural barriers to entry and trade*

The Commission is not aware of any entry restrictions for new participants in the Indonesian market relevant to the manufacture or sale of A4 copy paper.

The Commission is not aware of any restrictions to resources ownerships.

The Commission is not aware of any statutory minimum industry standards relevant to the manufacture of A4 copy paper sold in the Indonesian market. The Commission is aware that suppliers offer A4 copy paper with various accreditations. These include:

- Programme for Endorsement of Forest Certification (PEFC) – the PEFC is an international organisation dedicated to promoting sustainable forest management and the logo indicates that the paper is from sustainably managed forests.
- Indonesian Forest Certification Co-Operation (IFCC) – the IFCC aims to promote sustainable forest management by implementation of the PEFC scheme, and the logo indicates that the paper is from sustainably managed sources in Indonesia

¹⁹¹ REP 341, p. 79.

¹⁹² EPR number 11, p. 10.

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The Commission is aware that APRIL Group use ProDigi™ Nanotechnology to produce the goods under consideration. Other than that the Commission is not aware of any specific patents or copyright restrictions relevant to A4 copy paper in Indonesia.

The Commission acknowledges that paper manufacturing and forestry are capital intensive industries which presents structural barriers to trade.

B2.1.6 Demand

The Commission is aware of some seasonal variability in the demand for A4 copy paper in Indonesia. APRIL Group stated that the Indonesian market is mature with multiple buyers and sellers.

Indonesian consumers of A4 copy paper vary in size from individual consumers to large international businesses. On the evidence before the Commission, demand for A4 copy paper comes from three basic categories of consumers:

- home and home offices/small office;
- medium and large business, government and education; and
- commercial/industrial users including instant printing and in-plant printing operations.

Figure B5 shows that demand in the Indonesian market has increased since 2015.

B2.2 Product characteristics

B2.2.1 A4 copy paper products offered for sale and brand segmentation

In the Indonesian market, the goods under consideration are offered for sale in various weights (from 70 gsm to 100 gsm), whiteness. In terms of A4 copy paper products sold in the Indonesian market:

- Indah Kiat and Pindo Deli stated in their responses to the questionnaires that there are identical products exported to Australia and sold on the Indonesian market;
- Tjiwi Kimia stated that there were physical differences between the exported and domestic goods under consideration; and
- APRIL Group stated that they sold a number of different products on the Indonesian market. APRIL Group also stated that most global paper manufacturers participate in all market segments (premium, average and low quality segments).

Other than what has been stated above, the Commission is not aware of any other brand segmentation specific to A4 copy paper in the Indonesian market.

B2.2.2 Information on end uses

The Commission understands that A4 copy paper sold in Indonesia is used in a range of applications including high speed and low speed copying, printing (both on computer printers and small offset or inkjet printers) or other graphic purposes. The Commission is not aware of any differences in use by source.

B2.2.3 Product consumption and consumer preferences

The Commission considers A4 copy paper to be a commodity and noted that price, brand and promotions are key attributes that influence purchasing decisions and consumer preferences.

Based on pricing committee minutes before the Commission, the Commission identified that A4 copy paper is price sensitive.

The Commission is not aware of any market substitutes for A4 copy paper in Indonesia.

B2.3 Price and competition characteristics

In 2015, the Indonesian market for A4 copy paper was supplied predominantly by domestic manufacturers with less than 1 per cent of volume supplied from imports. Given the very small contribution to the Indonesian market from imports, the Commission has not considered price and the nature of competition between domestically produced and imported A4 copy paper.

B2.3.1 Commercial characteristics

The Commission notes that that domestically produced A4 copy paper compete directly in the same market sectors, through similar distribution channels and have the same or similar customers. The Commission considers domestically produced A4 copy paper are substitutable. Imported A4 copy paper and the copy paper manufactured by the Indonesian industry are alike and have common end-uses.

In 2015, Indah Kiat, Pindo Deli and Tjiwi Kimia sold A4 copy paper to Indonesian customers through its related entity reseller/distributor PT Cakrawala Mega Indah (CMI).

The goods sold by April Fine Paper Trading Pte Ltd (April Fine Paper) are manufactured in Indonesia by related company PT. Riau Andalan Kertas (RAK). RAK provides a manufacturing service for paper products exported by April Fine Paper and is also a seller of paper products in the domestic market in its own right.

Tjiwi Kimia stated that in Indonesia the Sinar Mas Group would be considered the price leader.

B2.3.2 Competition characteristics

An Indonesian producer, APRIL Group, stated that the Indonesian market was extensive with multiple buyers and sellers making it highly competitive.¹⁹³ Evidence in the form of pricing committee minutes before the Commission confirmed A4 copy paper is price sensitive and that there is direct competition between producers.

The Commission considers A4 copy paper is a highly price sensitive product and while there are other factors that may be considered during contract and tender negotiations, price is an important factor. The Commission analysed the verified weighted average selling price of A4 copy paper sold by the cooperating Indonesian producers. Based on

¹⁹³ Case 341, EPR number 18, p. 44.

verified data, the Commission found that the prices between several producers show a strong degree of correlation that indicates significant price competition between domestic producers. The nature of this competition was also confirmed through discussions with Indonesian producers.

The Commission considers that, due to the degree of price sensitivity in the market, price competition is a major condition of competition between domestic producers.

Marketing campaigns, promotions and advertising are used by various participants in the Indonesian market to promote their A4 copy paper products, range and brands. Price reductions such as commissions, discount, rebates and credit notes are used in the Indonesian market by various participants.

B2.3.3 Production and production costs

In general terms, production costs for A4 copy paper vary depending on characteristics of the paper (e.g. weight, whiteness, proportion of recycled content, etc.).

As fully and partially vertically integrated producers, Indonesian producers are capable of transforming logs to woodchips and woodchips to pulp for their own production. Indonesian producers predominantly source its logs and pulp domestically.

It is the Commission's understanding that around 50 per cent of the logs used by the Indonesian forestry sector are consumed in pulp production. In 2015, logs raw materials represented around 40 per cent of the cost to manufacture pulp for Indonesia producers.

In 2015, pulp production consumed domestically was between 50 to 60 per cent of total production with the majority of exported pulp destined for China. Short fibre and long fibre pulp are both used in the production of A4 copy paper. Pulp is proportionally the largest cost component for A4 copy paper production. Combined, companies associated with the Sinar Mas Group and APRIL Group account for around 90 per cent of Indonesian short fibre pulp capacity.

APPENDIX C 2015 COST BENCHMARKS

C1 Introduction

As outlined in Chapter 3, the Commission considers that there is a market situation for A4 copy paper in Indonesia and that because of the market situation, sales in the domestic Indonesian A4 copy market do not permit a proper comparison with the export prices during the original investigation period.¹⁹⁴ On this basis, the Commission considers that sales in the domestic Indonesian A4 copy paper market are not suitable for determining a price under subsection 269TAC(1). As a consequence, the Commission has constructed normal values under subsection 269TAC(2)(c).

In relation to determining the cost of production or manufacture for the purposes of subsection 269TAC(5A)(a), subsection 43(2) of the Regulations requires that, if an exporter keeps records relating to the like goods which are in accordance with generally accepted accounting principles, and those records reasonably reflect competitive market costs associated with the production or manufacture of like goods, then the cost of production must be worked out using the exporter's records.

The Commission has consequently assessed whether the costs of production as reported in the exporters' records reasonably reflect competitive market costs that are suitable for the purpose of constructing normal value. The Commission's approach to selecting a relevant benchmark and the adjustments made to that benchmark to ensure that they were relevant to the circumstances of the exporter are outlined in this appendix.

C2 Indah Kiat

C2.1 Assessment of the benchmark relevant to the circumstances of Indah Kiat

Indah Kiat is a fully integrated producer of A4 copy paper, producing both woodchips and pulp which are ultimately consumed in the production of a variety of downstream products, including A4 copy paper.

The Commission considers Indonesian producers manufacturing pulp from logs and/or woodchips are the primary beneficiaries of the GOI's influence on domestic log prices and these log prices have a major influence on domestic woodchip and pulp costs in Indonesia.

In response to the exporter questionnaire for Review 547, Indah Kiat provided details of its consumption of woodchips during the original investigation period. This information was not available to the Commission prior to the publication of REP 341¹⁹⁵ This additional information has now enabled the Commission to assess a benchmark at the woodchip level of production for Indah Kiat.

¹⁹⁴ 2015 Analysis of Dumping Margins Chapter.

¹⁹⁵ During the verification of Indah Kiat's costs the Commission obtained the cost records relevant to the production of woodchips for the month of November 2015 only.

The Commission considers that, in the context of the circumstances of Indah Kiat, the use of a woodchip benchmark is preferable for the following reasons:

- The Commission has now obtained sufficiently detailed costs records from Indah Kiat to enable use of a woodchip benchmark;
- The Commission is able access a range of relevant pricing for woodchips which could be considered in determining a benchmark; and
- Woodchips are produced at an earlier stage of the production process than pulp. As a consequence, the Commission considers that using a woodchip benchmark provides a better assessment of competitive market costs in relation to the distorted log costs.

C2.2 Assessment of sources

To account for the effects of the particular market situation, the Commission has sought to assess Indah Kiat's woodchip costs with an appropriate competitive market cost for woodchips. The Commission's preferences for determining a competitive market cost are, in descending order:

- i. private domestic prices;
- ii. import prices; and
- iii. external benchmarks.

C2.2.1 *Private domestic prices*

As explained in Appendix 2 of REP 341, the Commission considers that private domestic prices of woodchips would be affected by the identified particular market situation. Cooperative Indonesian exporters and their associated entities are the main pulp producers in Indonesia, producing the woodchips from domestically sourced logs. These Indonesian pulp producers are the primary beneficiaries of the GOI's influence on domestic log prices and those log prices have a major influence on domestic woodchip and pulp prices in Indonesia. The Commission compared the private woodchip cost data supplied by Indah Kiat against a competitive benchmark price for woodchips, after making appropriate adjustments, to ascertain whether, despite the particular market situation, this cost component reflects a competitive market cost. When compared, the Commission found that the competitive market woodchip prices were materially higher, confirming its understanding that the woodchips cost component of Indah Kiat's records reflects the impact of the particular market situation. The Commission considers that amount for woodchips in the records of Indah Kiat reflect the "particular market situation". The Commission considers that the programs and policies of the GOI and the export ban on logs increased the supply of logs in Indonesia and thereby lowered the price and cost of logs, woodchips and hardwood pulp in Indonesia. This induced and allowed the main Indonesian A4 copy paper producers to supply more A4 copy paper at each possible price point than they otherwise would have. The Commission considers that the lowered price and cost of logs, woodchips and hardwood pulp is reflected in the woodchip and pulp cost in the records of Indah Kiat and does not reflect competitive market prices.

Therefore, the Commission considers that while private domestic prices of woodchips or pulp in Indah Kiat's records reasonably reflect the cost associated with the production or manufacture of like goods as the costs actually incurred by Indah Kiat, they are not a

competitive market cost suitable for the purposes of constructing normal value under subsection 43(2) of the Regulation.

C2.2.2 *Import prices*

Data provided indicates that pricing woodchips imported into Indonesia are not suitable as a benchmark which would reflect competitive market prices. This is due to the limited volume of imports into the Indonesian woodchip market and the likelihood that the price of any imports would also be affected by government influence on domestic prices.

C2.2.3 *External benchmarks*

The Commission received woodchip benchmarking import prices from Wood Resources International LLC (WRI). This pricing data included woodchips supplied into a range of regions. The Commission considers that it is appropriate to use import pricing within the Asian region as this would best reflect competitive market costs for Indah Kiat, after relevant adjustments to the benchmark price.

The Asian region 2015 woodchip prices available from WRI were:

- Quarterly import prices of hardwood woodchips into China supplied from:
 - Vietnam;
 - Indonesia;
 - Australia;
 - Thailand; and
 - South Africa.
- Quarterly import prices of woodchips into Japan supplied from:
 - Vietnam;
 - Indonesia;
 - Australia;
 - Thailand; and
 - Chile.

The Commission has assessed the import pricing for woodchips sourced from Indonesia in relation to the other import sources. The Commission considers that the Indonesian sourced import pricing is within the range of pricing from other sources (i.e. it is neither highest or lowest price). As a consequence, the Commission considers Indonesian sourced import prices are an appropriate benchmark for assessing domestic competitive market costs in Indonesia.

The Commission has calculated an average quarterly import price from the import prices for woodchips supplied by Indonesia to China and Japan for the purposes of establishing the benchmark.

C2.3 Adjustments to external benchmarks

For the purposes of adjusting the Indonesian export prices for woodchips the Commission has made the following adjustments:

- prices have been adjusted to an ex works price using a calculated break bulk shipping rate and relevant aspects of Indah Kiat's direct SG&A costs;

- relevant Indah Kiat SG&A costs (excluding the above direct costs) have been deducted to remove relevant SG&A costs from the price;
- A profit has been deducted. The profit deducted was Indah Kiat's profit on A4 copy paper sales during 2015.

C3 *Pindo Deli*

C3.1 Assessment of the benchmark relevant to the circumstances of Pindo Deli

Pindo Deli is a non-integrated producer of A4 copy paper producing a variety of products, including A4 copy paper. The key raw material Pindo Deli uses in the manufacture of A4 copy paper is dry pulp. Pindo Deli predominately sources dry pulp from domestic suppliers.

The Commission considers Indonesian producers manufacturing pulp from logs and/or woodchips are the primary beneficiaries of the GOI's influence on domestic log prices and these log prices have a major influence on domestic pulp costs and prices in Indonesia.

The Commission considers that, in the context of the circumstances of Pindo Deli, that using a pulp benchmark is preferable for the following reasons:

- The Commission has sufficiently detailed costs records from Pindo Deli to enable use of a pulp benchmark;
- The Commission is able obtain a range of relevant pricing for pulp which can be considered in determining an appropriate benchmark; and
- Dry pulp is the primary raw material consumed by Pindo Deli in the manufacture of A4 copy paper.

C3.2 Assessment of sources

To account for the effects of the particular market situation, the Commission has sought to assess Pindo Deli's pulp costs with an appropriate competitive market cost for pulp. The Commission's preferences for determining a competitive market cost are, in descending order:

- i. private domestic prices;
- ii. import prices; and
- iii. external benchmarks.

C3.2.1 *Private domestic prices*

As explained in Appendix 2 of REP 341, the Commission considers that private domestic prices of pulp would be affected by the identified particular market situation. Cooperative Indonesian exporters and their associated entities are the main pulp producers in Indonesia, producing pulp from domestically sourced logs. These Indonesian pulp producers are the primary beneficiaries of the GOI's influence on domestic log prices and those log prices have a major influence on domestic woodchip and pulp prices in Indonesia. The Commission compared the private pulp cost data supplied by Pindo Deli against a competitive benchmark price for pulp, after making appropriate adjustments, to ascertain whether, despite the particular market situation, this cost component reflects a competitive market cost. When compared, the Commission found that the competitive

market pulp prices were materially higher, confirming its understanding that the pulp cost component reflects the impact of the particular market situation. The Commission considers that the programs and policies of the GOI and the export ban on logs increased the supply of logs in Indonesia and thereby lowered the price and cost of logs, woodchips and hardwood pulp in Indonesia. This induced and allowed the main Indonesian A4 copy paper producers to supply more A4 copy paper at each possible price point than they otherwise would have. The Commission considers that the lowered price and cost of logs and hardwood pulp is reflected in the pulp cost in the records of Pindo Deli and does not reflect a competitive market price.

Therefore, while the Commission considers that private domestic prices of pulp in Pindo Deli's records reasonably reflect the cost associated with the production or manufacture of like goods as the costs actually incurred by Pindo Deli, they are not a competitive market cost suitable for the purposes of constructing normal value under subsection 43(2) of the Regulation.

C3.2.2 Import prices

Data provided by cooperating exporters indicates that the price of pulp imported into Indonesia is not suitable as a benchmark reflecting competitive market prices. This is due to the lack of imports into the Indonesian pulp market and the likelihood that the price of any imports would also be affected by government influence on domestic prices.

C3.2.3 External benchmarks

The Commission received private sales data from a cooperative exporter relating to international sales of Indonesian pulp during the original investigation period. The Commission is unable to use this sales data to establish a benchmark as it is commercial in confidence information relating to an entity not associated with Pindo Deli.

The Commission consequently sought and obtained benchmarking import prices series from RISI and Hawkins Wright. These price series included:

- Indonesia to Korea (acacia, BHK);
- Indonesia to East Asia (acacia, BHK);
- South America to China (eucalyptus, BHK);
- Brazil to China (eucalyptus, BHK);
- Indonesia to China (mixed acacia, BHK);
- Brazil to Korea (eucalyptus, BHK); and
- Indonesia to Korea (mixed hardwood, BHK).

The Commission analysed the price data and assessed that prices for imports sourced from Indonesia were broadly in alignment with the pricing for imports supplied from Brazil and South America. As a consequence, the Commission considers that the import prices for Indonesian exported pulp are competitive market prices and are an appropriate benchmark for assessing domestic competitive market costs in Indonesia.

Consequently, the following pricing data was included in establishing an average benchmark price:

- Indonesia to Korea (acacia, BHK);

- Indonesia to East Asia (acacia, BHK);
- Indonesia to China (mixed acacia, BHK);
- Indonesia to Korea (mixed hardwood, BHK).

The Commission further compared this price data against the previously discussed commercial in confidence price data provided by another exporter. This comparison found the RISI and Hawkins Wright data to be in alignment with the commercial in confidence price data.

C3.3 Adjustments to external benchmarks

For the purposes of adjusting the pricing data to a price relevant to Pindo Deli, the Commission has made the following adjustments:

- deducted an amount for sea freight costs based on associated entity Indah Kiat's export costs; and
- deducted an amount for SG&A costs which are estimated to be relevant to export sales. This was based on associated entity Indah Kiat's SG&A costs.

C4 Comparative advantage

The Commission has considered whether it is appropriate to make an adjustment to the Indah Kiat and/or Pindo Deli benchmarks to reflect any claimed comparative advantages and disadvantages experienced by the domestic Indonesian producers.

The Commission considers that for any adjustment to the benchmark to reasonably reflect any comparative advantages and disadvantages, the Commission would need to:

- identify and quantify what the true, uninfluenced comparative advantage of the domestic Indonesian market is, distinct from any advantages which are a result of the particular market situation,
- identify and quantify the comparative disadvantages of the Indonesian domestic market, and
- only adjust for those 'true' comparative advantages and disadvantages.
- This would necessarily result in a determination of a 'net' figure in the form of an adjustment.
- During INV 341, SMG argued the following:
 - the difference between Indonesian A4 copy paper prices and comparable regional benchmarks cannot be attribute to GOI policies and programs given the existence of Indonesia's comparative advantage in timber production;
 - the Commission has not adequately considered Indonesia's comparative advantage in timber productions when assessing the impact of the log ban on differences between Malaysian and Indonesian log prices.

In that report, the Commission concluded that there was insufficient evidence supporting Indonesia's claim of a comparative advantage and the information it had before it suggested that no such comparative advantage existed.

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Specifically, during the conduct of Investigation 341, the Commission obtained a copy of the RISI Review which made it clear that, at least for Indonesia's primary pulpwood (acacia), it was more costly to produce timber in Indonesia than in other Asian countries.

The GOI appeared to claim that Indonesia's primary comparative advantage in timber production was in comparison to Australia. No party to the investigation provided information or evidence supporting claims that Indonesia had a comparative advantage more generally. The GOI also argued that the RISI Review finding that it was more costly to produce timber in Indonesia than in other Asian countries, was inconsistent with the Commission's finding of a market situation (namely that higher cost timber production in Indonesia compared to other countries is inconsistent with a finding that Indonesian domestic prices are artificially low because of GOI influence). However the Commission considered that the market situation was primarily concerned with the effect on prices in the domestic market from government influence. On that basis the primary and most relevant comparison in assessing the market situation was a comparison of domestic prices with government influence and domestic prices without government influence.

Since the above findings were made, the Commission has not received any further information to the contrary. Moreover the Commission has no other information before it that would enable a determination of whether a true comparative advantage or disadvantage exists and, if so, the precise quantification for the purposes of making an adjustment.

As a result, in this case, the Commission considers that there is no factual basis for an adjustment for comparative advantage or disadvantage and that any such adjustment is not practicable nor reasonable.

APPENDIX D PARTICULAR MARKET SITUATION AND SUITABILITY OF DOMESTIC SALES FOR THE REVIEW PERIOD

D1 Particular market situation

D1.1 Introduction

In investigation 341 the Commission found that there was a particular market situation in the Indonesian A4 copy paper market. In summary, the Commission found that:

- programs and policies of the GOI and the export ban on logs increased the supply of logs in Indonesia and thereby lowered the price and cost of logs and hardwood pulp in Indonesia;
- the lowered price and cost of logs and hardwood pulp in Indonesia induced and allowed the main Indonesian A4 copy paper producers (Sinar Mas Group and APRIL Group), which are integrated A4 copy paper producers with their own upstream pulp facilities, to supply more A4 copy paper at each possible price point than they otherwise would have; and
- the resultant price of A4 copy paper in Indonesia was the end result of the interactions between those selling, and those buying, A4 copy paper in Indonesia. The resultant price of A4 copy paper in Indonesia was artificially low, was materially below regional benchmarks, and reflected the lowered price and cost of logs and hardwood pulp in Indonesia that resulted from the programs and policies of the GOI.

D1.2 Framework for assessing market situation claims

Subsection 269TAC(2) provides for the determination of the normal value of goods where that value cannot be ascertained under subsection 269TAC(1) “because the situation in the market of the country of export is such that sales in that market are not suitable for use in determining a price under subsection 269TAC(1)”.¹⁹⁶ If there is a market situation such that sales are not suitable for the purposes of subsection 269TAC(1), normal values may instead be constructed under subsection 269TAC(2)(c) or determined by reference to prices of exports to a third country under subsection 269TAC(2)(d).

A market situation will arise when there is some factor or factors impacting the relevant market in the country of export generally. This may have the effect that sales in that market are not suitable for use in determining normal value.

D2 Market Situation Considerations

In considering whether sales are not suitable for use in determining a normal value under subsection 269TAC(1) because of the situation in the market of the country of export the Commission may have regard to factors such as whether the prices are artificially low.

¹⁹⁶ Section 269TAC(2)(a)(ii) is Australia’s implementation of Article 2.2 of the WTO *Anti-Dumping Agreement*.

Government influence on prices or input costs could be one cause of artificially low pricing. Such government influence could come from any level of government.

In assessing whether a market situation exists due to government influence, the Commission will assess whether government involvement in the domestic market has materially distorted market conditions. If market conditions have been materially distorted then domestic prices may be artificially low or not substantially the same as they would be in a competitive market.

Prices may also be artificially low or lower than they would otherwise be due to government influence on the costs of inputs. The Commission looks at the effect of any such influence domestic prices. Government influence on costs will disqualify the associated sales if those costs are shown to affect domestic prices.

D2.1 Findings in Investigation 341

Relevant findings in REP 341 include that:

- The two main Indonesian producers of A4 copy paper are integrated paper producers with their own upstream raw materials and input facilities¹⁹⁷ and they account for around 90 per cent of Indonesian pulp capacity;¹⁹⁸
- 50 to 60 per cent of total pulp production in Indonesia is consumed in Indonesia.¹⁹⁹ The rest is exported;
- No export tariff applied to pulp and there were no export quotas for pulp²⁰⁰ and Latin American or Brazilian based benchmarks and Indonesian export based benchmarks are broadly aligned and reflect competitive market prices;²⁰¹
- Policies and programs of the GOI have affected the structure and development of Indonesia's forestry sector and increased the supply of timber;²⁰²
- an export ban imposed by the GOI on logs distorted the domestic supply of timber²⁰³ and the net impact of the export ban on Indonesian logs reduced prices;²⁰⁴

¹⁹⁷ REP 341, section A2.9.3, p. 173.

¹⁹⁸ REP 341, section A2.9.2.3, p. 167.

¹⁹⁹ REP 341, section A2.9.2.3, p. 167.

²⁰⁰ REP 341, section A2.9.2.6, p. 170.

²⁰¹ REP 341, section A2.8.6.3, p. 165.

²⁰² REP 341, section A2.9.2.4, p. 168.

²⁰³ REP 341, section A2.9.2.6, p. 170.

²⁰⁴ REP 341, section A2.9.2.6, p. 172.

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- around 50 per cent of logs used by the Indonesian forestry sector are consumed in pulp production;²⁰⁵
- pulp is a key raw material input into paper²⁰⁶ and typically comprises between 60 to 65 per cent of the total cost of A4 copy paper;²⁰⁷
- the Indonesian pulp industry has been the largest beneficiary of the resulting increased access to timber²⁰⁸ and the primary beneficiary of identified timber-related GOI policies and programs was the Indonesian pulp industry;²⁰⁹
- the GOI has increased the availability of timber relative to demand and hence artificially lowered prices for Indonesian logs and pulp. Without these interventions, the price for timber and pulp in Indonesia would be above prices that prevailed during the original investigation period;²¹⁰
- the GOI's support for the forestry and pulp industry was effected through programs that supported the expansion of timber plantations and restrict timber exports. These programs resulted in distortions in the Indonesian forestry and pulp industries and ultimately the domestic price for A4 copy paper;²¹¹
- Indonesian A4 copy paper producers have benefited through access to cheaper pulp including from related parties for integrated paper producers access to cheap pulp has improved the international competitiveness of Indonesian paper producers²¹²;
- without these interventions higher input costs would be reflected in higher domestic prices for A4 copy paper";²¹³ and
- the domestic price of Indonesian A4 copy paper is significantly below comparable regional benchmarks. The distortion of the domestic price for A4 copy paper directly results from GOI involvement in the forestry and pulp industries through its

²⁰⁵ REP 341, section A2.9.2.1, p. 166.

²⁰⁶ REP 341, section A2.7.1, p. 151.

²⁰⁷ REP 341, section A2.7.1, footnote 211, p. 151.

²⁰⁸ REP 341, section A2.9.2.4, p. 168.

²⁰⁹ REP 341, section A2.9.3.1, p. 173.

²¹⁰ REP 341, section A2.9.4, p. 174.

²¹¹ REP 341, section A2.9.6.5, p. 183.

²¹² REP 341, section A2.9.3.1, p.173.

²¹³ REP 341, section A2.9.4, p. 174.

support for development of timber plantations and prohibition on exporting of timber logs.²¹⁴

D3 Information relied on for 2019 assessment

In order to assess whether a particular market situation in the Indonesian A4 copy paper market continues to exist in the review period, the Commission sought information from the GOI and Indonesian exporters by way of a questionnaire. The Commission also engaged RISI to provide an update to the analysis they provided for Investigation 341. Australian Paper also provided information in its questionnaire response and by way of a submission.²¹⁵

D3.1 Indonesian exporters

In their questionnaire responses both Indah Kiat and Pindo Deli advised that responses they provided during Investigation 341 remained the same in respect of the 2015 investigation period. However, both exporters declined to provide responses to questions that would have been relevant to the Commission's market situation assessment for the review period.²¹⁶ This included 2019 information relating to:

- the GOI prohibition of log exports;
- the provision of standing timber;
- the A4 copy paper sector;
- GOI measures in the pulp and paper sector; and
- relevant cost and sales data which would have been relevant to the Particular Market Situation assessment.

The Commission also made enquires with other Indonesian A4 copy paper manufacturers, Tjiwi Kimia and the APRIL Group, to ascertain whether they would be willing to provide information for the purpose of this review. Both companies declined to provide information to the Commission.

D3.2 Government of Indonesia

The GOI provided a completed government questionnaire to the Commission.

The GOI, whilst noting various changes and updates to a range of government regulations and policies, advised that their responses in relation to the 2015 investigation period remained largely unchanged. The GOI also provided copies of updated regulations and updated data for 2019, insofar as the data was available at the time of the GOI

²¹⁴ REP 341, section A2.9.4, pp. 173-174.

²¹⁵ EPR number 17. The Commissioner notes that he has had insufficient time to consider this submission from Australian Paper. This submission will be examined in the next stage of the investigation.

²¹⁶ Indah Kiat as part of its questionnaire response provided woodchip consumption data for the 2015 review period.

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completing the questionnaire response. The GOI noted the following changes that were relevant to the review period:

- [T]he cost of electricity will depend on distribution and that the longer distribution from the initial generation stage will result in higher cost;²¹⁷
- Importer Identification Numbers are not required for Import Licensing;²¹⁸
- [The] Pulp and Paper industry in Indonesia is integrated.... Most of materials refer [red in question B.4] are locally sourcedand pulp is [a] chemical product, therefore only several chemical items [are] need[ed] to [be brought] from local supplier[s];²¹⁹
- The prevailing regulation concerning [industrial licenses] now is Minister of Industry Regulation No. 15/2019 effective as of 6 May 2019 and that previous regulation No. 41/2008 was revoked. Required commitment to apply for concerning [industrial licenses] are:
 - Sosialisasi Sistem Informasi Industri Nasional (SIINas) Account
 - Letter of Statement
 - Industrial Data
 - Location Permit
 - Environmental Permit according to regulation
 - Field Examination²²⁰
- [The r]esponse to the original investigation remains relevant. However, currently Minister of Trade Regulation No. 45 of 2019 concerning Export Prohibited Goods having objective[s] of
 - [to] protect national security or the public interest, including social, cultural and moral community;
 - to protect intellectual property rights; and / or
 - to protect the health and safety of humans, animals, fish, plants and the environment.
- Specifically, export logs are included in the commodities that are prohibited for export and regulated in the Minister of Trade Regulation No. 45 of 2019 concerning Export Prohibited Goods. As regulated in the Article 2 of the Minister of Trade Regulation stipulate export prohibited goods on the grounds of:
 - to protect national security or the public interest, including social, cultural and moral community;
 - to protect intellectual property rights; and / or

²¹⁷ EPR number 11, p. 14.

²¹⁸ EPR number 11, p. 14.

²¹⁹ EPR number 11, p. 19.

²²⁰ EPR number 11, p. 26.

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- to protect the health and safety of humans, animals, fish, plants and the environment.²²¹
- [Changes to the following regulations:]
 - Minister of Finance (MOF) regulation No. 52/2014 replaced MOF regulation No. 71/2016 concerning Procedures State-Owned Goods Management Used For Implementing Task and Function of State Ministries/Institution
 - Tariff: Government Regulation (GR) No. 12/2014 [is]still valid except PNT levies, revoked by MARI decision No. 12 P / HUM / 2015;
 - Benchmark Price: Minister of Finance (MOF) regulation No. 68/2014 replaced by MOF regulation No. 64/2017
 - IUPHHK-HTI License Fee: Government Regulation (GR) No. 59/1998 replaced by GR No. 12/2014.
- [Changes to monitoring of companies to ensure compliance with the forestry laws]
 - Since 2016, all implementation of activities in the field and supervision have been carried out through electronic reporting and supervision, known as the Sustainable Production Forest Management Information System (SI PHPL). SI PHPL has subcomponents which include:
 - a. a) SI PUHH (Information System of Forest Products) records good reporting from planning, harvesting to transporting forest products. (P.66 / 2019 and P.67 / 2019)
 - b. b) SI PNBP (Non-Tax State Revenue Information System) records PNBP payment reporting (DR and / or PSDH). (P.71 / 2016)
 - c. c) SI GANIS (PHPL Technical Personnel Information System) carries out administration and supervision of technical personnel working in the company. (P.70 / 2019)
 - In carrying out activities, each company reports its harvesting results (LHP) through the SI PUHH system. Then the DR and / or PSDH obligations are calculated through the SI PNBP system and reported payments through the SI PNBP. If the payment obligations have been made, SI PNBP will automatically send the paid status to SI PUHH so the company can then print the transport document. On every stage that is not carried out by the company, the system will be automatically locked and the company cannot proceed to the next stage.
 - Enforcement of the regulations on the companies that do not comply with applicable regulations is done through a compliance audit mechanism that is carried out jointly within related work units (P.54 / 2019).
- [Changes in process to determine if an infringement has occurred in the forestry industry]

²²¹ EPR number 11, p. 29.

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- In accordance with Law No. 41/1999 and Government Regulation No. 6/2007 jo Government Regulation No. 3/2008, violations may be imposed on permit holders and non-permit holders. If against non-permit holder, will be subjected to criminal provisions and added PNPB in the form of Stumpage Compensation (GRT). If against the permit holder, then can be subjected to both criminal and sanction provisions in the form of fines or other administrative matters. The compliance audit is carried out through a mechanism regulated in Minister of Environment and Forestry Regulation No. P.54 / 2019.
- [Update on the actions taken in relation to company violations]
 - Based on the Minister of Environment and Forestry Regulation No. P.30 / 2016, all forestry permit holders (IUPHHK-HA; IUPHHK-HT; IUPHHK-HTR; IUPHHK-RE; IUPHHK-RE; IUPHHK-HKM; IUPHHK-HD ; IUPHHK-HTR; etc.) must have SLK. This system was introduced by the Ministry of Environment and Forestry to ensure that forest products used by companies as raw materials come from legal sources. The Government of Indonesia will conduct designated and random inspections to ensure that all forestry products meet the required certifications.
- [Update on Indonesian laws and regulations limiting the export of logs and chips in effect during the review period and the preceding 4 years]
 - Response to the original investigation remains relevant with additional Minister of Trade Regulation Number 45 Year 2019 concerning Export Prohibited Goods.

In addition to providing the updates for 2019, the GOI noted the Commission's finding in investigation 341 that the log export ban did not constitute a countervailable subsidy. The GOI also made the following statement in their questionnaire response in regard to the particular market situation finding:

"The response and submissions provided by the GOI in the original investigation remain relevant. In fact, there is no particular market situation applies in Indonesia; it did not apply during the original investigation and never applies until this point in time. In fact, ADC determined it conclusively in its CVD original investigation that export log ban did not constitute any subsidy within the WTO SCM Agreement. ADC firmly determined that none other alleged programs were countervailable during the original investigation. As such, the GOI does not see its policies being questioned in this Review have any relevance with particular market situation. Pricing of A4 copy paper is market driven which is again the GOI has no control on it by any form. In particular, as verified by ADC, the companies subject to this Review use the same materials, labours and production facilities. This is irrefutable that their domestic and export price of A4 copy paper including export to Australia are fully comparable and as such they permit proper comparison."

D3.3 Australian industry

In its questionnaire response, Australian Paper²²² provided a submission regarding the Commission's finding in Investigation 341 as to the issue of particular market situation for the review period. Australian Paper submitted that the plans and policies identified by the Commission in Investigation 341 continued to apply equally in 2019.

Australian Paper also provided Indonesian export data on log exports for the period between 1998 and 2020. This data indicated that there was a small amount of log exports under the relevant tariff codes in 2019, however this volume was less than 0.009 per cent of the volume exported in 2001 prior to the discontinuation of log exports.

Australian Paper further stated that they believed that the GOI had not altered its plans and policies for the Forestry and Paper industries. In support, they referenced Indonesia's Master Plan for the Pulp and Paper Industry (2015-2025) and the Indonesian Forestry Long Term Development Plan (2006-2025). Australian Paper also stated that they considered that the log export ban continued to restrict exports of the key raw materials consumed by the pulp and paper industry.

D3.4 RISI Report

The Commission engaged RISI to provide an updated assessment of the Indonesian Pulp and Paper Industries. This analysis identified the following key changes between 2015 and 2019:²²³

- Indonesian hardwood roundwood costs increased approximately 19 per cent;
- Indonesian capacity for bleached hardwood kraft (BHK) pulp production, the dominant fibre source for paper production, increased 22 per cent or approximately 1.6 million tonnes driven in part by increased production capabilities from 2016 from APP's new mill;
- Indonesian BHK market pulp capacity now accounts for 11 per cent of global capacity;
- Production of BHK pulp increased 26 per cent or approximately 1.7 million tonnes;
- Exports of BHK pulp increased 36 per cent;
- Copy paper accounts for about 52 per cent of uncoated woodfree paper production in 2019, up from 48 per cent in 2015;
- Indonesian production of copy paper increased 34 per cent supported by an increase in capacity of 11 per cent;

²²² The Commission notes that Australian Paper provided an additional submission to the Commission, see EPR number 17. The Commissioner notes that he has had insufficient time to consider this submission from Australian Paper. This submission will be examined in the next stage of the investigation.

²²³ Commercial in confidence RISI data in 547 – Confidential 2019 Suitability Assessment.

- Indonesian uncoated copy paper demand increased almost 10 per cent or approximately 40,000 tonnes and consumption per capita increased 4 per cent;
- Exports of copy paper increased 41 per cent whereas exports of other uncoated woodfree papers increased 10 per cent;
- Copy paper accounted for a rising share of exports, up from 52 per cent in 2015 to 58 per cent in 2019;
- Indonesia exported 79 per cent of its copy paper production in 2019, up from 75 per cent in 2015; and
- Indonesia's cut size paper production is still dominated by two companies, APP and APRIL Group.

D4 2019 Particular market situation preliminary assessment

The Commission considers that, whilst there is an absence of specific domestic and export price information from Indah Kiat and Pindo Deli for the review period, the information available to the Commission indicates that the relevant programs and policies of the GOI and the export ban on logs identified in 2015 have continued during the review period. Also, information provided by RISI indicates that Indonesian pulp and paper production and capacity have continued to grow since 2015, that exports of copy paper have continued to increase and that the paper and pulp markets continue to be dominated by the APP and APRIL groups of companies.

Notwithstanding the GOI's submissions on the log export ban, the Commission considers its findings that the log ban does not constitute a countervailable subsidy in Investigation 341 and its findings in relation to the particular market situation are distinct matters. In particular, the Commission notes the Panel's finding in DS529 that Indonesia failed to demonstrate that a situation arising from government action in whole or in part is *necessarily* disqualified from constituting the "particular market situation".²²⁴ The Commission also notes that its finding of a market situation was not found to be inconsistent with Article 2.2 of the Anti-Dumping Agreement by the WTO Panel.²²⁵

Consequently, the Commission considers that:

- the continuing programs and policies of the GOI and the continuing export ban on logs continue to increase the supply of logs in Indonesia and thereby lower the price and cost of logs, woodchips and hardwood pulp in Indonesia;
- the continuing lowered price and cost of logs and hardwood pulp in Indonesia has induced and allowed the main Indonesian A4 copy paper producers (SMG and APRIL Group), which are integrated A4 copy paper producers with their own upstream pulp facilities, to supply more A4 copy paper at each possible price point than they otherwise would have; and

²²⁴ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper* (Indonesia), para. 7.56.

²²⁵ Ibid.

- the resultant price of A4 copy paper during 2019 in Indonesia was the end result of the interactions between those selling, and those buying, A4 copy paper in Indonesia. The resultant price of A4 copy paper in Indonesia in 2019 was artificially low and reflected the lowered price and cost of logs, woodchips and hardwood pulp in Indonesia that resulted from the programs and policies of the GOI.

On this basis, the Commission considers that the particular market situation in the Indonesian A4 copy paper market continues to exist in 2019.

D5 Suitability

D5.1 Preliminary findings

In accordance with section 269TAC(2)(a)(ii) of the Act the Commission has considered whether the situation in the market in Indonesia is such that domestic sales of A4 copy paper in Indonesia are not suitable for use in determining a normal value under subsection 269TAC(1) of the Act.

In determining whether domestic sales are not suitable, the question of suitability is informed by the determination of normal value under subsection 269TAC(1): that is, the price paid or payable for like goods sold in the ordinary course of trade for home consumption in the country of export in sales that are arms-length transactions by the exporter or, if like goods are not so sold by the exporter, by other sellers of like goods.

The Commission considers that in undertaking this assessment of whether domestic sales are not suitable because of the situation in the market, it is required to consider the relative effect of the market situation on the domestic sales. This includes assessing the impacts of the market situation on domestic sales and export sales. This assessment assists the Commission to consider whether the domestic sales are suitable for the purposes of determining the normal value under subsection 269TAC(1). The Commission considers that this is a fact-specific exercise and should be made on a case-by-case basis.

D5.2 Australian A4 copy paper market

D5.2.1 Market characteristics

D5.2.1.1 Market structure and participants

The Australian market for A4 (210 mm x 297 mm) copy paper or cut sheet paper (copy paper, office paper or laser paper) is predominantly 80 gsm in weight. In addition to 80 gsm paper, small quantities of 70, 75, 90 and 100 gsm paper are also sold in Australia. Copy paper is offered in a variety of whiteness and differing percentages of recycled content (from no recycled content to 100 per cent recycled content).

End users of A4 copy paper fall into three basic categories of consumers:

- home and home offices/small office;
- medium and large business, government and education; and
- industrial users including instant printing and in-plant printing operations.

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Based on the information before it, the Commission considers the key market segments or supply channels for A4 copy paper in the Australian market include retail, corporate stationers, resellers and to a lesser extent OEM sectors. These market segments act as intermediaries between the manufacturer and the downstream (end user) consumer. Companies within the market segments are not limited to purchasing from one market segment or supplier and can purchase both domestically produced and imported paper from various sources. This freedom to purchase from various sources also extends to the end users market. The Commission observes that domestically produced and imported A4 copy paper have been supplied through each of the above mentioned supply channels. The market segments in the Australian market is illustrated in Figure D1.

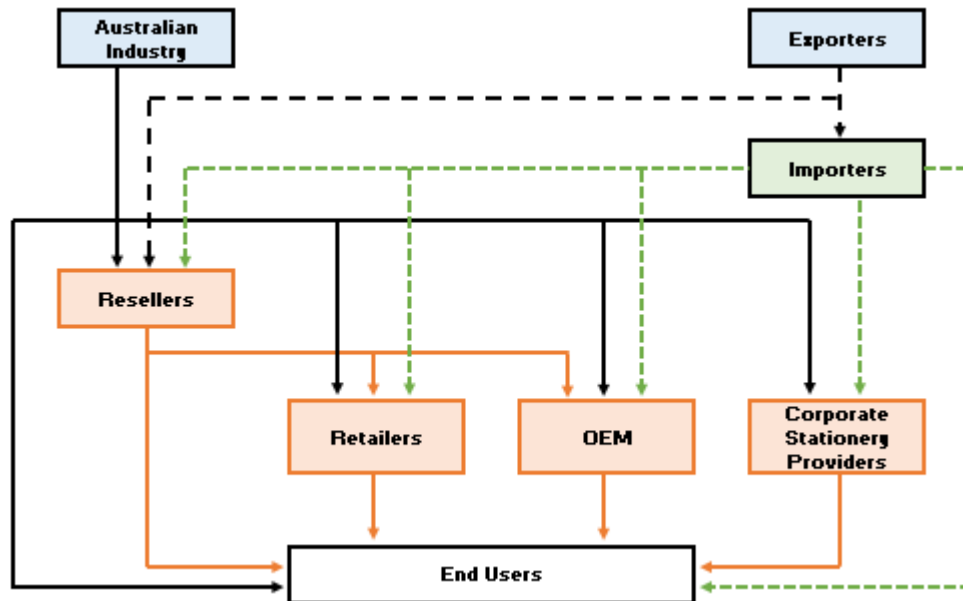


Figure D1: Market segments for A4 copy paper in the Australian market

The Commission understands that the retail sector typically supplies small end users, such as homes, home offices and small offices/businesses. Resellers typically supply the large business and government sector, whereas corporate stationery suppliers typically supply the smaller businesses in specific regional areas. However, the Commission understands that there is some “leakage” of sales between each of the market segments. For example, some suppliers in the retail sector supply customers traditionally supplied by the reseller segment and some customers in the retail or corporate stationery supply segment are being supplied through the reseller segment using internet purchasing services.

Australian Paper stated that supply channels are concentrated through a limited number of national resellers and retailers.

In terms of brand segmentation, the Commission understands that there are three broad A4 copy paper brand segments sold in the Australian market and these are:

- manufacturer brands;
- private label/customer owned brands; and
- plain or generic labelled brands.

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The size of the Australian market in terms of both domestically produced and imported A4 copy paper is shown in Figure D2.²²⁶ The Australian market has generally declined since 2015 with a slight recovery in 2017 and 2019. Given the decline, the market in 2019 is smaller than in 2015.

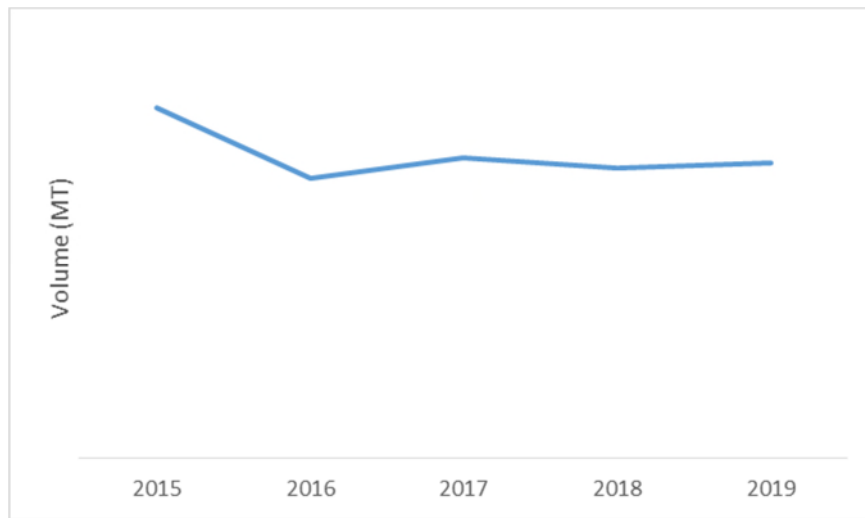


Figure D2: Trend in Australian market by volume

The Commission is not aware of any significant market consolidation, new entrants or exits during 2019. Since 2015, the Commission understands there has been some market consolidation occurring in key office paper supply channels with:²²⁷

- industry acquisition of importer – Australian Paper’s acquisition of BJ Ball’s Edward Dunlop Office Products division in 2016;
- stationers – Staples Australia and New Zealand operations, rebranded as Winc, acquisition by Platinum Equity in 2017;
- resellers – K.W. Doggett Fine Paper and BJ Ball merging to Ball & Doggett in 2017;
- stationers – Officemax acquisition by Winc in 2018;
- resellers – Office Choice leaves Office Products ANZ and started a new buying group in 2018;
- OEM – Fuji Xerox Asia Pacific Pte Ltd market exit with consolidation into Fuji Xerox Australia Pty Ltd in 2018; and
- stationers – Lyreco acquisition by COS in 2018.

The entry of Amazon into the Australian market in 2017 was also a source of retail distribution disruption for cut paper.

The Australian industry member Australian Paper is vertically integrated in the manufacture of pulp, paper, envelopes and stationery.

²²⁶ Commercial in confidence ABF and Australian Paper data in 547 – Confidential 2019 Suitability Assessment.

²²⁷ REP 463, p. 26.

D5.2.1.2 Market sources

The Commission confirmed that the Australian market for the goods is supplied by Australian Paper and has not identified any other manufacturers of A4 copy paper in Australia. The Australian market is also supplied by imports from a number of countries as shown in Figure D3.²²⁸ Significant sources of imported A4 copy paper in 2019 ranked by volume include China, Indonesia, Thailand and Malaysia.

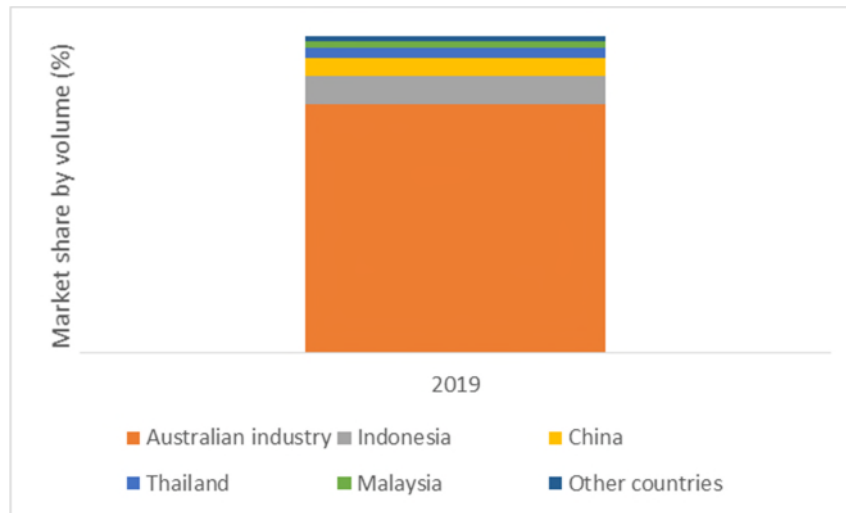


Figure D3: Market share by volume of sources of A4 copy paper in the Australian market

D5.2.1.3 Market size

The Commission estimates that in 2019 approximately 175,000 metric tonnes of A4 copy paper was supplied from local and imported manufacturers.²²⁹

D5.2.1.4 Regulatory framework

The Commission is not aware of any specific competition policy or regulation specific to the manufacture or sale of A4 copy paper other than those described under Australian consumer²³⁰, workplace safety²³¹, competition²³² and business²³³ regulations.

The Commission is not aware of any taxation regulation specific to the manufacture or sale of A4 copy paper in Australia.

²²⁸ Commercial in confidence ABF and Australian Paper data in 547 – Confidential 2019 Suitability Assessment.

²²⁹ Ibid.

²³⁰ Refer to consumer laws on the Australian Consumer Law website at www.consumerlaw.gov.au.

²³¹ Refer to work health and safety regulation on www.business.gov.au/work-health-and-safety.

²³² Refer to the national statutory framework on Australian Competition and Consumer Commission's website at www.accc.gov.au.

²³³ Refer to business regulation on www.business.gov.au/regulations.

The Commission is aware that there is a *Code of Practice for Timber Production*²³⁴ that market participants will be required to comply with if they intend to harvest timber in Australia. The Commission is not aware of any other licences that are specific to the manufacture or sale of A4 copy paper.

The Commission is not aware of any statutory minimum industry standards relevant to the manufacture of A4 copy paper sold in the Australian market.

The Commission is not aware of any relevant import restrictions relating to the importation of the goods.

The Commission is not aware of any relevant product safety or warranty regulations for A4 copy paper.

D5.2.1.5 Structural barriers to entry and trade

The Commission is not aware of any entry restrictions for new participants in the Australian market relevant to the manufacture or sale of A4 copy paper.

The Commission is not aware of any restrictions to resources ownerships.

The Commission is not aware of any statutory minimum industry standards relevant to the manufacture of A4 copy paper sold in the Australian market. Suppliers offer A4 copy paper with various accreditations. These include:

- Forest Stewardship Council (FSC) – the FSC aims to promote responsible forest management worldwide and the logo indicates that the paper is from responsibly sourced materials.
- Programme for Endorsement of Forest Certification (PEFC) – the PEFC is an international organisation dedicated to promoting sustainable forest management and the logo indicates that the paper is from sustainably managed forests.
- Australian Forestry Standard (AFS) – the AFS is an Australian standard endorsed by the PEFC and the logo indicates that the paper is from sustainably managed sources in Australia.

An examination of the Australian Patents database did not find any specific patents relevant to A4 copy paper.²³⁵ The Commission made enquiries and aside from copyright and trademarks associated with brand ownership is not aware of any other copyright restrictions specific to the manufacture or sale of A4 copy paper in Australia.

The Commission acknowledges that paper manufacturing and forestry are capital-intensive industries which presents structural barriers to trade. According to the Australian Bureau of Statistics, manufacturing was the eighth highest capital-intensive industry and agriculture, forestry and fishing was the third highest.²³⁶

²³⁴ ‘Code of Practice for Timber Production’, on ablis.business.gov.au.

²³⁵ IP Australia on www.ipaustralia.gov.au.

²³⁶ ‘Trends in The Labour Income Share in Australia’, Australian Bureau of Statistics, on <https://www.abs.gov.au/ausstats/abs@.nsf/Lookup/5260.0.55.002Feature+Article32016-17>.

D5.2.1.6 Demand

The Commission has not observed any seasonal variability in the demand for A4 copy paper. As shown in Figure D2, demand from 2015 to 2019 has shown a decrease over time. Australian Paper advised that the Australian A4 copy paper market is a 'mature' market and that traditionally growth in population and in the Australian workforce had offset declining per capita use of cut sheet paper but that recent data suggested that economic growth was no longer an accurate predictor of copy paper usage.

Demand for A4 copy paper comes from three basic categories of consumers:

- home and home offices/small office;
- medium and large business, government and education; and
- industrial users including instant printing and in-plant printing operations.

Demand in the Australian market will continue to face downward pressure from increased use of digital alternatives to A4 copy paper.

D5.2.2 Product characteristics

D5.2.2.1 A4 copy paper products offered for sale and brand segmentation

In the Australian market, the goods under consideration are offered for sale in various weights (from 70 gsm to 100 gsm), whiteness and degree of recycled source material content. For the goods under consideration there are three broad brand segmentations in the Australian market:

- manufacturer brands;
- private label/customer owned brands; and
- plain or generic labelled brands.

Notwithstanding these brand categories, Australian Paper claims that end users are unlikely to discern significant physical or functional differences between brands, other than brand recognition and price, particularly where promotions are in place.

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, weight, brightness, recycled content and 'type of' whiteness are secondary characteristics. These secondary characteristics may be used by manufacturers to differentiate between products for marketing and pricing purposes. While the Commission is aware that different brands reflect a perceived difference in quality, it is not aware of any verifiable differences in quality.

The Commission is not aware of any supply differences in the availability of different types of A4 copy paper for sale in Australia.

D5.2.2.2 Information on end uses

The Commission understands that A4 copy paper sold in Australia is used in a range of applications including high speed and low speed copying, printing (both on computer printers and small offset printers) or other graphic purposes. The Commission is not aware of any differences in use by source.

D5.2.2.3 Product consumption and consumer preferences

The Commission considers A4 copy paper to be highly commoditised and noted that price, brand recognition and promotions are key attributes that influence purchasing decisions and consumer preferences.

The Commission identified that A4 copy paper is price sensitive and that price is the key driver for sales in Australia. Brand recognition and promotions are key attributes that influence purchasing decisions and consumer preferences.

The Commission considers that there is no market substitute for A4 copy paper in Australia.

D5.2.3 Price and competition characteristics

D5.2.3.1 Commercial characteristics

The Australian market for A4 copy paper is supplied by Australian Paper and imports sourced from various countries. The Commission observes that domestically produced and imported A4 copy paper compete directly in the same market sectors and through similar distribution channels. The Commission has no evidence to indicate whether domestically produced and imported A4 copy paper are used by the same or similar customers. Evidence also indicates that there are a range of supply arrangements for domestically produced A4 copy paper including contracted and uncontract sales. The Commission has no evidence regarding the supply arrangements for imported A4 copy paper. The Commission considers domestically produced and imported A4 copy paper are easily substitutable. Imported A4 copy paper and the copy paper manufactured by the Australian industry are alike, have similar specifications and common end-uses.

D5.2.3.2 Competition characteristics

The Commission considers A4 copy paper is a highly price sensitive product and while there are other factors that are considered during contract and tender negotiations, price is an important factor. The Commission does not have sufficient information to complete a detailed analysis of the retail and reseller market segments, which account for a significant proportion of sales in the Australian market. Based on the data before the Commission, there was price competition between the imported goods and the like domestic goods in 2019 along with evidence of direct competition and lost sales.

The evidence obtained by the Commission supports Australian Paper's contention that it had to reduce its offered prices in tendering processes in an effort to compete with lower priced imported A4 copy paper and that Australian Paper had lost tenders to these imported goods.

The Commission considers that import offers and movements in the price of imported A4 copy paper are leveraged by customers to negotiate prices with Australian Paper in tender processes, and that Australian Paper must respond to the price of imported products by reducing its price offers to remain competitive. Australian Paper's prices and the prices of the imported goods show a degree of correlation that indicates strong market competition in a market that is price sensitive.

The Commission considers that, due to the degree of price sensitivity in the market, price competition is a major condition of competition between the imported goods and the domestically produced goods.

Marketing campaigns, promotions and advertising are used by various participants in the Australian market to promote their A4 copy paper products, range and brands. Different paper characteristics may be used by manufacturers to differentiate between products for marketing and pricing purposes. The Commission is aware that price reductions such as discounts and rebates are used in the Australian market by some participants.

D5.2.3.3 Production and production costs

Australian Paper uses market intelligence and forecasts to manage production scheduling and smooth supply. Australian Paper determines its production mix based on production scheduling and market intelligence about supply/demand dynamics. Australian Paper describes its production scheduling and mix as very agile.

In general terms, production costs for A4 copy paper increase as the quantity of recycled content increases. As an integrated producer, Australian Paper is capable of transforming logs to woodchips and woodchips to pulp for its own production. Australian Paper sources its logs domestically with only a small volume of bleached long fibre pulp being imported. In 2019, pulp raw materials represented a material proportion of the CTMS for A4 copy paper for Australian Paper.²³⁷

D5.3 Indonesian A4 copy paper market

The Commission sought information from the GOI and the two exporters regarding the Indonesian A4 copy paper market for the review period. The Commission notes that the GOI provided a response to these questions but neither Indah Kiat nor Pindo Deli provided responses. The Commission considers that the information and data supplied in the original investigation period and by Australian Paper is the best information available.

D5.3.1 Market characteristics

D5.3.1.1 Market structure and participants

The Indonesian market for A4 (210 mm x 297 mm) copy paper or cut sheet paper (copy paper, office paper or laser paper) is predominantly sold in 70 and 80 gsm in weight. In addition to 70 and 80 gsm paper, 100 gsm paper is also sold in Indonesia. Copy paper is

²³⁷Commercial in confidence data in Australian Paper's verification work program's domestic CTMS analysis.

offered in a variety of whiteness and differing percentages of recycled content (from no recycled content to 100 per cent recycled content).

Indonesian consumers of A4 copy paper vary in size from individual consumers to large international businesses. Australian Paper provided Indonesian market intelligence information containing market segmentation in Indonesia.²³⁸ On the evidence before the Commission, end users of A4 copy paper appear to fall into three basic categories of consumers:

- home and home offices/small office;
- medium and large business, government and education; and
- commercial/industrial users including instant printing and in-plant printing operations.

Based on the balance of information before it, the Commission considers the key market segments or supply channels for A4 copy paper in the Indonesian market appear to include retail and resellers/distributors sectors. These market segments act as intermediaries between the manufacturer and the downstream (end user) consumer. The market segments in the Indonesian market are illustrated in Figure D4.

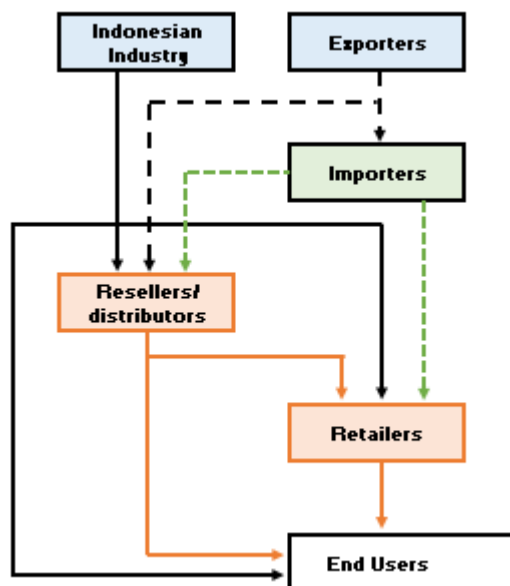


Figure D4: Market segments for A4 copy paper in the Indonesian market

In the original investigation, an Indonesian producer, APRIL Group, stated that the Indonesian market is fully commercial, mature and extensive with multiple buyers and sellers operating in the market making it highly competitive.²³⁹ The Commission has no evidence before it to consider that this has changed.

²³⁸ Commercial in confidence information from Australian Paper (Indonesia Paper Bi Annual Paper Tracking April 2020).

²³⁹ Case 341, EPR number 18, p. 44.

The consumption trend of the Indonesian market in terms of both domestically produced and imported A4 copy paper is shown in Figure D5.²⁴⁰

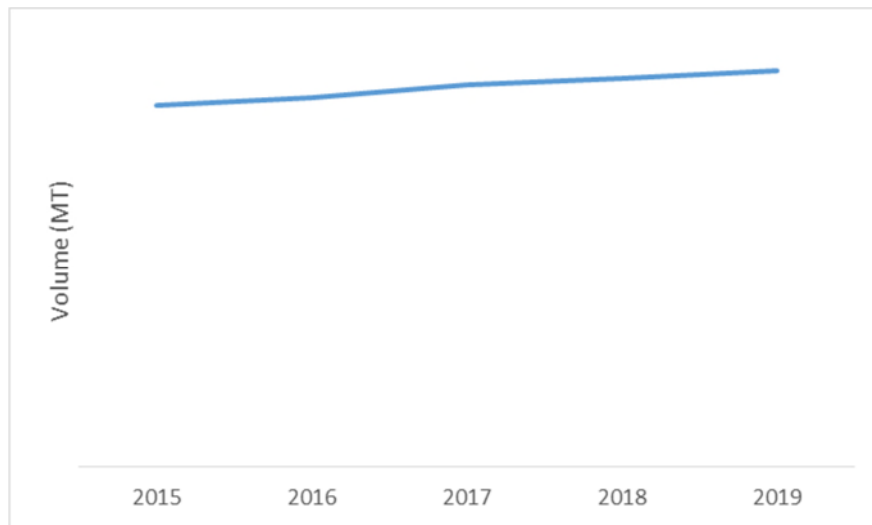


Figure D5: Trend in Indonesian market by volume

An examination of the Indonesia Pulp and Paper Association website confirmed that there are 62 pulp and paper companies registered with the association. The Commission is not aware of any significant market consolidation, new entrants or exits during 2019.

The Indonesian markets consists of integrated paper producers with their own upstream raw materials and input facilities as well as non-integrated producers. The main Indonesian producers of A4 copy paper are the Sinar Mas Group²⁴¹ and the APRIL Group²⁴². Within the Sinar Mas Group, Indah Kiat is a fully vertically integrated producer whereas Tjiwi Kimia and Pindo Deli are partially vertically integrated producers. Within the APRIL Group, RAK is a vertically integrated producer.

D5.3.1.2 Market sources

The Commission sought and obtained copy paper source information from RISI. An examination of the data provided by the GOI in their response to the questionnaire and statistics from RISI identified that a small volume (less than one per cent) of uncoated copy paper was imported.²⁴³ The Indonesian market for uncoated copy paper was predominantly supplied by domestic paper manufacturers as shown in Figure D6. This information also showed that Indonesia exported almost 80 per cent of its copy paper production which indicates excess domestic supply.²⁴⁴

²⁴⁰ Commercial in confidence RISI data in 547 – Confidential 2019 Suitability Assessment.

²⁴¹ Sinar Mas Group refers to: PT Indah Kiat Pulp & Paper Tbk; PT Pindo Deli Pulp and Paper Mills; PT Pabrik Kertas Tjiwi Kimia Tbk.

²⁴² APRIL Group refers to PT Riau Andalan Pulp and Paper (RAPP) and its other affiliated cross-owned companies.

²⁴³ Commercial in confidence GOI and RISI data in 547 – Confidential 2019 Suitability Assessment.

²⁴⁴ Ibid.

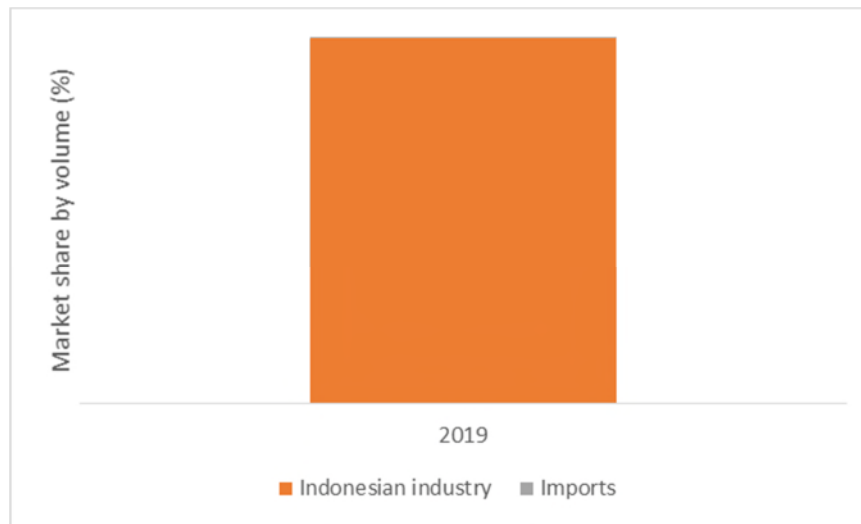


Figure D6: Market share by volume of sources of uncoated copy paper in the Indonesian market

D5.3.1.3 Market size

Based on data and information provided by the GOI and statistics from RISI, the Commission estimates that in 2019 approximately 460,000 metric tonnes of uncoated copy paper was supplied from local and imported manufacturers.²⁴⁵

D5.3.1.4 Regulatory framework

The Commission is not aware of any specific competition policy or regulation relevant to the manufacture or sale of A4 copy paper other than those described under Indonesian laws and regulations, including permits and licensing.

The Commission is aware that there may be some specific taxation regulations relevant to the manufacture or sale of A4 copy paper in Indonesia.²⁴⁶ The GOI also stated that there were no special taxation regulations that apply only to the copy paper industry.

The GOI stated that all copy paper manufacturers in Indonesia need to hold an industrial license (Ijin Usaha Industri/IUI) for production.

The Commission understands that all exporters of copy paper are required to obtain an environmental certification called SVLK (Sistem Verifikasi Legalitas Kayu). SVLK is a mandatory system by the GOI, to ensure that wood products and raw materials obtained or derived, are from sources whose origin and management meet certain legal requirements.

The Commission understands that market participants are required to hold a 'HPH' licence to harvest timber in the natural forest and/or a 'HTI' licence to establish and harvest timber from plantations. The Commission also understands that market participants would need to obtain a licence issued by the Ministry of Trade to import raw

²⁴⁵ Ibid.

²⁴⁶ REP 341, p. 79.

materials used in the manufacturing of copy paper. The Commission is not aware of any other licences that are specific to the manufacture or sale of A4 copy paper.

D5.3.1.5 Structural barriers to entry and trade

The Commission is not aware of any entry restrictions for new participants in the Indonesian market relevant to the manufacture or sale of A4 copy paper.

The Commission is not aware of any restrictions to resources ownerships.

The Commission is not aware of any statutory minimum industry standards relevant to the manufacture of A4 copy paper sold in the Indonesian market. The Commission is aware that suppliers offer A4 copy paper with various accreditations. These include:

- Programme for Endorsement of Forest Certification (PEFC) – the PEFC is an international organisation dedicated to promoting sustainable forest management and the logo indicates that the paper is from sustainably managed forests.
- Indonesian Forest Certification Co-Operation (IFCC) – the IFCC aims to promote sustainable forest management by implementation of the PEFC scheme, and the logo indicates that the paper is from sustainably managed sources in Indonesia

The Commission is aware that APRIL Group use ProDigi™ Nanotechnology to produce the goods under consideration. Other than that, the Commission is not aware of any specific patents or copyright restrictions relevant to A4 copy paper in Indonesia.

The Commission acknowledges that paper manufacturing and forestry are capital-intensive industries which present structural barriers to trade.

D5.3.1.6 Demand

The Commission sought and obtained copy paper demand information from RISI. This information showed that copy paper accounted for about 36 per cent of Indonesian uncoated woodfree paper demand in 2019.²⁴⁷ The Commission is aware of some seasonal variability in the demand for A4 copy paper in Indonesia. In the original investigation, APRIL Group stated that the Indonesian market is mature with multiple buyers and sellers. The Commission has no evidence before it to consider that this has changed.

Indonesian consumers of A4 copy paper vary in size from individual consumers to large international businesses. Based on the information before it, the Commission considers demand for A4 copy paper appears to come from three basic categories of consumers:

- home and home offices/small office;
- medium and large business, government and education; and
- commercial/industrial users including instant printing and in-plant printing operations.

²⁴⁷ Commercial in confidence RISI data in 547 – Confidential 2019 Suitability Assessment.

Figure D6 shows that demand in the Indonesian market has been increasing since 2015. Per capita consumption has also increased since 2015 as shown in Figure D7.²⁴⁸

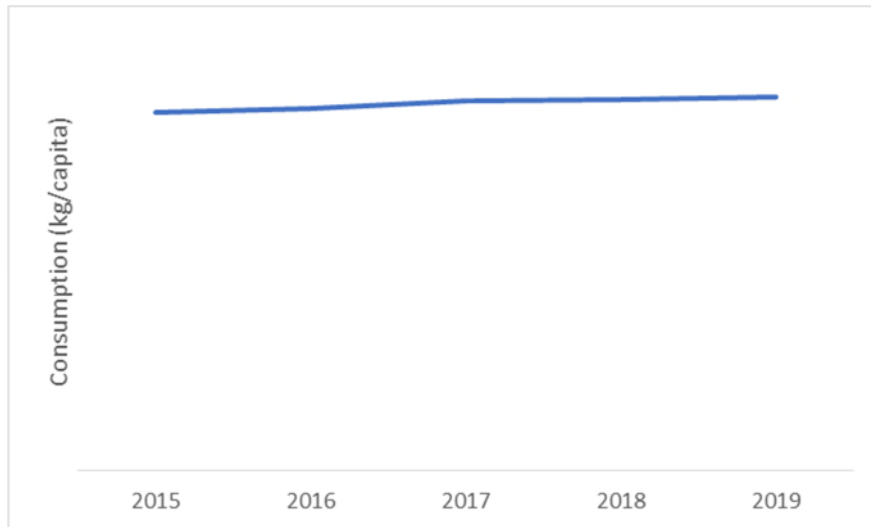


Figure D7: Trend in Indonesian per capita consumption of uncoated copy paper

D5.3.2 Product characteristics

D5.3.2.1 A4 copy paper products offered for sale and brand segmentation

Australian Paper provided Indonesian market intelligence information containing products offered for sale in Indonesia.²⁴⁹ Sinar Mas and APRIL Groups' corporate websites also contain information regarding products offered for sale in Indonesia. An examination of this information confirmed that in the Indonesian market the goods under consideration are offered for sale in various weights, whiteness and degree of recycled source material content.

In terms of A4 copy paper products sold in the Indonesian market, the following statements were made by Indonesian manufacturers in the original investigation:

- Indah Kiat and Pindo Deli stated in their responses to the questionnaires that there are identical products exported to Australia and sold on the Indonesian market;
- Tjiwi Kimia stated that there were physical differences between the exported and domestic goods under consideration; and
- APRIL Group stated that they sold a number of different products on the Indonesian market. APRIL Group also stated that most global paper manufacturers participate in all market segments (premium, average and low quality segments).

The Commission has no evidence before it to consider this has changed.

²⁴⁸ Ibid.

²⁴⁹ Commercial in confidence information from Australian Paper (Indonesia Paper Bi Annual Paper Tracking April 2020).

Other than what has been stated above, the Commission is not aware of any other brand segmentation specific to A4 copy paper in the Indonesian market.

D5.3.2.2 Information on end uses

The Commission understands that A4 copy paper sold in Indonesia is used in a range of applications including high speed and low speed copying, printing (both on computer printers and small offset or inkjet printers) or other graphic purposes. The Commission is not aware of any differences in use by source.

D5.3.2.3 Product consumption and consumer preferences

Australian Paper provided Indonesian market intelligence information containing product promotions and pricing.²⁵⁰ An examination of this information showed that price, brand and promotions are key attributes that influence purchasing decisions. It also showed that there was a strong correlation between the prices of similar products from different manufacturers which indicated A4 copy paper is price sensitive and could be considered a commodity.

The Commission is not aware of any market substitutes for A4 copy paper in Indonesia.

D5.3.3 Price and competition characteristics

In 2019, the Indonesian market for A4 copy paper was supplied predominantly by domestic manufacturers with less than one per cent of volume supplied from imports.²⁵¹ Given the very small contribution to the Indonesian market from imports, the Commission has not considered price and the nature of competition between domestically produced and imported A4 copy paper.

D5.3.3.1 Commercial characteristics

The Commission notes that domestically produced A4 copy paper competes directly in the same market sectors and through similar distribution channels. The Commission considers domestically produced A4 copy paper is substitutable. Imported A4 copy paper and the copy paper manufactured by the Indonesian industry are alike and have common end-uses.

In the original investigation, Indah Kiat, Pindo Deli and Tjiwi Kimia sold A4 copy paper to Indonesian customers through its related entity reseller/distributor PT Cakrawala Mega Indah (CMI). The Commission has no information before it to consider this has changed.

In the original investigation, the goods sold by APRIL Fine Paper Trading Pte Ltd (APRIL Fine Paper) were manufactured in Indonesia by a related company, RAK. RAK provided a manufacturing service for paper products exported by APRIL Fine Paper and was also a seller of paper products in the domestic market in its own right.

²⁵⁰ Commercial in confidence information from Australian Paper (Indonesia Paper Bi Annual Paper Tracking April 2020).

²⁵¹ Commercial in confidence GOI and RISI data in 547 – Confidential 2019 Suitability Assessment.

In the original investigation, Tjiwi Kimia stated that in Indonesia the SMG would be considered the price leader. The Commission has no information about which manufacturer is the price leader for the review period.

D5.3.3.2 Competition characteristics

In the original investigation, an Indonesian producer, APRIL Group, stated that the Indonesian market was extensive with multiple buyers and sellers making it highly competitive.²⁵² Australian Paper provided Indonesian market intelligence information containing competition information.²⁵³ An examination of this information showed a strong degree of correlation between prices from domestic producers indicating A4 copy paper is price sensitive with direct competition between producers.

Based on the evidence before the Commission, the Commission considers that, due to the degree of price sensitivity in the market, price competition is a major condition of competition between domestic producers.

Marketing campaigns, promotions and advertising are used by various participants in the Indonesian market to promote their A4 copy paper products, range and brands.

D5.3.3.3 Production and production costs

In general terms, production costs for A4 copy paper vary depending on characteristics of the paper (e.g. weight, whiteness, proportion of recycled content, etc.).

As fully and partially vertically integrated producers, Indonesian producers are capable of transforming logs to woodchips and woodchips to pulp for their own production. Indonesian producers predominantly source their logs and pulp domestically.

It is the Commission's understanding that around 50 per cent of the logs used by the Indonesian forestry sector are consumed in pulp production in 2015.²⁵⁴ While we do not have similar data for 2019, logs represented around 40 per cent of the cost to manufacture pulp for Indonesian producers.²⁵⁵

In 2019, pulp production consumed domestically was roughly 50 per cent of total production with the majority of exported pulp destined for China. Short fibre and long fibre pulp are both used in the production of A4 copy paper. The Commission understands that pulp the largest cost component for A4 copy paper production.

D6 Suitability of domestic sales and proper comparison

In accordance with subsection 269TAC(2)(a)(ii) of the Act the Commission has considered whether the situation in the market in Indonesia is such that domestic sales of

²⁵² Case 341, EPR number 18, p. 44.

²⁵³ Commercial in confidence information from Australian Paper (Indonesia Paper Bi Annual Paper Tracking April 2020).

²⁵⁴ REP 341, section A2.9.2.1, p. 166.

²⁵⁵ Commercial in confidence RISI data in 547 – Confidential 2019 Suitability Assessment.

A4 copy paper in Indonesia are not suitable for use in determining the normal value under subsection 269TAC(1) of the Act.

In determining whether domestic sales are not suitable, the question of suitability is informed by the determination of normal value under subsection 269TAC(1): that is, the price paid or payable for like goods sold in the ordinary course of trade for home consumption in the country of export in sales that are arms-length transactions by the exporter or, if like good are not so sold by the exporter, by other sellers of like goods.

The Commission considers that in undertaking this assessment of whether domestic sales are not suitable because of the situation in the market, it is required to consider the relative effect of the market situation on the domestic sales and export sales. This assessment assists the Commission in considering whether the domestic sales are suitable for the purposes of determining the normal value under subsection 269TAC(1). The Commission considers that this is a fact-specific exercise and should be made on a case-by-case basis.

For the purposes of this Review, the Commission has considered in particular the following statements in the DS529 WTO Panel report in *Australia – Anti-Dumping measures on A4 Copy Paper*:

- “Where a “particular market situation” is found to exist, the investigating authority must examine whether “a proper comparison” of the domestic and the export price is permitted or not. We consider that the “proper comparison” language calls for an assessment in respect of the comparison of domestic and export prices.”²⁵⁶
- “The ordinary meaning of the term “proper” is “suitable for a specified or implicit purpose or requirement; appropriate to the circumstances or conditions; ... apt, fitting; correct, right”. The term “comparison” can be understood as “the action, or an act, of comparing, or noting the similarities and differences of two or more things”. ”²⁵⁷
- “It is implied here in Article 2.2 that the words “a proper comparison” refer to the comparison between the domestic price and the export price.”²⁵⁸
- “[a] purely numerical comparison between the [domestic and export] prices may not reveal anything about whether the domestic price can be properly compared with the export price.”²⁵⁹
- “The phrase “because of the particular market situation” makes clear that the qualitative assessment of whether the domestic and export prices can be properly compared should focus on how the particular market situation affects that comparison.”²⁶⁰

²⁵⁶ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.73.

²⁵⁷ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.74. (footnotes omitted)

²⁵⁸ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.74.

²⁵⁹ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.75.

²⁶⁰ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.75.

- “[t]he investigating authority must examine the domestic sales in order to determine whether a proper comparison between the two prices is permitted in spite of the effect of the particular market situation.”²⁶¹
- “[w]hile a particular market situation may have an effect on both domestic and export prices, it does not follow that the impact on domestic and export prices will be the same.”²⁶²
- “[h]ow domestic prices and export prices of an individual exporter are affected notwithstanding an equal decrease in input costs is likely to depend significantly upon a number of factors, including the prevailing conditions of competition in each market and the existing relationship between price and cost. We consider that an exporter may find itself with different options in respect of how to take advantage of an input cost decrease depending on market conditions in each market.”²⁶³
- “[w]hether the exporter's domestic sales permit a proper price comparison with the export price is a question that can only be ascertained through an examination of relevant factual circumstances.”²⁶⁴
- The point is to determine if there is a comparable domestic price (i.e. if there is “the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country” in the sense of the GATT 1994 Article VI:1(b) and Article 2.1 of the Anti-Dumping Agreement);²⁶⁵
- A “particular market situation” may have no effect on export prices;²⁶⁶
- “...where a particular market situation was found to affect domestic market sales prices solely as a result of a decreased cost for an input that was used identically to produce merchandise for the domestic and export markets, the investigating authority was obligated to assess the effect of the particular market situation on the domestic price in relation to the effect on the export price when determining whether domestic prices permitted a proper comparison with those export prices.”²⁶⁷
- “... we consider that, in at least some cases, differences in the impact on domestic and export sales could prevent a proper comparison.”²⁶⁸

The comments of the Panel should be read in the context of Article 2.2 of the *Agreement on Implementation of Article VI of the GATT 1994* (the Anti-Dumping Agreement) which states:

When there are no sales of the like product in the ordinary course of trade in the domestic market of the exporting country or when, because of the particular market

²⁶¹ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.76.

²⁶² Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.76.

²⁶³ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.80.

²⁶⁴ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.81.

²⁶⁵ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.76.

²⁶⁶ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.75.

²⁶⁷ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.90.

²⁶⁸ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.57.

situation or the low volume of the sales in the domestic market of the exporting country (footnote omitted), such sales do not permit a proper comparison, the margin of dumping shall be determined by comparison with a comparable price of the like product when exported to an appropriate third country, provided that this price is representative, or with the cost of production in the country of origin plus a reasonable amount for administrative, selling and general costs and for profits.

The Commission notes that the provisions of Part XVB of the Act are to be construed, as far as their language permits, consistently with Australia's obligations under the Anti-Dumping Agreement.²⁶⁹

Thus, in undertaking its assessment of whether sales are not "suitable" for the purposes of determining the normal value under subsection 269TAC(1), the Commission will consider the relative effect of the market situation on both the domestic sales and export sales.

D6.1 Market situation finding

As stated in section D.4, the Commission considers that the identified market situation from INV 341 continues to exist in the Indonesian domestic market for A4 copy paper in the review period.

D6.2 The Commission's framework for assessing whether because of the situation in the market in Indonesia sales of A4 copy paper are not suitable for use in determining a price under subsection 269TAC(1)

The Commission has considered whether because of the situation in the market, sales of A4 copy paper in Indonesia are suitable for determining the normal value price under subsection 269TAC(1). In undertaking its assessment of whether sales are "suitable" the Commission has considered whether the relative effect of the market situation on both the domestic sales and export sales

In undertaking this assessment of the impact of the situation in the market, the Commission has considered the prevailing conditions of competition in the domestic and export markets for A4 copy paper and the existing relationship between price and cost in those markets in order to determine whether domestic and export prices can be properly compared. In undertaking an assessment of the prevailing conditions of competition, the Commission considered market structure, levels of import penetration and any competitive advantage arising from the market situation. In undertaking an assessment of the relationship between price and cost, the Commission considered the effect of pulp costs on prices, the effect of the CTMS on prices and profits. These assessments are both qualitative and quantitative in nature.

²⁶⁹ *Schaefer Waste Technology Sdn Bhd v CEO Australian Customs Service* (2006) 156 FCR 94 at [48] (Jacobson J); cited with approval in *Minister for State for Home Affairs v Siam Polyethylene Co Ltd* (2010) 270 ALR 440 at [35] (Graham and Flick JJ).

The Commission sought to obtain information from interested parties as to its suitability assessment as part of its enquiries for the review.

In its response, the GOI submitted:²⁷⁰

- [t]here is no restriction of import of A4 copy paper in Indonesia;
- [t]he response and submission provided by the GOI in the original investigation remain applicable;
- there is no particular market situation applies (sic) in Indonesia; it did not apply during the original investigation and never applies until this point in time;
- [the] ADC determined it conclusively in its [countervailing duty] original investigation that export log ban did not constitute any subsidy within the WTO [Subsidies and Countervailing Measures Agreement];
- [the] ADC firmly determined that none other alleged programs were countervailable during the original investigation;
- the GOI does not see its policies being questioned in this Review have any relevance with particular market situation;
- [p]ricing of A4 copy paper is market driven which is again the GOI has no control on it by any form;
- as verified by ADC, the companies subject to this Review use the same materials, labours and production facilities. This is irrefutable that their domestic and export price of A4 copy paper including export to Australia are fully comparable and as such they permit proper comparison.

Indah Kiat and Pindo Deli did not provide responses to the proper comparison sections of the Commission's questionnaire.²⁷¹

The Commission respectfully disagrees with the GOI's submissions that where companies use the same materials, labours and production facilities, this is irrefutable evidence that the domestic and export prices of that producer are fully comparable and as such, permit a proper comparison. As stated by the Panel in DS529, a determination of whether proper comparison is not permitted because of the particular market situation is "fact-specific" and should be made on a "case-by-case basis by the investigating authority assessing the effect of the market situation on the domestic price in relation to the effect on the export price, if any."²⁷²

The Commission further notes that the WTO Panel explicitly rejected this argument from the GOI and stated the following:²⁷³

²⁷⁰ EPR number 11, pp. 61-67.

²⁷¹ EPR number 13, pp. 70-92 and EPR number 14, pp. 69-88.

²⁷² Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.76.

²⁷³ Paragraph 7.80 of DS529 Panel report.

In our view, how domestic prices and export prices of an individual exporter are affected notwithstanding an equal decrease in input costs is likely to depend significantly upon a number of factors, including the prevailing conditions of competition in each market and the existing relationship between price and cost [footnotes omitted].

The Commission notes that the exporters subject to the review have not provided information on their domestic prices of A4 copy paper. The Commission also notes that the exporters subject to the review did not export the goods to Australia during the review period.²⁷⁴ The Commission notes that in both Indah Kiat and Pindo Deli's responses to the Commission's questionnaire, both exporters responded that their responses from the original investigation period remains the same for the review period. The Commission has made enquiries to verify that such information remains the same for the review period and, where warranted, has amended its assessment to ensure any adjustments for the review period have been incorporated.

The Commission has also considered alternative sources of information, including information from the original period of investigation and the responses from the GOI and Australian Paper.

D6.3 Prevailing conditions of competition

In assessing the prevailing conditions of competition in Indonesia and Australia, the Commission has considered a variety of source information provided by RISI, interested parties (including the GOI and relevant exporters)²⁷⁵ and Australian industry.

D6.3.1 Market structure

D6.3.1.1 Indonesia

The Indonesian domestic market for A4 copy paper is almost entirely supplied by Indonesian manufacturers. An examination of the Indonesia Pulp and Paper Association website confirmed that there are 62 private pulp and paper companies registered with the association. The Government of Indonesia advised that all companies operating in the Indonesian copy paper industry are privately owned and that the GOI is not a shareholder in any pulp or paper companies. Supply channels include small and large retailers, distributors and corporations. There is no price guidance for pulp and paper products in Indonesia.

The main Indonesian producers of A4 copy paper are SMG and the APRIL Group, both of which are integrated paper producers with their own upstream raw materials and input facilities. This accords with the Commission's research that large copy paper companies

²⁷⁴ EPR numbers 8 (p. 2) and 9 (p. 3).

²⁷⁵ In response to the Commission's questionnaires, the GOI, Indah Kiat and Pindo provided responses which stated that the responses provided in the original investigation remains relevant for the purposes of Review 547. The Commission has made reasonable enquiries to verify this information including requests for additional information from these same interested parties (see EPR numbers 15, Attachments A, B, D, and F) as well as information from other sources. Where the Commission has found that responses provided in the original investigation are not relevant or have not been able to verify such information, the Commission has not utilised this information to inform its assessment.

in Indonesia are usually integrated and have their own upstream raw materials and inputs facility.

The above information was originally sourced from the record of investigation in INV 341. In its responses to the Commission's questionnaire for this review, the GOI has confirmed that this information remains relevant for the review period.²⁷⁶

D6.3.1.2 Australia

The Australian market for A4 copy paper is characterised by a mix of Australian industry and imports from a number of countries. Australian Paper, a vertically integrated manufacturer of pulp, paper, envelopes and stationery, is the sole manufacturer of A4 copy paper in Australia.

Imports of A4 copy paper into Australia in 2019 from multiple import sources made up approximately 22 per cent of total consumption of A4 copy paper in the Australian market.²⁷⁷ Indonesian, China, Thailand and Malaysia together supplied 20 per cent of the Australian market. Evidence indicates that the imported goods and domestically produced goods are used by the same or similar customers. Furthermore, domestically produced and imported A4 copy paper is easily substitutable.²⁷⁸ The Commission estimates that the size of the Australian market during the review period was approximately 175,000 tonnes. There is no price guidance for pulp and paper products in Australia.

D6.3.2 Import penetration

D6.3.2.1 Indonesia

The Indonesian A4 copy paper market is characterised by a combination of domestic integrated and non-integrated pulp and paper producers, with low levels of imports of A4 copy paper.

In 2019, copy paper accounted for 58 per cent of exports of woodfree paper, having increased from 41 per cent in 2010 and 52 per cent in 2015. Indonesia exports copy paper to Asia (61 per cent); Europe (14 per cent); Middle East (9 per cent); and North America (2 per cent).²⁷⁹

Import volumes of paper products into the Indonesian domestic market were less than one per cent of total domestic consumption of A4 copy paper in 2019.²⁸⁰ A five per cent import tariff applies to paper products but there are no export tariffs or export quotas. The

²⁷⁶ EPR number 11, p. 10.

²⁷⁷ Commercial in confidence ABF and Australian Paper data in 547 – Confidential 2019 Suitability Assessment.

²⁷⁸ The goods produced by all exporters and the Australian industry are alike, have similar specifications and common end-uses.

²⁷⁹ Commercial in confidence RISI data in 547 – Confidential 2019 Suitability Assessment.

²⁸⁰ ADC calculations using commercial in confidence RISI data in 547 – Confidential 2019 Suitability Assessment.

GOI has advised that import tariffs for paper products do not apply to free trade agreement countries.²⁸¹

The Commission considers that the Indonesian A4 copy paper is characterised by a low level of import penetration.

D6.3.2.2 Australia

In addition to Indonesia, China, Thailand and Malaysia, six other countries were recorded as having exported A4 copy paper into Australia during the review period.²⁸²

The Commission examined the ABF import database to identify importers of A4 copy paper in the review period. The 10 largest importers accounted for over 96 per cent of imports during the review period.

The Commission considers that the Australian A4 copy paper market is characterised by a higher level of import penetration than that of the Indonesian A4 copy paper market.

D6.3.3 Market conditions – pulp and paper

The Commission considers that while both the Indonesian and Australian markets for A4 copy paper are competitive markets, the dynamic and nature of that competition in each market may be different.

D6.3.3.1 Indonesia

In 2015, Indonesia produced more than 8 million tonnes of BHK pulp. This 8 million tonnes of BHK pulp capacity is heavily concentrated at two companies: Asia Pulp and Paper (APP)²⁸³ and APRIL. BHK is the largest wood pulp grade produced in Indonesia, and it is also the dominant fibre source for paper production in the country. In 2019, apparent consumption of BHK in Indonesia was an estimated 4.1 million tonnes growing at an average of 2 per cent over the past 10 years. More than 50 per cent of total pulp production is consumed in Indonesia. The rest is exported. The main destination for Indonesian pulp exports is China (around 66 per cent of exports in 2019). Other export

²⁸¹ In 2010, Indonesia ratified the ASEAN Trade in Goods Agreement (ATIGA) regulation, which aims to increase trade among ASEAN countries by reducing the import duty to 0% on most goods. Indonesia is also a party to several free trade agreements that grant preferential tariff rates for imports into Indonesia. These include ASEAN–China FTA (ACFTA), ASEAN–Korea FTA (AKFTA), ASEAN–India FTA (AIFTA), ASEAN–Australian and New Zealand FTA (AANZFTA), and Indonesia–Japan Economic Partnership Agreement (IJEPA). These free trade agreements also results in reducing (if not zeroing) import duty of most goods.

Therefore, to determine the rate of import duties for capital goods and equipment, the Department must first identify the 10 digits tariff classification and the country of origin of the capital goods and equipment.

²⁸² Commercial in confidence ABF data in 547 – Confidential 2019 Suitability Assessment.

²⁸³ APP is 100% owned by Sinar Mas Group.

destinations include South Korea (8 per cent), Bangladesh (7 per cent) and India (6 per cent).²⁸⁴

Between 2015 and 2019, Indonesian copy paper production capacity increased by around 11 per cent (or approximately 236,000 tonnes).²⁸⁵ The primary source of this copy paper production growth has been the expansion of APP's OKI Sumatra facility. Indonesian consumption of copy paper has grown strongly in recent years however there is a significant imbalance between domestic production and consumption, with Indonesia supplying almost all of its domestic copy paper demand and around 80 per cent of Indonesian copy paper production exported.²⁸⁶ SMG and APRIL Group are the main Indonesian producers of A4 copy paper.

D6.3.3.2 Australia

The major raw material used in papermaking in Australia is wood pulp, including recycled pulp. At the Australian Paper mill in Maryvale in Gippsland, Victoria, which produces the goods, the majority of wood pulp used is produced on site and this is supplemented by up to 10 per cent imported softwood pulp.²⁸⁷ The other two key materials used are calcite and starch, which for Australian Paper are both produced and supplied from within Australia.

The Australian market for A4 copy paper is subject to a higher level of import penetration than that observed in the Indonesian domestic market for A4 copy paper. The Australian market is characterised by one domestic integrated pulp and paper producer but competes with multiple and varied import sources.

Australian Paper has confirmed that it did not purchase pulp from any Indonesian suppliers in the review period. The Commission has investigated whether other participants in the Australian market obtained Indonesian pulp in producing A4 copy paper. The evidence before the Commission indicates that while some market participants may have purchased Indonesian BHK pulp to produce A4 copy paper that is exported to Australia²⁸⁸, the price at which the pulp is purchased is consistent with internationally traded prices of pulp.²⁸⁹ Therefore, it does not appear that international

²⁸⁴ ADC calculations using commercial in confidence RISI data in 547 – Confidential 2019 Suitability Assessment.

²⁸⁵ Ibid.

²⁸⁶ Ibid.

²⁸⁷ Australian Paper submitted information that the situation is different for certain overseas mills (including China), with all or most of the wood pulp manufactured elsewhere and may be purchased on the international market or, quite frequently, from related companies in the country of export.

²⁸⁸ For example, the Chinese paper industry is heavily reliant on imported pulp. From 2005-2015, imported pulp accounted for, on average, around 60 per cent of total BHK pulp consumption. The Commission understands that pulp used to produce paper for export is typically imported, owing to issues around perceived quality differences and timber origin certification. See also REP 341, pp. 154-155.

²⁸⁹ In INV 341, the Commission considered whether the market situation in Indonesian domestic market may have impacted Indonesian export prices of pulp, such that other exporters were also able to purchase Indonesian pulp at reduced prices. The Commission assessed the export price of pulp from Indonesia and

producers of A4 copy paper who export the goods to Australia obtain pulp at the same reduced price as Indonesian producers (and exporters) of A4 copy paper do, including Indah Kiat and Pindo Deli.

D6.4 Relationship between price and cost

The Commission's analysis of the prices of foreign produced A4 copy paper imported into Australia shows that Indonesian sourced A4 copy paper was the lowest priced in the Australian market in 2015 and the prices in the Indonesian domestic market were closely aligned.

The Commission considers the pricing data from the original investigation period to be relevant in assessing whether sales in the review period are suitable for the purposes of determining the normal value under subsection 269TAC(1) with respect to the review period. This is on the basis that neither Indah Kiat nor Pindo Deli have provided their domestic sales price information for the review period and neither exporter has provided information to indicate that the information from the original investigation period with respect to their domestic sales was not current or incorrect, and there is no other information before the Commission to suggest otherwise. Thus, the Commission considers that the information and data supplied in the original investigation period is the best information available in order to complete the assessment required for the proper conduct of the review. The Commission has sought to verify this information by purchasing price and cost data from RISI. The price data used by the Commission was provided by RISI on a commercial-in-confidence basis.

In the original investigation, the Commission has compared the cost and pricing data provided by each producer to the data provided by RISI. Where appropriate, the Commission used the RISI data to make adjustments to the price and cost information for pulp and paper. The Commission considers these adjustments necessary in order to properly determine whether because of the situation in the market, domestic sales of A4 copy paper in Indonesia are suitable for determining normal values under subsection 269TAC(1).

The Commission considers there to be two types of costs, namely the CTM and the SG&A costs. Together they form the CTMS of the goods.

During the original investigation, the Commission found that goods manufactured for domestic consumption were identical to, or have characteristics closely resembling, the goods exported to Australia.²⁹⁰ The Commission also found that Indah Kiat and Pindo Deli used the same pulp to manufacture A4 copy paper sold to the Indonesian domestic market and exported to Australia. In terms of the CTM, the Commission observed that across similar models the CTM is the same on the Indonesian domestic market as it is on the Australian market for each producer. While acknowledging that Indah Kiat and Pindo

found it to be broadly aligned with Latin America and Brazilian based benchmarks. This suggests to the Commission that Indonesian pulp is exported at internationally competitive market prices.

²⁹⁰ The GOI has also submitted that the companies subject to the review use the same materials, labour and production facilities and that this is irrefutable evidence that their domestic and export price of A4 copy paper are fully comparable and therefore permit a proper comparison. See EPR number 11, pp. 62-67.

Deli did not export to Australia during 2019, the Commission has no information to indicate that this would have changed had they exported during the review period.

In terms of SG&A costs during the original investigation, the Commission accepts that the SG&A for domestic sales may differ from SG&A for export sales, reflecting different costs that are incurred in each distinctly different market. Through the verification processes, the Commission verified the SG&A costs for each of the Indonesian producers including the methodology used to allocate SG&A costs for export and domestic sales. The Commission observes that SG&A is not generally a substantial part of overall costs, with purchases of logs and hardwood pulp being the predominant cost in A4 copy paper CTMS. An analysis of SG&A for each Indonesian producer showed that domestic and export SG&A were not significantly different. While acknowledging that Indah Kiat and Pindo Deli did not export to Australia during 2019, the Commission has no information to indicate that this would have changed had they exported during the review period.

Analysis of the profit margins achieved in the Indonesian domestic market in the original investigation shows that Indonesian producers achieved positive but low margins on sales. In contrast, the margins on cost achieved in the Australian market are significantly less than the profits achieved in the Indonesian domestic market for Indah Kiat and Pindo Deli. The Commission has no information to indicate that this changed or would have changed had they exported during the review period.

In the original investigation, the Commission also analysed the proportion of sales from the two producers by volume sold that were profitable on the Indonesian domestic and Australian markets. Analysis showed of the goods sold, a higher volume of sales were profitable in the Indonesian domestic market than in the Australian market for both producers. For Indah Kiat and Pindo Deli almost all of the goods sold in the Australian market were unprofitable. While acknowledging that Indah Kiat and Pindo Deli did not export to Australia during 2019, the Commission has no information to indicate that this would have changed had they exported during the review period.

As established above, the Commission considers that the market situation benefits all Indonesian producers via low input costs on both the Indonesian domestic and Australian markets during the original investigation period. Had the relationship between price and cost in the Indonesian domestic market been the same as the relationship between price and cost in the Australian market, the profit margins in the Australian market would have been greater than the profit margins in the Indonesian domestic market in 2015. The Commission has no information to indicate that this would have been different had they exported during the review period.

The Commission considers that the above analysis indicates that for the original investigation period the Australian market for A4 copy paper was competitive and prices reflected competitive production costs. The Indonesian domestic market for A4 copy paper was also competitive. However, Indonesian domestic prices reflected Indonesian production costs as affected by the market situation. The Indonesian producers had the same cost for domestic production/sales and for export, and could fetch a higher export price. Noting the broader variability of prices in the Australian market and that only the Indonesian market participants retained the benefit of the market situation, their profit margins should be higher in the Australian market than their profit margins in Indonesia. In light of the preceding analysis, Indonesian producers were selling A4 copy paper at discounted prices that undercut the Australian market. This discount reflected the cost

saving associated with the cost of Indonesian pulp affected by the market situation. The Commission has no information to indicate that this would have changed had Indah Kiat and Pindo Deli exported during the review period.

Therefore when considering the effects of the market situation, the Commission considers that the relationship between price and cost in the Indonesian domestic market differs from the relationship between price and cost in the Australian market for A4 copy paper for the review period.

D6.5 Conclusion on the effects of the situation in the market

D6.5.1 Competitive advantage in the Australian export market

The Commission considers that, due to the degree of price sensitivity in the Australian A4 copy paper market, price competition is a major condition of competition between the imported goods, and between the imported goods and the domestically produced goods. As such, the Commission considers that any pricing advantage owing to a market situation “affects prices” and is relevant to the consideration of whether the market situation has had a differing impact on domestic sales and export sales.

The Commission considers, based on the evidence and analysis undertaken above and from the original investigation period, Indonesian A4 copy paper producers have benefited through access to cheaper pulp including from related parties. Since all producers in Indonesia obtain this benefit, any advantage in pricing of one competitor over another arising from the market situation is competed away. Thus, the market situation does not create a *competitive* pricing advantage in the domestic market, including for Indah Kiat and Pindo Deli. Therefore, the Commission considers that the market situation has a net neutral effect on the prevailing conditions of competition and that it does not create a competitive pricing advantage in the domestic A4 copy paper market.

In contrast, the Australian market is characterised by high levels of import penetration, relative to that of Indonesia, including multiple importers from differing countries of export. Furthermore, Australian A4 copy paper market participants do not have access the benefit of the low priced pulp, in the way Indonesian market participants do.²⁹¹ As such, one of the effects of the market situation is that, in terms of pricing, Indonesian producers of A4 copy paper benefit from a competitive advantage in the Australian market.

An analysis of the domestic prices in Indonesia in the original investigation period shows that the unit prices of A4 copy paper are closely aligned, with little overall price variance, as shown in Figure D8. Through competition with each other, the prices of A4 copy paper in the Indonesian domestic market are driven down to competitive equilibrium prices that the Commission considers reflects, in part, the low input costs created by the situation in the market.

²⁹¹ As stated above, the Commission assessed the export price of pulp from Indonesia and found it to be broadly aligned with Latin America and Brazilian based benchmarks. This suggests to the Commission that Indonesian pulp is exported and sold at internationally competitive market prices, rather than at a reduced price.

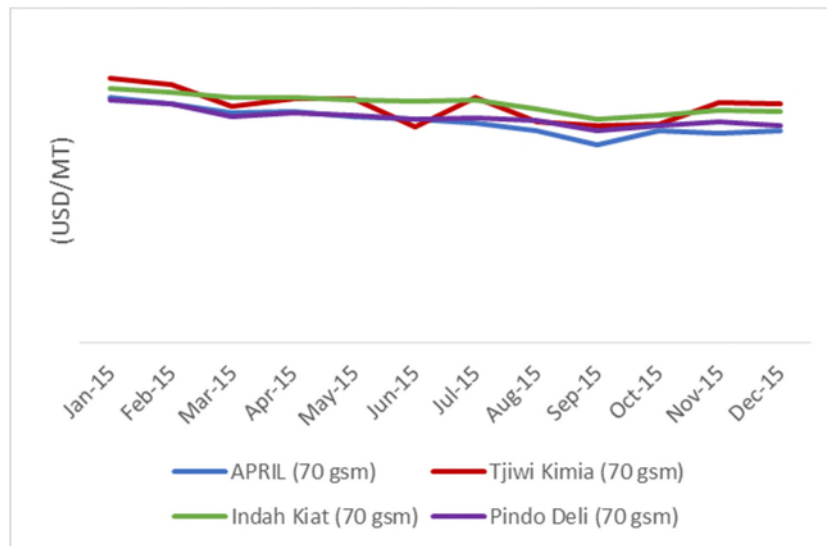


Figure D8: Indonesian domestic A4 copy paper unit pricing by producer

The Commission considers the price effect of the market situation in the Australian A4 copy paper market to be materially different. Australian Paper is the sole producer of A4 copy paper in Australia and sets prices relative to imports. Data provided by Australian Paper indicates that the Australian market for A4 copy paper is price sensitive.²⁹² Australian Paper's prices and the prices of the imported goods show a degree of correlation that indicates strong market competition in a market that is price sensitive. For example, the majority of sales at the retail level of trade occur at times when products are promoted and offered at a discounted price. This is the case for both imported A4 copy paper and A4 copy paper produced by Australian Paper.²⁹³

In contrast to the Indonesian domestic market, the Australian market is supplied by domestic and foreign A4 copy paper producers with imports representing 57 per cent of total A4 copy paper sales in Australia.

An analysis of the prices of foreign-produced A4 copy paper imported into Australia shows that Indonesian sourced A4 copy paper was the lowest priced in the Australian market in 2015. In the same year, Indonesian exporters made up 22 per cent by volume of the Australian A4 copy paper market.

²⁹² This was verified at the Australian industry visit by evidence of pricing negotiations and by a comparison of prices.

²⁹³ REP 341, pp. 105-106.

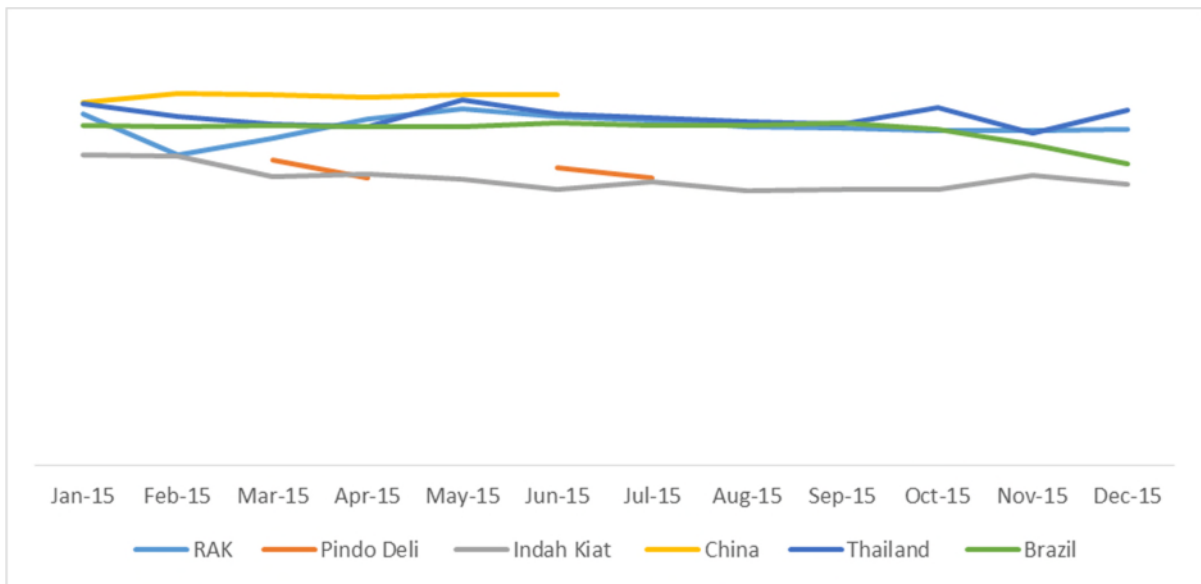


Figure D9: Comparison of Indonesian and other countries ascertained export price

The Commission considers that this substantial difference in pricing compared to domestic and foreign (non-Indonesian) produced A4 copy paper is, in part, attributable to the market situation in Indonesia. The Commission considers that, if not for the low pulp costs, Indonesian exporters would have more likely set their prices higher which would have been more consistent with the prevailing market price of A4 copy paper in Australia.

The Commission observes that the low level of import penetration in the Indonesian A4 copy paper market, together with the effects of the market situation gives all Indonesian producers the ability to price A4 copy paper at significantly low prices domestically, which they proceeded to do.

The Commission considers that the benefit enjoyed by the Indonesian exporters due to the market situation in Indonesia, by way of a competitive pricing advantage in the Australian export market, resulted in lower export prices and undercutting other producers. The Commission considers that the prices in the Indonesian domestic market reflect Indonesian production costs which are affected by the market situation. In contrast, the prices in the Australian market reflect production costs unaffected by the market situation. In this way, the price-cost relationships in the Indonesian domestic market and the Australian export market materially differ.

The Commission considers that in the absence of domestic and export price information from Indah Kiat and Pindo Deli for the review period, and given their review questionnaire responses that indicated that their responses from the original investigation period remain relevant, there is nothing on the record of evidence to indicate the pricing behaviour of either exporter would have changed during the review period. Furthermore, as evidenced above, the information supplied by RISI confirms the Commission's understanding that the relationship between price and cost in 2019 is the same to that of the relationship between price and cost in the original investigation period.

On this evidence, the Commission considers that there is no reason to believe that the pricing strategies and behaviours of Indah Kiat and Pindo Deli would have changed had they exported during the review period. Furthermore, the Commission considers that,

noting the existence of the market situation in Indonesia, that the competitive advantage arising from the market situation would not have changed.

On this basis, the Commission considers the resultant effects of the market situation on domestic prices and export prices are the same as they were in the original investigation period. Specifically, the Commission considers this effect of the market situation has given Indonesian exporters a competitive pricing advantage not available to other producers, such as those from Australia and other countries.²⁹⁴ In turn, the market situation affects the prevailing conditions of competition in the Australian market in a way that is different to the effect on the prevailing conditions of competition in the Indonesian domestic market.

D6.6 Findings on whether because of the situation in the market for A4 copy paper, sales are not suitable for use under subsection 269TAC(1)

The Commission considers that the situation in the market in Indonesia for A4 copy paper has differently impacted the price paid or payable for the like goods, compared to the export sales of the like goods.

The situation in the market has given Indonesian exporters a competitive pricing advantage in the Australian market, not available to other (international or Australian) producers.

The Commission considers that the market situation has a neutral impact on the prevailing conditions of competition in the Indonesian domestic market. The Commission also considers that the effect of the market situation in terms of the relationship between price and cost is different in relation to Indonesian domestic and Australian prices.

The Commission considers that Indah Kiat and Pindo Deli's domestic sales for A4 copy paper, being the price paid or payable for the goods is differently impacted by the market situation compared to the export sales of like goods. The Commission considers that for the purposes of subsection 269TAC(2)(a)(ii), the situation in the market has impacted domestic sales such that those sales are not suitable for use under section 269TAC(1).

²⁹⁴ The Commission considered whether the market situation in Indonesian domestic market may have impacted Indonesian export prices of pulp. The Commission assessed the export price of pulp from Indonesia and found it to be broadly aligned with Latin America and Brazilian based benchmarks. This suggests to the Commission that Indonesian pulp is traded at internationally competitive market prices.

APPENDIX E 2019 COST BENCHMARKS

E1 Introduction

As outlined in Chapter 7, the Commission considers that there is a market situation for A4 copy paper in Indonesia in 2019 and because of the market situation, sales in the domestic Indonesian A4 copy paper market do not permit a proper comparison with export prices during the review period. On this basis, the Commission considers that the sales in the domestic Indonesian A4 copy paper market are not suitable for determining a price under subsection 269TAC(1). As a consequence, the Commission has constructed normal values under subsection 269TAC(2)(c).

In determining the cost of production or manufacture for the purposes of subsection 269TAC(5A)(a), subsection 43(2) of the Regulations requires that, if an exporter keeps records relating to the like goods which are in accordance with generally accepted accounting principles, and those records reasonably reflect competitive market costs associated with the production or manufacture of like goods, then the cost of production must be worked out using the exporter's records.

The Commission has consequently assessed whether the costs of production as reported in the exporters' records reasonably reflect competitive market costs that are suitable for the purpose of constructing normal value. The Commission's approach to selecting a relevant benchmark and the adjustments made to that benchmark to ensure that they were relevant to the circumstances of the exporter are outlined in this appendix.

E2 Indah Kiat

E2.1 Assessment of the benchmark relevant to the circumstances of Indah Kiat

Indah Kiat is a fully integrated producer of A4 copy paper, producing both woodchips and pulp which are ultimately consumed in the production of a variety of downstream products, including A4 copy paper.

The Commission considers Indonesian producers manufacturing pulp from logs and/or woodchips are the primary beneficiaries of the GOI's influence on domestic log prices and these log prices have a major influence on domestic woodchip and pulp costs in Indonesia.

In response to the exporter questionnaire for Review 547, Indah Kiat provided details of its consumption of woodchips during the original investigation period. This information was not available to the Commission prior to the publication of REP 341²⁹⁵. This additional information has now enabled the Commission to assess a benchmark at the woodchip level of production for Indah Kiat in 2015.

The Commission considers that, in the context of the circumstances of Indah Kiat, that use of a woodchip benchmark is preferable for the following reasons:

²⁹⁵ During the verification of Indah Kiat's costs, the Commission obtained the cost records relevant to the production of woodchips for the month of November 2015 only.

- The Commission has now obtained sufficiently detailed costs records from Indah Kiat to enable use of a woodchip benchmark;
- The Commission is able access a range of relevant pricing for woodchips which could be considered in determining a benchmark; and
- Woodchips are produced at an earlier stage of the production process than pulp. As a consequence, the Commission considers that using a woodchip benchmark provides a better assessment of competitive market costs in relation to the distorted log costs.

E2.2 Assessment of sources

To account for the effects of the GOI's influence, the Commission has sought to assess Indah Kiat's woodchip costs with an appropriate competitive market cost for woodchips. The Commission's preferences for determining a competitive market cost are, in descending order:

- i. private domestic prices;
- ii. import prices; and
- iii. external benchmarks.

E2.2.1 Private domestic prices

The Commission considers that private domestic prices of woodchips would be affected by GOI influence arising from the particular market situation. Cooperative Indonesian exporters and their associated entities are the main pulp producers in Indonesia, producing the woodchips from domestically sourced logs. These Indonesian pulp producers are the primary beneficiaries of the GOI's influence on domestic log prices and those log prices have a major influence on domestic woodchip and pulp prices in Indonesia. The Commission compared the private woodchip cost data supplied by Indah Kiat for 2015 against a competitive benchmark price for woodchips in 2015, after making appropriate adjustments, to ascertain whether, despite the particular market situation, this cost component reflected a competitive market cost. When compared, the Commission found that the 2015 competitive market woodchip prices were materially higher, confirming its understanding that the 2015 woodchips cost component of Indah Kiat's records reflects the impact of the particular market situation. The Commission considers that amount for woodchips in the 2015 records of Indah Kiat to reflect the "particular market situation". The Commission considers that the programs and policies of the GOI and the export ban on logs increased the supply of logs in Indonesia and thereby lowered the price and cost of logs, woodchips and hardwood pulp in Indonesia. This induced and allowed the main Indonesian A4 copy paper producers to supply more A4 copy paper at each possible price point than they otherwise would have. The Commission considers that the lowered price and cost of logs, woodchips and hardwood pulp is reflected in the woodchip and pulp cost in the records of Indah Kiat and does not reflect competitive market prices.

Therefore, the Commission considers that while private domestic prices of woodchips or pulp in Indah Kiat's records reasonably reflect the cost associated with the production or manufacture of like goods as the costs actually incurred by Indah Kiat, they are not a competitive market cost suitable for the purposes of constructing normal value under subsection 43(2) of the Regulation. The Commission having made the finding that the particular market situation continues to exist in 2019, considers that Indah Kiat's

woodchip costs for 2019 would continue not to be a competitive market cost suitable for the purposes of constructing normal value under section 43(2) of the Regulation.

E2.2.2 Import prices

Data provided indicates that pricing woodchips imported into Indonesia during 2019 are not suitable as a benchmark which would reflect competitive market prices. This is due to the limited volume of imports into the Indonesian woodchip market and the likelihood that the price of any imports would also be affected by government influence on domestic prices.

E2.2.3 External benchmarks

The Commission received woodchip benchmarking import prices from Wood Resources International LLC (WRI). This pricing data included woodchips supplied into a range of regions. The Commission considers that it is appropriate to use import pricing within the Asian region as this would best reflect competitive market costs for Indah Kiat, after relevant adjustments to the benchmark price.

The Asian region 2019 woodchip prices available from WRI were:

- Quarterly import prices of woodchips into Japan supplied from:
 - Indonesia
 - Australia
 - South Africa
 - Chile
 - Vietnam
 - Brazil
 - Malaysia
 - Thailand

The Commission has assessed the import pricing for woodchips sourced from Indonesia in relation to the other import sources. The Commission considers that the Indonesian sourced import pricing is within the range of pricing from other sources (i.e. it is neither highest or lowest price). As a consequence, the Commission considers Indonesian sourced import prices are an appropriate benchmark for assessing domestic competitive market costs in Indonesia.

The Commission has calculated an average quarterly import price from the import prices for woodchips supplied by Indonesia to Japan for the purposes of establishing the benchmark.

E2.3 Adjustments to external benchmarks

For the purposes of adjusting the Indonesian export prices for woodchips the Commission has made the following adjustments:

- prices have been adjusted to an ex works price using a calculated break bulk shipping rate and relevant aspects of Indah Kiat's direct SG&A costs;
- relevant Indah Kiat SG&A costs (excluding the above direct costs) have been deducted to remove relevant SG&A costs from the price;

- A profit has been deducted. The profit deducted was Indah Kiat's profit on non A4 copy paper sales during 2015.

E3 Pindo Deli

E3.1 Assessment of the benchmark relevant to the circumstances of Indah Kiat

Pindo Deli is a non-integrated producer of A4 copy paper producing a variety of products, including A4 copy paper. The key raw material Pindo Deli uses in the manufacture of A4 copy paper is dry pulp. Pindo Deli predominately sources dry pulp from domestic suppliers.

The Commission considers Indonesian producers manufacturing pulp from logs and/or woodchips are the primary beneficiaries of the GOI's influence on domestic log prices and these log prices have a major influence on domestic pulp costs and prices in Indonesia.

The Commission considers that, in the context of the circumstances of Pindo Deli, that using a pulp benchmark is preferable for the following reasons:

- The Commission has sufficiently detailed costs records from Pindo Deli to enable use of a pulp benchmark;
- The Commission is able obtain a range of relevant pricing for pulp which can be considered in determining an appropriate benchmark; and
- Dry pulp is the primary raw material consumed by Pindo Deli in the manufacture of A4 copy paper.

E3.2 Assessment of sources

To account for the effects of the GOI's influence, the Commission has sought to assess Pindo Deli's pulp costs with an appropriate competitive market cost for pulp. The Commission's preferences for determining a competitive market cost are, in descending order:

- i. private domestic prices;
- ii. import prices; and
- iii. external benchmarks.

E3.2.1 Private domestic prices

The Commission considers that private domestic prices of pulp would be affected by GOI influence arising from the particular market situation. Cooperative Indonesian exporters and their associated entities are the main pulp producers in Indonesia, producing the pulp and woodchips from domestically sourced logs. These Indonesian pulp producers are the primary beneficiaries of the GOI's influence on domestic log prices and those log prices have a major influence on domestic woodchip and pulp prices in Indonesia. The Commission compared the private pulp purchase data supplied by Pindo Deli for 2015 against a competitive benchmark price for pulp in 2015, after making appropriate adjustments, to ascertain whether, despite the particular market situation, this cost component reflected a competitive market cost. When compared, the Commission found that the 2015 competitive market pulp prices were materially higher, confirming its understanding that the 2015 pulp cost component of Pindo Deli's records reflects the

impact of the particular market situation. The Commission considers that the programs and policies of the GOI and the export ban on logs increased the supply of logs in Indonesia and thereby lowered the price and cost of logs, woodchips and hardwood pulp in Indonesia. This induced and allowed the main Indonesian A4 copy paper producers to supply more A4 copy paper at each possible price point than they otherwise would have. The Commission considers that the lowered price and cost of logs and hardwood pulp is reflected in the pulp cost in the 2015 records of Pindo Deli and does not reflect a competitive market price.

Therefore, the Commission considers that while private domestic prices of pulp in Pindo Deli's records reasonably reflect the cost associated with the production or manufacture of like goods as the costs actually incurred by Pindo Deli, they are not a competitive market cost suitable for the purposes of constructing normal value under subsection 43(2) of the Regulation. The Commission having made the finding that the particular market situation continues to exist in 2019, considers that Pindo Deli's pulp costs for 2019 would continue not to be a competitive market cost suitable for the purposes of constructing normal value under subsection 43(2) of the Regulation.

E3.2.2 Import prices

Data provided by cooperating exporters indicates that the price of pulp imported into Indonesia is not suitable as a benchmark reflecting competitive market prices. This is due to the lack of imports into the Indonesian pulp market and the likelihood that the price of any imports would also be affected by government influence on domestic pulp prices.

E3.2.3 External benchmarks

The Commission obtained benchmarking import prices series from RISI and Hawkins Wright relating to the Asian region. These price series included:

- China, domestic prices (BHK)
- Indonesia to South Korea (acacia, BHK);
- Indonesia to East Asia (acacia, BHK);
- East Asia, imports and contract price (mixed, northern BHK);
- East Asia, imports and contract price (mixed, southern HK);
- Canada to South Korea (mixed, northern BHK);
- United States to South Korea (mixed, southern BHK);
- Indonesia to South Korea pulp price indications (acacia, BHK);
- Indonesia to China pulp price indications (mixed, acacia).

The Commission analysed the price data and assessed that prices for imports sourced from Indonesia were broadly in alignment with the pricing for imports supplied into the region from Canada, the United States, and other East Asian economies. As a consequence, the Commission considers that the import prices for Indonesian exported pulp are competitive market prices and are an appropriate benchmark for assessing domestic competitive market costs in Indonesia.

In Investigation 341, the Commission compared this price data for 2015 against commercial in confidence price data provided by another exporter. This comparison found the RISI and Hawkins Wright data to be in alignment with the commercial in confidence price data for 2015.

In this review, the Commission compared the price data provided by RISI and Hawkins Wright for 2019 and observed that there was a level difference between the two data providers. To discover the reason for the level difference, the Commission sought to understand the methodology and specifications used by each provider when they prepared their price data. The Commission examined the global data methodology and price specification document for RISI on their website and found that there was transparency regarding the price discovery process, price specification review process and methodology, and price correction policy used when collecting, quality assuring and correcting data. The Commission was not able to find similar information from Hawkins Wright on their website. On the basis of transparency and to ensure relevance to the circumstances of each exporter, the Commission has selected price data sourced from RISI as the relevant benchmark.

Consequently, the following pricing data was included in establishing an average benchmark price:

- Indonesia to South Korea (acacia, BHK);
- Indonesia to East Asia (acacia, BHK).

E3.3 Adjustments to external benchmarks

For the purposes of adjusting the pricing data to a price relevant to Pindo Deli, the Commission has made the following adjustments:

- deducted an amount for sea freight costs based on Pindo Deli's 2015 records adjusted to 2019 costs; and
- deducted an amount for SG&A costs which are estimated to be relevant to export sales. This was based on Pindo Deli's 2015 SG&A costs adjusted to 2019 costs.

E4 Comparative advantage

The Commission has considered whether it is appropriate to make an adjustment to the Indah Kiat and/or Pindo Deli benchmarks to reflect any claimed comparative advantages and disadvantages experienced by the domestic Indonesian producers.²⁹⁶

The Commission considers that for any adjustment to the benchmark to reasonably reflect any comparative advantages and disadvantages, the Commission would need to:

- identify and quantify what the true, uninfluenced comparative advantage of the domestic Indonesian market is, distinct from any advantages which are a result of the particular market situation,
- identify and quantify the comparative disadvantages of the Indonesian domestic market, and
- only adjust for those 'true' comparative advantages and disadvantages.

²⁹⁶ *Steelforce Trading Pty Ltd v Parliamentary Secretary to the Minister for Industry, Innovation and Science* [2018] FCAFC 20 [118] and [125] (Perram J).

This would necessarily result in a determination of a 'net' figure in the form of an adjustment.

During INV 341, SMG argued the following:²⁹⁷

- the difference between Indonesian A4 copy paper prices and comparable regional benchmarks cannot be attribute to GOI policies and programs given the existence of Indonesia's comparative advantage in timber production;
- the Commission has not adequately considered Indonesia's comparative advantage in timber production when assessing the impact of the log ban on differences between Malaysian and Indonesian log prices.

In that report, the Commission concluded that there was insufficient evidence supporting Indonesia's claim of a comparative advantage and the information it had before it suggested that no such comparative advantage existed.²⁹⁸

Specifically, during the conduct of Investigation 341, the Commission obtained a copy of the RISI Review which made it clear that, at least for Indonesia's primary pulpwood (acacia), it was more costly to produce timber in Indonesia than in other Asian countries.²⁹⁹

The GOI appeared to claim that Indonesia's primary comparative advantage in timber production was in comparison to Australia. No party to the investigation provided information or evidence supporting claims that Indonesia had a comparative advantage more generally. The GOI also argued that the RISI Review finding that it was more costly to produce timber in Indonesia than in other Asian countries, was inconsistent with the Commission's finding of a market situation (namely that higher cost timber production in Indonesia compared to other countries is inconsistent with a finding that Indonesian domestic prices are artificially low because of GOI influence). However the Commission considered that the market situation was primarily concerned with the effect on prices in the domestic market from government influence. On that basis the primary and most relevant comparison in assessing the market situation was a comparison of domestic prices with government influence and domestic prices without government influence.

Since the above findings were made, the Commission has not received any further information to the contrary. Moreover the Commission has no other information before it that would enable a determination of whether a true comparative advantage or disadvantage exists and, if so, the precise quantification for the purposes of making an adjustment.

As a result, in this case, the Commission considers an adjustment for comparative advantage or disadvantage is not practicable nor reasonable.

²⁹⁷ REP 341, section A2.9.6.12.

²⁹⁸ Ibid.

²⁹⁹ REP 341, section A2.9.2.2.