



CUSTOMS ACT 1901 - PART XVB

REPORT NO. 547

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

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

BY

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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
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
the Panel	World Trade Organization Dispute Panel in DS529

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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
TradeData	TradeData International Pty Ltd
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 RECOMMENDATIONS

1.1 Introduction

This report sets out the facts and findings on which the Commissioner of the Anti-Dumping Commission (the Commissioner and the Commission, respectively) bases his recommendations to the Minister for Industry, Science and Technology (the Minister) 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 has considered:

- 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
- whether the anti-dumping measures may no longer be warranted in relation to the measures applying to Indah Kiat and Pindo Deli.

1.2 Legislative background

Division 5 of Part XVB of the *Customs Act 1901* (Cth) (the Act)¹ 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 Minister² or after receiving an application by an affected party, which the Commission decided not to reject.³

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.⁴

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

² Pursuant to section 269ZA(3) of the Act.

³ Pursuant to sections 269ZA(1) and 269ZC(4) of the Act.

⁴ Pursuant to either section 269ZC(4) or 269ZC(5) of the Act.

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(SEF) on which the Commissioner proposes to base his recommendation to the Minister in relation to the review of the anti-dumping measures.⁵

The Commissioner must, within 155 days, or such longer time as is allowed, give the Minister a report with recommendations in relation to the review. In deciding on the recommendations to be made to the Minister in this report, the Commissioner must have regard to:

- the application or request for review of the anti-dumping measures;
- any submission relating generally to the review of the anti-dumping measures to which the Commissioner had regard to for the purpose of formulating the SEF;
- the SEF; and
- any submission made in response to this SEF that is received by the Commissioner within 20 days of the SEF being placed on the public record.⁶

The Commissioner may also have regard to any other matter considered to be relevant to the review.⁷

In his report, the Commissioner must give the Minister a report recommending⁸:

- that the notice remain unaltered;
- that the notice be revoked in its application to a particular exporter or to a particular kind of goods or revoked generally; or
- 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, after conducting a review of anti-dumping measures under Division 5, the Commissioner:⁹

- must not make a revocation recommendation in relation to the measures unless a revocation review notice has been published in relation to the review; and
- otherwise must make a revocation recommendation in relation to the measures, unless the Commissioner is satisfied that revoking the measures would lead, or 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.

After considering the report of the Commissioner and any other information that the Minister considers relevant, the Minister must make a declaration within 30 days of receiving the report or, if the Minister considers there are special circumstances that

⁵ Section 269ZD(1).

⁶ Section 269ZDA(3)(a).

⁷ Section 269ZDA(3)(b).

⁸ Section 269ZDA(1)(a).

⁹ Section 269ZD(1A).

prevent the declaration being made within that period, such longer period as the Minister considers appropriate.¹⁰

1.3 Findings

The Commissioner has found that, in relation to A4 copy paper exporter to Australia Indonesia by Indah Kiat and Pindo Deli:

- the ascertained export price has changed;
- the ascertained normal value has changed;
- the non-injurious price has changed.

The Commission is not 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 the material injury that the measures are intended to prevent.

1.4 Recommendation

The Commissioner recommends that the Minister **declare**:

- in accordance with subsection 269ZDB(1)(a)(ii), with effect from 12 March 2020 and for the purposes of the Act and the Dumping Duty Act, the dumping duty notices are taken to have been revoked in relation to Indah Kiat and Pindo Deli

If this the Minister accepts this recommendation, 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 will be eligible for a refund..

¹⁰ Section 269ZDB(1).

2 BACKGROUND

2.1 Initiation

This review was initiated on 12 March 2020 after a request by the Minister, pursuant to section 269ZA(3) of the Act, to review the dumping measures as they apply to Indah Kiat and Pindo Deli's exports of the goods to Australia from Indonesia.¹¹

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*,¹² (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:¹³
 - 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.

¹¹ A copy of the Minister's request is attached to ADN 2020/028.

¹² Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper* (Indonesia), WTO Doc WT/DS529/R (4 December 2019).

¹³ 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 2017¹⁴ following the completion of Investigation 341.

Notice of the initiation of the review was made upon the publication of Anti-Dumping Notice (ADN) 2020/028.¹⁵

2.2 History of anti-dumping measures

2.2.1 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
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).
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 upon which a countervailable subsidy was received was negligible.

¹⁴ ADN 2017/39, published following the recommendations by the Commissioner in Report No. 341.

¹⁵ Electronic public record (EPR) number 1.

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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.

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

2.2.2 Current cases

There are two other current cases relating to A4 copy paper. These are Review 551 and Anti-Circumvention Inquiry 552.

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)¹⁶.

Anti-Circumvention Inquiry 552 was initiated on 28 April 2020 and is examining an alleged circumvention activity involving a slight modification of goods exported to Australia from China. This follows an application made by Australian Paper.

Further information in relation to Review 551 and Anti-Circumvention Inquiry 552 can be found on the Commission's website.

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

¹⁶ As the result of an acquisition and the restructuring of its business, the trading name of Paper Australia Pty Ltd has changed to Opal Australian Paper in May 2020. For the purpose of this report the Commission has continued to refer to Paper Australia Pty Ltd as Australian Paper.

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 website¹⁷.

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 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 was 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.

2.3.1.1 Submissions received prior to SEF 547 in relation to the initiation of Review 547 and the review period

Prior to the publication of SEF 547, submissions were received from interested parties in relation to the initiation of the review and the establishment of the review period.

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.¹⁸ 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

¹⁷ See https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds529_e.htm .

¹⁸ EPR number 4.

DS473¹⁹ and DS480²⁰ where data from the original cases was considered in implementing the WTO DSB's findings.

In a further submission²¹, 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 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.

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 submissions²² 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

¹⁹ Appellate Body Report, *EU - Anti-Dumping Measures on Biodiesel from Argentina*, WTO Document WT/DS473/15.

²⁰ Panel Report, *EU - Anti-Dumping Measures on Biodiesel from Indonesia*, WTO Document WT/DS480/R.

²¹ EPR number 6.

²² EPR numbers 8 and 9.

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 submitted²³ that an expiry review would be capable of bringing the measures into conformity. Subsequently, Indah Kiat and Pindo Deli submitted²⁴ 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).

Submission from Paper Force

Paper Force (Oceania) Pty Ltd (Paper Force) submitted²⁵ that the Commission's approach (to the review) was incorrect and not in accordance with WTO "guidelines".

Submissions received after the SEF in relation to the initiation of Review 547 and the review period

Indah Kiat and Pindo Deli, whilst advising that they are not currently challenging the Commission's findings in the SEF, continue to disagree with the Commissioner's decision to conduct a review that extends beyond the original investigation period.²⁶

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.²⁷

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

²³ EPR number 15, Attachment E.

²⁴ EPR number 16.

²⁵ EPR number 2.

²⁶ EPR number 20.

²⁷ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, paras. 8.5-8.6.

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 section 33(3) of the AIA. Section 33(3) of the AIA provides that a statutory power to make an instrument includes a power to revoke or vary it. Section 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 measures²⁸ 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 Deli that an expiry review would be capable of bringing the measures into conformity.²⁹ A continuation inquiry³⁰ 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 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

²⁸ The Act, Division 5 (review of measures) and Division 6A (continuation inquiries).

²⁹ 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.

³⁰ Division 6A of Part XVB of the Act.

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.³¹

The contentions made by Pindo Deli and Indah Kiat in their submissions following the publication of the SEF had previously been made and considered by the Commission in the SEF. The Commission's view, for the reasons outlined above, has not changed.

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.³²

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 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.³³

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

³¹ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 8.2.

³² EPR number 11.

³³ EPR numbers 13, 14 and 15 (attachments A, B and C).

response on 4 May 2020. A public record version of the questionnaire response is available on the public record.³⁴

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.³⁵ Special Equipment provided a limited response to the Australian importer questionnaire.³⁶

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.

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 throughout this report.

2.3.4 Submissions received from interested parties

The Commission received seven submissions prior to the publication of SEF 547. The Commissioner had regard to six of these submissions in formulating SEF 547. One submission from Australian Paper was not received within 37 days after the publication of

³⁴ EPR number 12.

³⁵ EPR numbers 2 and 3.

³⁶ 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.

the notice.³⁷ In the Commissioner's opinion, having regard to this submission would have delayed the timely placement of the SEF on the public record. The Commissioner has subsequently had regard to this submission in deciding on the recommendations to be made to the Minister in this report.

In response to the publication of SEF 547, the Commission received three submissions³⁸. These submissions have been considered in this report.

Following the publication of the SEF, the Commission also sought clarification about Australian Paper's imports of A4 copy paper. Australian Paper provided this information by way of an additional submission³⁹ which was received after their submission in response to SEF 547.

Appendix A lists the submissions received by the Commission from interested parties.

2.3.5 Statement of essential facts

The Commissioner placed the SEF for Review 547 (SEF 547) on the public record on 30 June 2020.

2.3.6 Final Report

The report and recommendations in relation to this review were provided to the Minister on 14 August 2020.

In making the recommendations in this report, the Commissioner had regard to:

- the Minister's request for the revocation and variable factors review;
- any submission relating to the review to which the Commissioner had regard for the purposes of formulating SEF 547;
- SEF 547;
- Australian Paper's submission made prior to publication of SEF 547, but to which the Commissioner did not have regard in formulating the SEF;
- any submission made in response to SEF 547 that was received by the Commissioner within 20 days of the SEF being placed on the public record;
- a submission from Australian Paper which was not received within 20 days after the publication of the SEF⁴⁰; and
- any other matters considered to be relevant to the review as set out in this report.

2.3.7 Public Record

The public record contains non-confidential submissions made by interested parties and other publicly available documents. An electronic public record (EPR) is available for

³⁷ EPR number 17.

³⁸ EPR numbers 19 to 21.

³⁹ EPR number 22.

⁴⁰ EPR number 22.

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inspection online at www.adcommission.gov.au. Documents on the public record should be read in conjunction with this report.

3 ANALYSIS OF 2015 DUMPING MARGINS

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 No. 55;
- The findings of the DS529 Panel;
- Indah Kiat and Pindo Deli’s exporter questionnaire responses and submissions in relation to Review 547;
- the GOI’s questionnaire response and submissions in relation to Review 547; and
- submissions received in response to SEF 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 original and 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	Reassessed 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**.

3.1 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.⁴¹

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 data. Instead, the Commission compared this data to that of other exporters from Indonesia and was satisfied that it is comparable.⁴²

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.

3.2 Normal value methodology

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

3.2.1 Particular market situation and suitability

3.2.1.1 Summary

The Commission found that there was a particular market situation in Indonesia during the original investigation period. Appendix 2 of Report 341⁴³ (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 section 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 section 269TAC(1): that is, the price

⁴¹ Investigation 341, EPR number 58.

⁴² Investigation 341, EPR number 59.

⁴³ Investigation 341, EPR number 221.

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 domestic sales are “suitable” for the purposes of section 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.

3.2.1.2 Analysis

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

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- “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.”⁴⁴
- “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.”⁴⁵
- “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.”⁴⁶
- “[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.”⁴⁷
- “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.”⁴⁸
- “[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.”⁴⁹
- “[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.”⁵⁰
- “[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

⁴⁴ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.73.

⁴⁵ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.74. (footnotes omitted)

⁴⁶ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.74.

⁴⁷ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.75.

⁴⁸ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.75.

⁴⁹ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.76.

⁵⁰ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.76.

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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.”⁵¹

- “[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.”⁵²
- 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);⁵³
- A “particular market situation” may have no effect on export prices;⁵⁴
- “...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.”⁵⁵
- “... we consider that, in at least some cases, differences in the impact on domestic and export sales could prevent a proper comparison.”⁵⁶

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.

⁵¹ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.80.

⁵² Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.81.

⁵³ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.76.

⁵⁴ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.75.

⁵⁵ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.90.

⁵⁶ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.57.

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.⁵⁷

Thus, in undertaking its assessment of whether sales are "not suitable" for the purposes of section 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 compared. Such a finding may render domestic sales "not suitable" for the purposes of section 269TAC(1).

3.2.1.3 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"⁵⁸ and that they "account for around 90 per cent of Indonesian [pulp] capacity";⁵⁹
- "50 to 60 per cent of total [pulp] production" in Indonesia is consumed in Indonesia.⁶⁰ The rest is exported;
- "no [export] tariff applied to ... pulp and ... there [were] no export quotas for pulp"⁶¹ and "Latin American or Brazilian based benchmarks and Indonesian export based benchmarks are broadly aligned [and] reflect competitive market prices";⁶²
- 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";⁶³
- "an export ban imposed by the [Government of Indonesia] on logs distorts the domestic supply of timber"⁶⁴ and "the net impact of the export ban on Indonesian logs [is] ... reduced prices";⁶⁵

⁵⁷ *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).

⁵⁸ REP 341, p. 173. (footnote omitted)

⁵⁹ REP 341, p. 167.

⁶⁰ REP 341, p. 167.

⁶¹ REP 341, p. 170.

⁶² REP 341, p. 165.

⁶³ REP 341, p. 168.

⁶⁴ REP 341, p. 170.

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- "around 50 per cent of logs used by the Indonesian forestry sector are consumed in pulp production";⁶⁶
- "pulp is a key raw material input to paper"⁶⁷ and "typically comprises between 60 to 65 per cent of the total cost of A4 copy paper";⁶⁸
- "the Indonesian pulp industry has [thus] been the largest beneficiary of the resulting increased access to timber"⁶⁹ and "the primary beneficiary of identified timber-related [Government of Indonesia] policies and programs was the Indonesian pulp industry";⁷⁰
- "[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";⁷¹
- "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";⁷²
- "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 ...";⁷³
- "without the[] interventions ... higher input costs would be reflected in higher domestic prices for A4 copy paper";⁷⁴ 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

⁶⁵ REP 341, p. 172.

⁶⁶ REP 341, p. 166.

⁶⁷ REP 341, p. 151.

⁶⁸ REP 341, footnote 211, p. 151.

⁶⁹ REP 341, p. 168.

⁷⁰ REP 341, p. 173.

⁷¹ REP 341, p. 174.

⁷² REP 341, p. 183.

⁷³ REP 341, p. 173.

⁷⁴ REP 341, p. 174.

industries through its support for development of timber plantations and prohibition on exporting of timber logs".⁷⁵

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 pulp⁷⁶ in Indonesia;
- 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 (variously referred to as the SMG or APP Group)⁷⁷ and APRIL Group, which are integrated A4 copy paper producers with their own upstream pulp facilities,⁷⁸ 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,⁷⁹ was significantly below regional benchmarks,⁸⁰ and reflected the lowered price and cost of logs and hardwood pulp in Indonesia that resulted from the programs and policies of the GOI.⁸¹

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.

⁷⁵ REP 341, pp. 173-174.

⁷⁶ 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 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.

⁷⁷ APP is 100% owned by Sinar Mas Group (SMG). It is noted that in submissions to the Commission that the terms SMG and APP are used interchangeably to reflect the same group of companies that make up pulp and paper businesses of the SMG group which form part of the APP group of companies.

⁷⁸ REP 341, p. 173.

⁷⁹ 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).

⁸⁰ REP 341 states: "[T]he domestic price of Indonesian A4 copy paper is significantly below comparable regional benchmarks" (REP 341, p. 173).

⁸¹ "...[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).

3.2.1.4 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 section 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 section 269TAC(1). In undertaking its assessment of whether sales are not "suitable" for the purposes of section 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 section 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 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 section 269TAC(1).

3.2.1.5 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.

3.2.1.5.1 Market structure

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 tonnes⁸²) 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.

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.⁸³ The Commission estimates that the size of the Australian market during the original investigation period was approximately 210,000 tonnes.⁸⁴ There is no price guidance for pulp and paper products in Australia.

3.2.1.5.2 Import penetration

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).⁸⁵

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 2015.⁸⁶ A five per cent import tariff applies to paper products but there are no export tariffs or export quotas. The

⁸² Confidential Attachment 1: RISI Analysis.

⁸³ The goods produced by all exporters and the Australian industry are alike, have similar specifications and common end-uses.

⁸⁴ Confidential Attachment 2: 2015 market share analysis from Investigation 341.

⁸⁵ REP 341, p. 172.

⁸⁶ ADC calculations; data sourced from RISI.

GOI has advised that import tariffs for paper products do not apply to free trade agreement countries.⁸⁷

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

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.⁸⁸ 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.⁸⁹

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.

3.2.1.5.3 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.

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 groups of companies: Asia Pulp and Paper (APP)⁹⁰ and the APRIL Group. Together, APP and the APRIL Group 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

⁸⁷ "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." Question B.5(b), GOI questionnaire response, Investigation 341, 341 EPR number 27.

⁸⁸ REP 341, p. 111.

⁸⁹ Confidential Attachment 3: Investigation 341 Import data analysis.

⁹⁰ APP is 100% owned by Sinar Mas Group (SMG). It is noted that in submissions to the Commission that the terms SMG and APP are used interchangeably to reflect the same group of companies that make up pulp and paper businesses of the SMG group which form part of the APP group of companies.

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 remainder 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).⁹¹⁹²

Between 2005 and 2010, Indonesian copy paper production capacity increased by around 32 per cent (or 425,000 tonnes).⁹³ 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.⁹⁴ SMG and the APRIL Group are the main Indonesian producers of A4 copy paper, with a combined production capacity of 2.2 million tonnes.

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.⁹⁵ 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.

Australian Paper has confirmed that it did not purchase pulp from any Indonesian suppliers in the original investigation period.⁹⁶ 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 Australia⁹⁷, the price at which the pulp is purchased is consistent with

⁹¹ Confidential Attachment 4: ADC calculations on data sourced from RISI.

⁹² This is also broadly consistent with data provided by Australian Paper. See EPR 17, Confidential_Indo pulp exports data to 2020.

⁹³ Confidential Attachment 4: ADC calculations on data sourced from RISI.

⁹⁴ REP 341, p. 172.

⁹⁵ 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.

⁹⁶ Confidential Appendix 3: Verification work program and attachments. Also, see submission from Australian Paper, EPR number 17.

⁹⁷ 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

internationally traded prices of pulp.⁹⁸ 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.

3.2.1.6 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.⁹⁹ 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.¹⁰⁰

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 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.¹⁰¹

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.

⁹⁸ In Investigation 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.

⁹⁹ 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.

¹⁰⁰ Confidential Attachment 5: 547 PC Analysis – CTMS.

¹⁰¹ Ibid.

Analysis of the margins on cost achieved in the Indonesian domestic market shows that Indonesian producers achieved positive but low margins on cost.¹⁰² 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.¹⁰³ 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.¹⁰⁴ Analysis of the goods sold shows 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 was profitable, which the Commission considers to be what would be expected in a competitive market.¹⁰⁵

As established above, the Commission considers that the market situation benefits all Indonesian producers via reduced woodchip and pulp input costs on both the Indonesian domestic and Australian export markets. Had the relationship between price and cost for Indonesian A4 copy paper 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 given the broader variability in pricing in the Australian 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. In principle, Indonesian domestic producers can achieve a higher export price where the absence of the market situation results in higher competitive market pricing from other sources in the export market. 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 for Indonesian A4 copy paper should be higher in the Australian market than in Indonesia. In light of the preceding analysis, the Commission considers that certain 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 created by the market situation in Indonesia.

¹⁰² Confidential Attachment 6: 547 PC Analysis – Profit assessment tables.

¹⁰³ 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.

¹⁰⁴ Confidential Attachment 6: 547 PC Analysis – Profit assessment tables.

¹⁰⁵ Confidential Attachment 6: 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.

3.2.1.7 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 woodchips and pulp including from related parties. Since in the Indonesian domestic market 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 woodchips and pulp created by the market situation, in the way Indonesian market participants do.¹⁰⁶ 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.¹⁰⁷ 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.

¹⁰⁶ 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.

¹⁰⁷ Confidential Attachment 7: 547 PC Analysis – Price assessment tables.

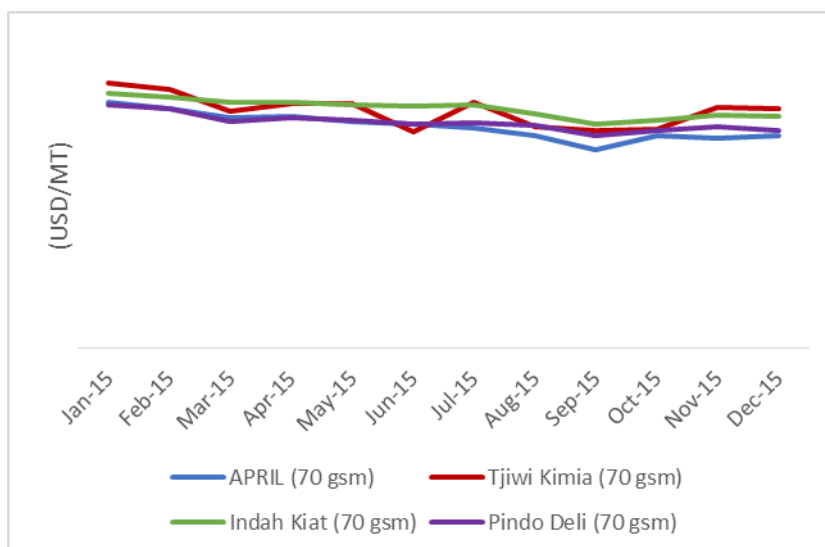


Figure 1: Indonesian domestic A4 copy paper unit price by producer

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.¹⁰⁸ 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.¹⁰⁹

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.

¹⁰⁸ This was verified at the Australian industry visit by evidence of pricing negotiations and by a comparison of prices.

¹⁰⁹ REP 341, pp. 105-106.

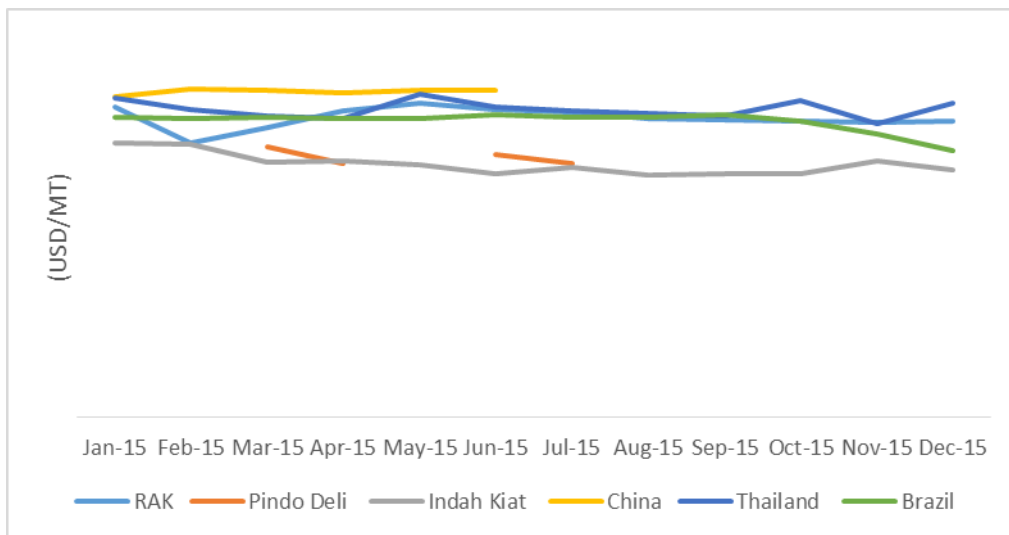


Figure 2: Comparison of Indonesian exporters and other countries AEP

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.¹¹⁰

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 woodchip and 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

¹¹⁰ Confidential Attachment 7: 547 PC Analysis – Price assessment tables.

producers, such as those from Australia and other countries.¹¹¹ 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.

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

As such, the Commission has considered the alternative method for determining normal value as provided for in the Act under section 269TAC(2)(c). Namely, normal values must be constructed¹¹² or determined on the basis of third country sales.¹¹³

3.2.1.9 Determination of the normal values under section 269TAC(2)(c)

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

¹¹¹ The Commission considered whether the market situation in the 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.

¹¹² Section 269TAC(2)(c).

¹¹³ Section 269TAC(2)(d).

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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.

Section 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."¹¹⁴
- "...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."

Section 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 section 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 a *competitive market cost*, 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

¹¹⁴ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper* (Indonesia), para. 7.117.

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

3.2.1.10 *Submissions received in response to SEF 547 regarding the Commission's Normal Value Methodology*

The GOI submitted in response to SEF 547 that it disagreed with the Commission's particular market situation finding and that this finding prevented a proper comparison of export and domestic prices.¹¹⁵ No further information was provided on the reasons for the GOI's disagreement with the Commission's findings. The GOI also disagreed with the Commission's decision to not use (part of) the costs recorded in the records of Indah Kiat and Pindo Deli.

Similarly, Indah Kiat and Pindo Deli jointly submitted that they did not agree with the Commission's particular market situation finding and that this finding meant that a proper comparison was not possible.¹¹⁶ Both exporters also disagreed with the Commission's decision to use costs not recorded in their books and records. Indah Kiat and Pindo Deli stated that the Commission's methodology was inconsistent with the Panel's findings in DS529 and Australia's WTO obligations pursuant to Article 21.5 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes*. The nature of these inconsistencies was not detailed in their submission.

Having careful regard to Panel's findings and Australia's WTO obligations, the Commission's view, as outlined above in section 3.2.1, has not changed following consideration of these submissions.

3.3 Dumping margin – Indah Kiat

3.3.1 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 section 269TAB(1)(a) or 269TAB(1)(b) of the Act. Accordingly, the Commission determined export prices in accordance with section 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.

3.3.2 Normal value

As outlined in Appendix B, the Commission considers that there is a particular market situation for A4 copy paper in Indonesia, and that because of that 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

¹¹⁵ EPR number 19.

¹¹⁶ EPR number 20.

value and the Commission has constructed the normal value under section 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, because of the particular market situation, 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 section 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 section 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 section 45(2) of the Regulation.

3.3.3 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 section 269TAC(9).

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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

3.3.4 Submissions received in response to SEF 547

3.3.4.1 *CMI fixed sale margin adjustment to normal value and arms length export transactions with importer Paper Force.*

Australian Paper submitted in relation to the 2015 dumping margins that:

- the downwards adjustment for the CMI fixed sales margin should not be made; and
- the Commission should reevaluate its determination of the arms length nature of the transactions with importer Paper Force.

Whilst the Commission notes Australian Paper's submission on these issues, the purpose of the analysis of Indah Kiat's 2015 dumping margins is to examine the findings in Investigation 341 in light of the Panel's findings in DS529.

In any case, the Commissioner has considered the submissions made by Australian Paper on these two issues below.

3.3.4.1.1 CMI fixed sales margin adjustment

The Commission notes that subsequent to the then Assistant Minister accepting the Commissioner's recommendations in REP 341, Indah Kiat applied to the ADRP seeking, in part, a review of the disallowance of its claimed downwards adjustment for the CMI fixed sales margin.¹¹⁷

In its recommendation to the Minister, the ADRP stated there was a level of trade difference between the constructed normal value as compared to the export sales.¹¹⁸ The ADRP explained that it was apparent that the selling activities undertaken in relation to the sales by CMI (as represented by the constructed normal value) were different to the activities undertaken in relation to the sales of the exporters.¹¹⁹ Due to the transactions of the export market being at a different level to those constructed at the domestic level, the ADRP considered it was appropriate to make an adjustment for this difference by way of deducting the cost of the CMI fixed sales margin.¹²⁰ The then Assistant Minister accepted

¹¹⁷ ADRP Review 2017/55. A copy of the application is available at <https://www.industry.gov.au/data-and-publications/anti-dumping-review-panel-past-reviews/a4-copy-paper-exported-from-the-federative-republic-of-brazil-the-peoples-republic-of-china-the-republic-of-indonesia-and-the-kingdom-of-thailand>

¹¹⁸ ADRP Report Number 55 [523].

¹¹⁹ Ibid.

¹²⁰ Ibid [524].

the ADRP's recommendation, allowed the adjustment and accordingly amended the dumping duty notice to reflect the inclusion of this downwards adjustment.

Having regard to Australian Paper's submission, and noting no new information relating to this issue, the Commissioner is satisfied that a CMI fixed sales margin adjustment is necessary to ensure the ascertained normal value is properly comparable with the export price of the goods, pursuant to section 269TAC(9). In particular, the Commission considers, similar to the reasoning by the ADRP, that this adjustment is appropriate to take into account the different levels of trade between the export the price and those constructed at a domestic level in the review period.

3.3.4.1.2 Arms length export transactions

In the course of the original investigation, and as outlined in REP 341, Australian Paper queried whether 'real bargaining' existed with respect to the transactions between the exporters and Paper Force.¹²¹ Australian Paper referred the Commission to three of nine verified sales transactions for Paper Force as being unprofitable.¹²² Australian Paper also considered that the Commission should not accept data provided by Paper Force due to errors in the importer questionnaire response.¹²³

On the basis of the evidence before it, the Commission was satisfied that there was no legal relationship between importer Paper Force and the exporters Indah Kiat and Pindo Deli. The Commission was further satisfied that the transactions between those parties were arms length.¹²⁴ The Commission accepted the reasons provided by Paper Force for the unprofitable transactions, which related to unforeseen currency fluctuations¹²⁵, and was satisfied that the overall weighted average profitability of the nine verified transactions confirmed those transactions were arms length.¹²⁶ The Commission also considered, based on the verified evidence including revised questionnaire responses, that the information provided by Paper Force was accurate.¹²⁷

In response to the SEF, Australian Paper submitted that the Commission should re-evaluate this arms length assessment of the transactions between Indah Kiat and Paper Force.¹²⁸ In support of this re-evaluation, Australian Paper submitted:¹²⁹

- a redacted related entity listed in Indah Kiat's 2015 exporter questionnaire was Paper Force;

¹²¹ REP 341, section 6.9.4.4, p. 53.

¹²² Ibid.

¹²³ Ibid.

¹²⁴ Ibid.

¹²⁵ Confidential Attachment 8: Import verification work program for Paper Force in Investigation 341.

¹²⁶ Ibid, pp. 53-4.

¹²⁷ Ibid p. 54.

¹²⁸ EPR number 21, p. 6.

¹²⁹ Ibid.

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- information on Paper Force's website confirms an ongoing relationship of *"more than two decades as the exclusive business partner of APP[SMG] and its mills"*;
- due to the exclusive and longstanding affiliation there was a higher risk of off-invoice rebates and that there was unlikely to be any real bargaining; and
- that the flow-through effect of the particular market situation finding meant that a higher level of profitability should be expected from the importer for arms length transactions. Australian Paper further submitted that it would be reasonable to use a hurdle rate¹³⁰ to evidence that the transactions were arms length.

The Commission has considered the reasons provided by Australian Paper but does not find them persuasive.

The Commission confirms that the redacted entity disclosed in the exporter questionnaires, referred to by Australian Paper, was not Paper Force.

With respect to the business relationship between Indah Kiat and Paper Force, the Commission is not satisfied it follows that an exclusive business partnership or a longstanding affiliation results in off invoice rebates or lack of real bargaining. The Commission's verification of Indah Kiat and Pindo Deli, respectively, and Paper Force's transactions did not identify any evidence of undisclosed rebates or other undisclosed payments.

The Commission considers it may be appropriate in some circumstances to compare the profit of the relevant importer with other importers' profit to determine whether transactions are arms length and, consequently, use that rate of profit as a benchmark to assess whether the transactions are arms length. In this regard, the Manual outlines the following:¹³¹

Factors to determine whether a transaction is the result of real bargaining

There is a range of identified factors that are relevant when assessing whether a transaction is the result of real bargaining, and these can vary between cases because of different circumstances. Relevant factors can include:

- *whether or not negotiation has taken place between the buyer and seller*
- *the manner in which the prices were determined as a result of that negotiation*
- *whether those prices are comparable to those arrived at by parties that are at arms length*
- *whether the margins made by the parties to the transaction are comparable to those made by parties that are at arms length.*

Where, for example, it is not possible to assess whether those prices are comparable to those set by parties that are at arms length because no benchmark exists at that level of trade and circumstances, the decision will be made having regard to all of the available evidence.

¹³⁰ The Commission understands this term to mean a minimum acceptable rate of return for investment purposes.

¹³¹ Dumping and Subsidy Manual - November 2018, p. 26.

The Commission obtained and verified information relating to other importers' prices and margins during Investigation 341. The Commission has examined this data in relation to other importers who were profitable and whose business operations were reasonably comparable to Paper Force. This examination identified that Paper Force's profit was in the range of those other comparable importers.¹³²

The Commission is not satisfied that it necessarily follows that a higher rate of profit should be applied to an importer's resales when assessing the arms length nature of an importer's purchases where a particular market situation is found to exist in the exporter's domestic market. It is also unclear from Australian Paper's submission why a hurdle rate would be a relevant benchmark for assessing the arms length nature of transactions in these circumstances. The Commission also notes Australian Paper has not suggested an appropriate hurdle rate for the purpose of this assessment. Accordingly, the Commission is not satisfied it is preferable in these circumstances to use such a rate to determine whether the transactions between Indah Kiat and Pindo Deli, respectively, and Paper Force are arms length.

In the absence of any other information that indicates that the price between the exporters Pindo Deli and Indah Kiat, respectively, and Paper Force are not arms length transactions¹³³, having regard to all the information before it, the Commission is satisfied that those the sale of goods are arms length transactions.

3.3.4.2 Woodchip Benchmark

The Commission's assessment of submissions regarding the benchmark are contained in Appendix C: *2015 investigation period cost benchmarks*.

Whilst not agreeing with the decision to make an adjustment to Indah Kiat's costs, Indah Kiat agreed with the Commission's decision to use benchmarks based on woodchip exports from Indonesia.

Australian Paper submitted that it disagreed with the Commission's decision to use an Indonesian woodchip export price as a benchmark. Australian Paper submitted that the most appropriate benchmark to use is the average import pricing into China and Japan from all the countries nominated by Australian Paper in its submission.

The Commission's consideration of these submissions is contained in Appendix C.

Having considered these submissions, the Commission considers that Indonesian sourced import prices into Japan and China remain an appropriate benchmark for assessing domestic competitive market costs in Indonesia.

¹³² Confidential Attachment 9: Importer Profit Analysis.

¹³³ As per section 269TAA.

3.3.5 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**.

3.4 Dumping margin – Pindo Deli

3.4.1 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 sections 269TAB(1)(a) or 269TAB(1)(b) of the Act. Accordingly, the Commission determined export prices in accordance with section 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.

3.4.2 Normal value

As outlined in Appendix B, the Commission considers that there is a particular 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 section 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

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with the production or manufacture of the goods, because of the particular market situation, 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 section 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 section 44(2) of the Regulation; and
- the profit achieved on domestic sales of like goods in the OCOT in accordance with section 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 FOB terms, the Commission has considered the following adjustments necessary in accordance with section 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

3.4.4 Submissions received in response to SEF 547

Australian Paper made the same submission¹³⁴ with respect to the 2015 dumping margin for Pindo Deli as outlined in section 3.3.4 in regard to the CMI adjustment and the determination of the arms length nature of the transactions with importer Paper Force.

For the same reasons outlined in section 3.3.4, the Commission maintains its view that a CMI fixed sales margin adjustment is necessary to ensure the ascertained normal value is properly comparable with the export price of the goods, pursuant to section 269TAC(9)

¹³⁴ EPR number 21.

and Pindo Deli's sales to Paper Force were arms length transactions, pursuant to section 269TAA.

Whilst not agreeing with the decision to make an adjustment to its costs, Pindo Deli agreed with the Commission's decision to use benchmarks based on pulp exports from Indonesia.¹³⁵ The Commission's assessment of Pindo Deli's submission is contained in Appendix C: *2015 investigation period cost benchmarks*. Having considered this submission, the Commission considers that the average of import prices into Korea, East Asia and China for Indonesian exported pulp remain an appropriate benchmark for assessing domestic competitive market costs in Indonesia.

3.4.5 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**.

¹³⁵ EPR number 20.

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

4.1 Findings

The Commissioner considers that the locally manufactured A4 copy paper are a like good to those subject to the anti-dumping measures. The Commission is further satisfied that there is an Australian industry, which comprises of Australian Paper, producing those like goods.

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. Section 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 also 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*¹³⁶ (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. Section 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 section 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.

¹³⁶ Dumping & Subsidy Manual – November 2018.

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 (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 predominately ¹³⁷wholly 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, publically available information and submissions made to the Commission.

¹³⁷ During the review period Australian Paper temporarily engaged an overseas producer under a tolling arrangement to convert a small amount of Australian Paper paper to the goods. See submission from Australian Paper at EPR number 22.

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.

4.6.5 Commission's assessment

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

4.7 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 2018/128.¹³⁸

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

¹³⁸ A copy of ADN 2018/128 is available at https://www.adcommission.gov.au/sites/default/files/adc/public-record/2018_128.pdf.

4.7.1 Submissions regarding proposed MCC structure

4.7.1.1 Submissions received prior to publication of SEF

Australian Paper submitted¹³⁹ that it 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 it considered there is limited and, in most cases, negligible connection between recycled content of A4 copy paper and the selling price. Australian Paper considered that it was unreasonable for the Commission to consider recycled content specificity beyond the three categories it had proposed.

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

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

4.7.1.2 Submissions received after publication of SEF

No submissions were received in relation to Commission's proposed MCC structure subsequent to the publication of the SEF.

4.7.1.3 Commission's consideration of submissions on the MCC structure

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

¹³⁹ EPR number 7.

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correlation between the proposed recycled content subcategories and Australian Paper's pricing¹⁴⁰.

In regard to gsm content, the Commission notes that analysis of Indonesian domestic sales of A4 copy during the original investigation period identified pricing variances based on different grades of gsm¹⁴¹. Also, further information provided by Australian Paper in its questionnaire response indicates that there is a consistent price differential between gsm grades in the Indonesian domestic market.¹⁴²

As consequence, the Commission has adopted the following MCC structure after considering Australian Paper's submission and other relevant information.

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

¹⁴⁰ Confidential Attachment 10: Australian Paper recycled content price analysis and Indonesian gsm price analysis.

¹⁴¹ Ibid.

¹⁴² 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 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, South Africa and Germany¹⁴³.

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

¹⁴³ In SEF 547, the Commission included Malaysia as a significant import source. However, subsequent to consideration of further information provided by Australian Paper it was found that a certain portion of the imports from Malaysia were imported under a tolling arrangement (see section 6.3.5).

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various sources also extends to the end users market. The market segments in the Australian market are illustrated in Figure 3.

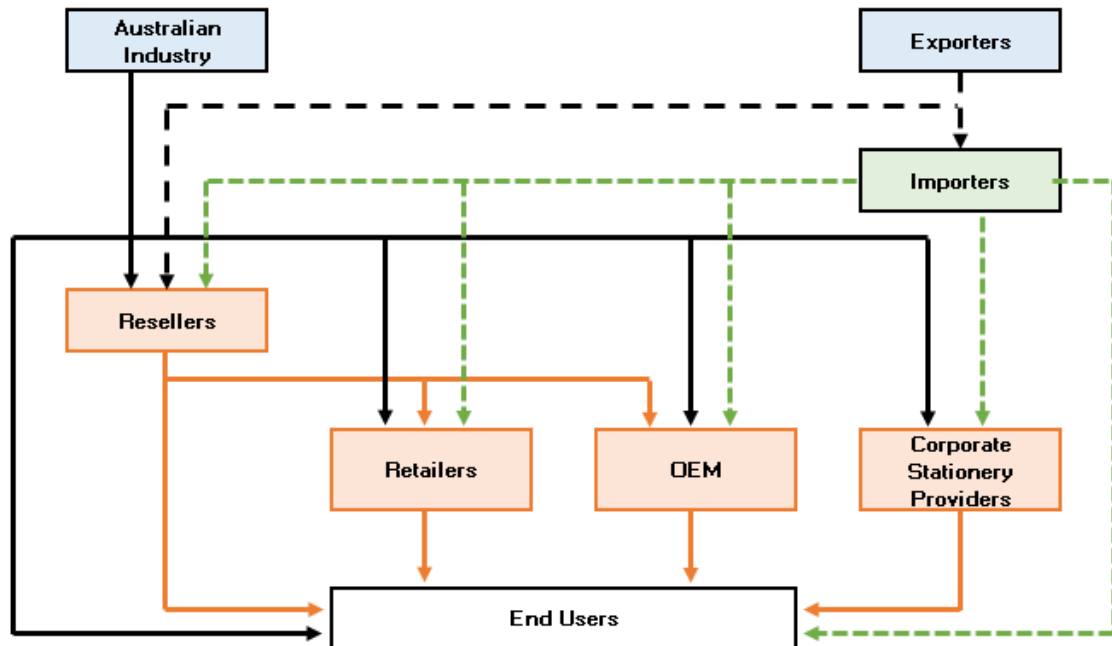


Figure 3: Segments in the Australian Market

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 paper market. This 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.

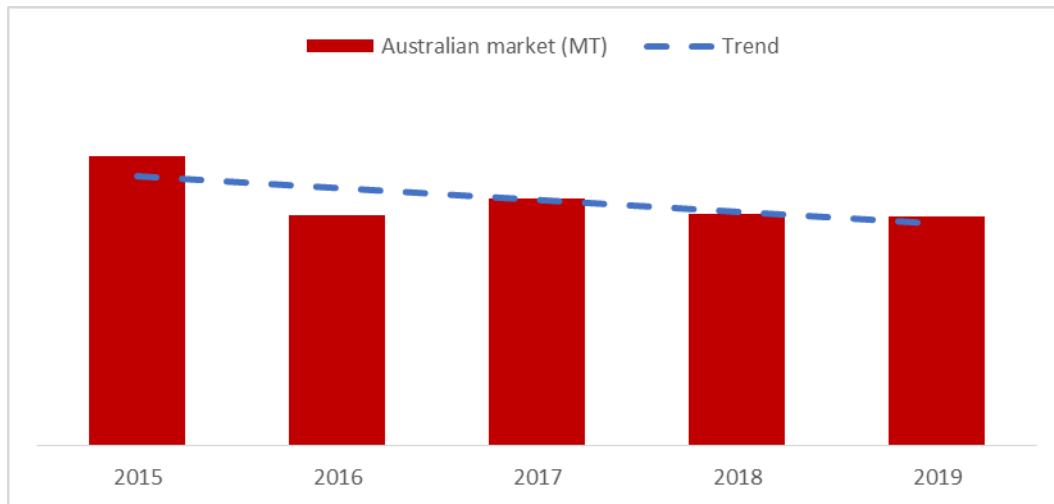


Figure 4: Australian market for A4 copy paper

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 Australian Paper imports of A4 copy paper

During the review period Australian Paper imported A4 copy paper from a variety of countries. The nature of these importations are discussed in section 6.3.5 of this report.

5.3.6 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.

5.3.7 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.

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

Investigation 341 found that Australian Paper 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, cost to make & sell (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 due to COVID-19.

6.3.1 Australian industry manufacturing like goods

During the verification process, the Commission found:

- Australian Paper is an Australian proprietary company, limited by shares, and registered with the Australian Securities and Investments Commission. 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 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;¹⁴⁴ at least one substantial process of manufacture of A4 copy paper is carried out in Australia;¹⁴⁵ the like goods were, therefore, wholly or partly manufactured in Australia by Australian Paper;¹⁴⁶ and there is an Australian industry, consisting of Australian Paper, which produces like goods in Australia.¹⁴⁷

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 ADN 2020/028¹⁴⁸ in a submission dated 21 April 2020.¹⁴⁹ Australian Paper's submission is considered in section 4.7.1 of this report.

Australian Paper provided sales and cost data classified in accordance with its 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. Australian Paper imported and sold a small amount of A4 copy paper which had a gsm higher than 80 gsm. Australian Paper provided the sales data for these sales. These sales were excluded from the Commission's price analysis, but included in the volume effects analysis for market share and market size.

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

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. 2016/30.¹⁵⁰ 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

¹⁴⁴ Section 269T(1).

¹⁴⁵ Section 269T(3).

¹⁴⁶ Section 269T(2).

¹⁴⁷ Section 269T(4).

¹⁴⁸ EPR number 1.

¹⁴⁹ EPR number 7.

¹⁵⁰ See https://www.industry.gov.au/sites/default/files/adc/public-record/adn_2016-30_-exception_based.pdf

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**.

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 appendices and the CTM allocation spreadsheet used to determine these values. This discrepancy occurred across many categories of costs in the CTMS.	The Commission sought an explanation from Australian Paper regarding these discrepancies. Australian Paper identified a calculation error that stemmed from a 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.

6.3.5 Further information after verification of Australian Paper's imports of A4 copy paper

Subsequent to the publication of SEF 547, Australian Paper made a submission to both this review and Review 551 in relation to its imports of A4 copy paper.¹⁵¹ This submission was made both in response to an importer's submission in Review 551 and the Commission's request for further clarification after the verification of its data in this review.

Australian Paper confirmed that during 2019 it imported:

- a small amount of specialty grades of A4 copy paper not produced locally (e.g. presentation grade paper);
- a limited amount of standard grade 80 gsm A4 copy paper which was wholly manufactured overseas; and
- a limited amount of 80 gsm A4 copy paper which was converted from paper manufactured in Australia by Australian Paper and sent overseas for converting to A4 copy paper under a tolling arrangement.

¹⁵¹ EPR number 22.

In its submission, Australian Paper provided information to the Commission which indicates that the importations of 80 gsm paper were limited. Australian Paper stated that, whilst they had technical manufacturing capacity to produce the paper rather than import, the importations occurred as a temporary buffer to supplement local production while they ramped up local production for what was an unforeseen increase in orders.

Whilst the Commission was advised of most of this information at the Verification Visit, relevant graphs and analysis in this chapter have been updated subsequent to SEF 547 to reflect the further information provided by Australian Paper in its submission.

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 and the Australian market for the goods over a five year period since January 2015. Australian Paper sales volumes have increased year-on-year from 2015 until 2018 with a slight decrease in 2019. Following the imposition of measures, import volumes have decreased over the period, remaining reasonably static between 2018 and 2019.

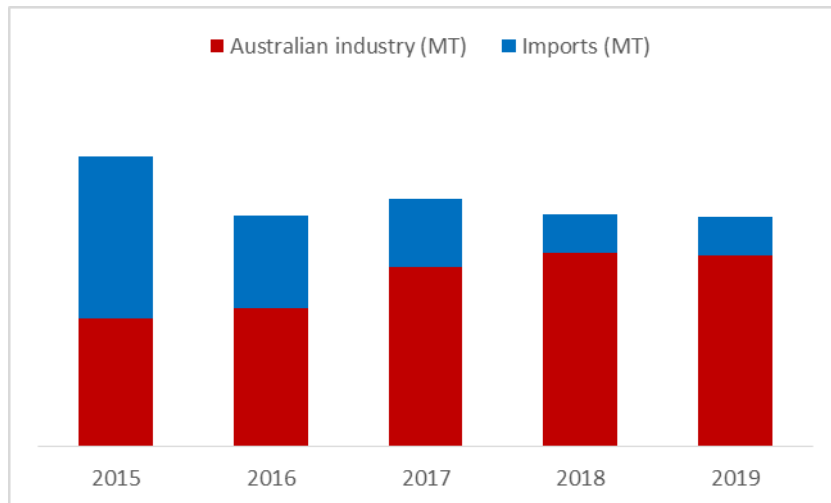


Figure 5: Australian market sources (metric tonnes)

6.4.1.2 Market share

Figure 6, below, shows movements in market share in the Australian A4 copy paper market over a five year period since 2015. 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. Australian Paper's market share between 2018 and 2019 marginally decreased.

PUBLIC RECORD

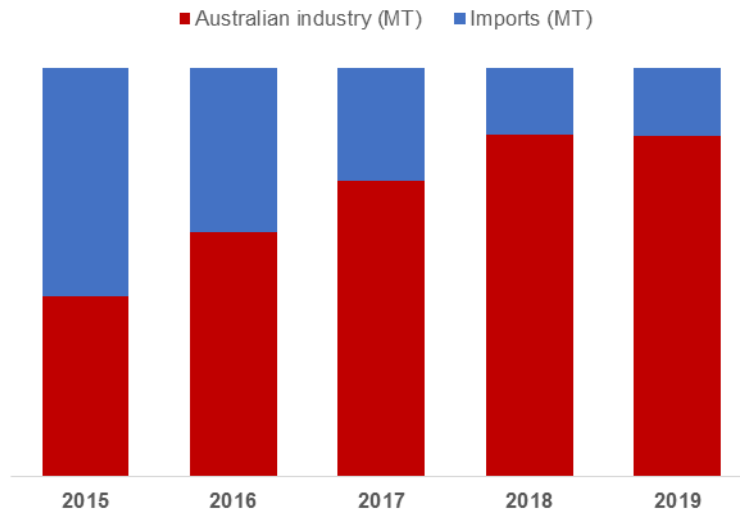


Figure 6: Australian market share (%)

6.4.2 Price effects

Figure 7 compares Australian Paper's unit price and unit CTMS for A4 copy paper over a five year period 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.

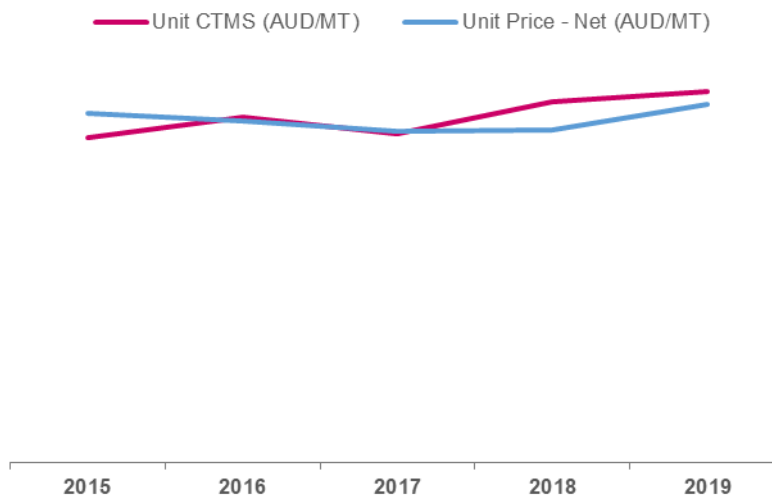


Figure 7: Unit CTMS and unit price, all grades

Figure 8 shows total revenue and quantity sold over the five 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.

PUBLIC RECORD

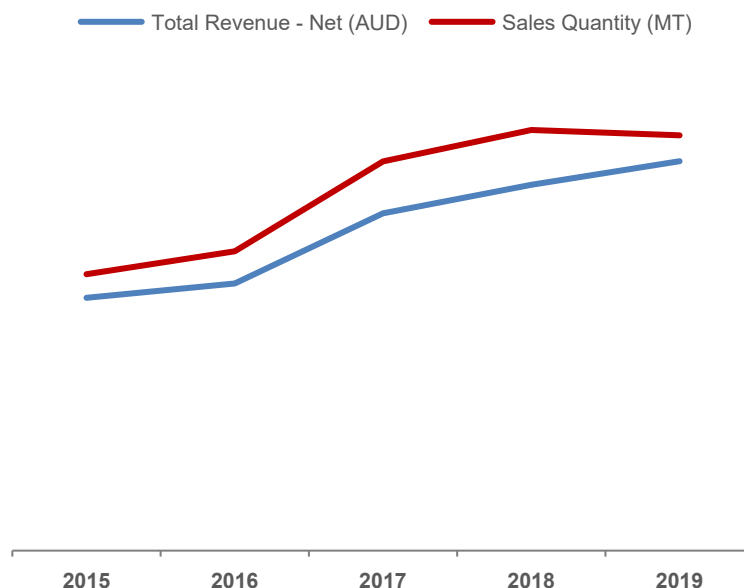


Figure 8: Total revenue versus sales quantities

6.4.3 Profit effects

While there has been a general increase in both total revenue and quantities sold over the five year period, Australian Paper only experienced positive unit profit and profitability in 2015 and 2017, 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. 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.

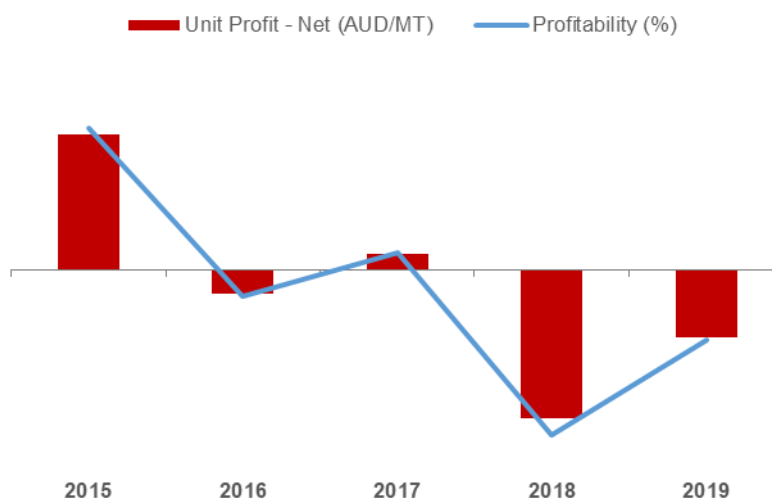


Figure 9: Profits and profitability

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 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 for A4 copy paper exported to Australia from Indonesia by Indah Kiat and Pindo Deli.

7.2 Co-operation of the exporters in the review

Following SEF 547, Australian Paper requested the Commissioner determine Indah Kiat and Pindo Deli to be uncooperative and rely on re-assessed dumping margins for 2015 as applicable for the purposes of the review of variable factors.¹⁵² Australian Paper made this submission on the basis that the two exporters did not provide the Commission with relevant information for the determination of variable factors for the review period.

In response to Australian Paper's submission, the Commission has considered whether Indah Kiat and Pindo Deli are 'uncooperative exporters' pursuant to section 269T(1) in respect of the review period.

By letter dated 27 April 2020, the Commission wrote to both exporters and requested a further response to their exporter questionnaires.¹⁵³ The Commission prepared an attachment which highlighted sections of the exporter questionnaires for which additional information was sought. This information related to information the Commission considered relevant to determining the export price and normal value for the review period. In this letter, the Commission advised both exporters that in the absence of the provision of information relevant to the review period, the Commissioner may place greater weight on other information available to him, including from other interested parties or sources.

By email dated 5 May 2020, the exporters' representative confirmed that the exporters objected to providing the additional requested information.¹⁵⁴ The Commission subsequently wrote to Indah Kiat and Pindo Deli confirming their response that further information to the questionnaires would not be provided.¹⁵⁵

Considering the deficiencies identified in both exporters' questionnaire responses, the Commissioner is satisfied that both exporters did not give the Commission information he considered relevant to the review within a period of time he considered reasonable. In

¹⁵² EPR number 21.

¹⁵³ EPR number 15, Attachments A and B.

¹⁵⁴ EPR number 15, Attachment C.

¹⁵⁵ EPR number 15, Attachment D.

coming to this view, it is significant that the information sought by the Commission related to:

- domestic sales of A4 copy paper during the review period;
- the cost to manufacture and sell A4 copy paper during the review period;
- information in relation to any adjustments that should be made to normal values;
- information relevant to the assessment of the particular market situation and whether a proper comparison was possible during the review period; and
- information on export sales to third countries.

This information was not provided. Accordingly, pursuant to section 269T(1), the Commissioner is satisfied that both Indah Kiat and Pindo Deli are ‘uncooperative exporters’ in relation to the review period.

Having found Indah Kiat and Pindo Deli to be uncooperative exporters, the Act specifies that the exporters’ export price be worked out under section 269TAB(3)¹⁵⁶ and their normal value to be worked out under section 269TAC(6).¹⁵⁷

The consequences of this finding relating to the exporters’ export prices and normal values are set out in the following sections.

7.3 Export price under section 269TAB(3)

Following SEF 547, Australian Paper submitted that the lack of cooperation by both the exporters requires the Commissioner to determine them to be uncooperative and rely on the ‘re-assessed’ dumping margin for 2015 as set out in the SEF.¹⁵⁸ No further information was provided as to why this approach was preferable to the approach taken in the SEF.

Australian Paper further submitted that due to the absence of exports from Indonesia to Australia by the exporters during the review period, the Commission must determine the exporters’ export prices pursuant to section 269TAB(2B).

The Commission agrees with Australian Paper’s submission that the exporters are uncooperative exporters for the purposes of the review period. As a result, the Act requires the Minister to work out the exporters’ export prices under section 269TAB(3) having regard to all relevant information.¹⁵⁹ Accordingly, the Minister must have regard to all relevant evidence before her and may only disregard information that she considers to be unreliable.¹⁶⁰

¹⁵⁶ Section 269TACAB(d).

¹⁵⁷ Section 269TACAB(e).

¹⁵⁸ ERP number 21, p. 1.

¹⁵⁹ Section 269TACAB(1)(d).

¹⁶⁰ As per section 269TAB(4).

The Commission does not agree with Australian Paper's submission that the Commission should adopt the exporters' reassessed 2015 dumping margin, as set out in Chapter 3.

The Commission considers that it is required to separately consider export price, pursuant to section 269TAB(3), based on the relevant information available for the purposes of this review. The Commission is of the view it should not just adopt a previously assessed dumping margin.

In addition, and as explained further below in sections 7.6.1 and 7.7.1, in the SEF the Commission determined the exporters' export prices pursuant to section 269TAB(2B). In doing this, the Commission had regard to the exporters' export prices determined in the original investigation and applied a timing adjustment to take into account changes that may have affected the export price from the original investigation period to the review period. This timing adjustment was calculated by establishing an index value based on the relative change of import prices into Australia from the original investigation period to the review period of the related Indonesian producer Tjiwi Kimia. The Commission considers that this information assists the Commission determine more robust export prices for the review period by taking into account changes to the export prices which have occurred due to the time elapsed between the original investigation period and review period. Accordingly, the Commission considers this information to be "relevant" for the purposes of section 269TAB(3).

The Commission also considers the methodologies outlined in sections 269TAB(1) and 269TAB(2B) provide guidance in determining the exporters' export prices, pursuant to 269TAB(3). The Commissioner considers the detailed framework and direction on what information should be relied upon, where certain criteria are satisfied, in those subsections are relevant to determining the export price. In this case, the Commission considers that the particular information used to determine the exporters' export prices pursuant to 269TAB(2B) in the SEF is "relevant information" for the purposes of determining an export price pursuant to 269TAB(3). As a result, although it is not mandatory for the Commission to use a methodology outlined in the preceding subsection, in this circumstance, the Commission considers it is appropriate to do so.

Accordingly, having regard to all the evidence before it, the Commission considers that the approach taken in the SEF, which accords with determining an export price pursuant to section 269TAB(2B), is appropriate in this case for the purposes of determining the exporters' export prices under section 269TAB(3).

The Commission notes that Australian Paper made further submissions with respect to the timing and specification adjustment made in the SEF.¹⁶¹ The Commission has addressed these submissions in sections 7.6.4 and 7.7.3 below.

7.4 Normal Value under Section 269TAC(6)

Similar to the submissions made in respect of the export price calculation, Australian Paper submitted that the lack of cooperation by the exporters requires the Commissioner

¹⁶¹ EPR number 21, p. 9.

to determine them to be uncooperative and rely on the 're-assessed' dumping margin for 2015 as set out in the SEF.¹⁶²

The Commission agrees with Australian Paper's submission that the exporters are uncooperative exporters for the purposes of the review period. As a result, the Act requires the Minister to work out the exporters' normal values under section 269TAC(6) having regard to all relevant information.¹⁶³ Accordingly, the Minister must have regard to all relevant evidence before her and may only disregard information that she considers to be unreliable.¹⁶⁴

However, the Commission does not agree with Australian Paper's submission that the Commission should adopt the exporters' reassessed 2015 dumping margin, as set out in chapter 3. The Commission considers that it is required to separately consider normal value, pursuant to section 269TAC(6), based on the relevant information available for the purposes of this review. The Commission is of the view it should not just adopt a previously assessed dumping margin.

In addition, and as explained further below in section 7.5, in the SEF the Commission determined the exporters' normal values pursuant to section 269TAC(2)(c). In taking the approach, the Commission had regard to the fact that because of the particular market situation, the exporters' domestic sales of A4 copy paper in Indonesia were not suitable for use in determining the normal value under section 269TAC(1). Accordingly, the Commission constructed the exporters' normal values in accordance with the Regulations. Notably, the Commission based the exporters' normal value on their 2015 records, respectively, and applied the following adjustments:

- a replacement of the cost of woodchips in the case of Indah Kiat, or pulp in the case of Pindo Deli. This adjustment was made on the basis that, because of the particular market situation, the costs actually incurred by Indah Kiat and Pindo Deli did not reasonably reflect competitive market costs associated with the production or manufacture of the goods that are suitable for the purposes of determining the normal value. The factual basis for this cost replacement is explained in Appendix E; and
- a timing adjustment to reflect the changes in costs between 2015 and 2019. The factual basis for this adjustment is explained in sections 7.5.1, 7.6.2 and 7.7.2.

The Commission also considers the methodologies outlined in the subsections of section 269TAC preceding section 269TAC(6) provide guidance in determining an exporter's normal value where relevant information is before the Commission. Accordingly, although it is not mandatory for the Commission to use a methodology outlined in the preceding subsections, in some circumstances it may be appropriate to do so.

Having regard to all the evidence before it, the Commission considers that the approach taken in the SEF, which accords with determining a normal value pursuant to section

¹⁶² ERP number 21, p. 1.

¹⁶³ Section 269TACAB(1)(e).

¹⁶⁴ As per section 269TAC(7).

269TAC(2)(c) is appropriate in this case for the purposes of determining the exporters' normal values under section 269TAC(6). In particular, the Commission considers the information relied upon to undertake the cost replacement of the exporters' costs of woodchips or pulp, and to undertake the timing adjustment is "relevant information" and cannot be disregarded because it is reliable.

Accordingly, the Commission is satisfied that the approach taken in SEF 547, and the information relied upon, is available and relevant for the purposes of determining the exporters' normal values pursuant to section 269TAC(6) and considers it is appropriate to do so in this case.

The Commission notes that Australian Paper made further submissions relating to the particulars of the adjustments made in the SEF.¹⁶⁵ The Commission has addressed these submissions in Appendix E and sections 7.5.2, 7.6.3 and 7.7.3 below.

7.5 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 section 269TAC(1) for the review period.

In undertaking its assessment of whether sales are "suitable" for the purposes of section 269TAC(1), the Commission has taken the same approach as outlined in section 3.2. The Commission considers this approach is also relevant for the purposes of the review period.

In summary, the Commission has found 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 particular market situation in the Indonesian A4 copy paper market continued to exist in 2019.
- The particular situation in the market has given Indonesian exporters a competitive pricing advantage in the Australian market, which is not available to other (international or Australian) producers in that market.
- 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.
- The particular market situation has a neutral impact on the prevailing conditions of competition in the Indonesian domestic market whereas it has had a different effect on the prevailing conditions of competition in the Australian market.

¹⁶⁵ EPR number 21.

- The impact of the particular market situation on Indah Kiat and Pindo Deli's domestic prices of like goods is therefore different from the impact on their export prices of the goods.
- Accordingly, Indah Kiat and Pindo Deli's domestic prices do not permit a proper comparison with their export prices and on this basis the domestic sales are not "suitable" for the purposes of determining a price under section 269TAC(1).¹⁶⁶

As such, the Commission has considered the alternative method for determining normal value as provided for in the Act under section 269TAC(2)(c). Namely, normal values must be constructed¹⁶⁷ or determined on the basis of third country sales.¹⁶⁸

In this case, the Commission considers that the information before it does not provide a precise or granular level of detail to determine whether a third country would be appropriate to base the exporters' normal value on third country sales.

Accordingly, the Commission has constructed normal values under section 269TAC(2)(c).

7.5.1 Determination of the normal values under section 269TAC(2)(c)

The Commission has constructed normal values under section 269TAC(2)(c). In relation to determining the cost of production or manufacture for the purposes of section 269TAC(5A)(a), section 43(2) of the Regulations requires that, if an exporter keeps records relating to the like goods which are in accordance with 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.

Section 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

¹⁶⁶ Section 269TAC(2)(a)(ii).

¹⁶⁷ Section 269TAC(2)(c).

¹⁶⁸ Section 269TAC(2)(d).

the product under consideration, it nonetheless finds a compelling reason distinct from the two explicit conditions, to disregard them.”¹⁶⁹

“...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.”

Section 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 section 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 is:

- A cost report was commissioned from RISI, which is relevant to Indonesia and Pindo Deli and Indah Kiat. This cost report contains quarterly cost data for the relevant mills between 2015 and 2019.¹⁷⁰ These costs are broken down into cost categories relating to fibre, chemicals, energy, labour, materials and maintenance, and sheeting. The Commission calculated the relative change in each cost

¹⁶⁹ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper* (Indonesia), para. 7.117.

¹⁷⁰ Confidential Attachment 11: Data and analysis commissioned from RISI: Pindo Deli and Indah Kiat Cost reports.

category between each respective quarter in 2015 and 2019¹⁷¹. 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 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.

7.5.2 Submissions received in relation to the particular market situation finding and the timing adjustment applied to determine normal values for the review period

Indah Kiat and Pindo Deli disagreed with the Commission's findings that a particular market situation existed in 2019 and that this particular market situation prevented a proper comparison of domestic and export prices.¹⁷² The GOI similarly disagreed with the particular market situation finding and that the particular market situation prevented a proper comparison.¹⁷³ The exporters and the GOI did not elaborate on the reasons for disagreeing with these findings in their respective submissions.

Australian Paper submitted that SEF 547 did not include any information, commentary or rationale to support the basis of the normal value timing adjustment made to reflect changes in costs between 2015 and 2019.¹⁷⁴ Australian Paper stated that it was not clear whether this adjustment was made on the basis of information obtained from another Indonesian exporter or whether an alternative source was used.¹⁷⁵ Australian Paper further claimed that the normal value calculation included arbitrary and unexplained timing adjustments.¹⁷⁶

¹⁷¹ 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.

¹⁷² EPR number 20.

¹⁷³ EPR number 19.

¹⁷⁴ EPR number 21, p. 9.

¹⁷⁵ Ibid.

¹⁷⁶ EPR number 21, p. 13.

The Commission's explanation of the timing adjustment methodology can be found in Section 7.3.1 of SEF 547. This explanation is also included in section 7.5.1 of this report. The cost reports provided by RISI to the Commission indicated that costs relevant to the manufacture and sale of copy paper by Indah Kiat and Pindo Deli had changed between 2015 and 2019.

The Commission has used this information because it considers this information is sufficiently specific for the purposes of making the adjustment. The cost data obtained from RISI is specific to the Pindo Deli and Indah Kiat mills producing A4 copy paper. The wholesale price index data relied on to adjust applicable SG&A costs is also relevant to Pindo Deli and Indah Kiat given that it is relevant to price movements in the Indonesian manufacturing sector.

The Commission further considers that both the RISI cost data and the wholesale price index data are reliable and can therefore not be disregarded pursuant to section 269TAC(7). The Commission understands that RISI is considered to be an industry expert in the forest products sector. RISI previously provided data to the Commission in Investigation 341 and no objections were received from interested parties in that investigation regarding the reliability of RISI data. The Commission also understands that the wholesale price index data used by the Commission is based on official statistics compiled by the GOI. The Commission has no information to indicate that these statistics are unreliable.

For these reasons, the Commission is satisfied that, pursuant to section 269TAC(9), it is necessary to make adjustments to the verified 2015 costs to ensure that they reflect a cost to manufacture and sell relevant to the review period and, as a result the normal value is properly comparable with the export price of those goods.

7.6 Indah Kiat

7.6.1 Export price

Indah Kiat advised the Commission it did not export A4 copy paper to Australia during the review period.¹⁷⁷

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 its questionnaire response¹⁷⁸.

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.

¹⁷⁷ EPR number 13.

¹⁷⁸ EPR number 12, Confidential Attachment A-10.1.2_Tradedata Indo export code 48025690.

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 importer 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.¹⁷⁹ 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.¹⁸⁰

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

7.6.1.1 Approach in SEF – Export price determined in accordance with section 269TAB(2B)

Section 269TAB(2A) specifies that the export price of the goods exported to Australia may be determined by the Minister in accordance with section 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
 - (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 section 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 section 269TAB(1), for a decision of a kind mentioned in section 269TAB(2D);

¹⁷⁹ Confidential Attachment 12: Indonesian export data analysis - Analysis of Indah Kiat and Pindo Deli exports from Indonesia.

¹⁸⁰ Confidential Attachment 13: Australian import data analysis -Analysis of Indah Kiat and Pindo Deli imports into Australia.

- (b) the price paid or payable for like goods sold by Indah Kiat in arms 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 section 269TAB(1) for a decision mentioned in section 269TAB(2D).

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

7.6.1.2 Exporter of the goods – section 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.¹⁸¹

In addition, and pursuant to section 269TAB(2C), in the absence of exports of A4 copy paper to Australia by Indah Kiat during the review period, the Commission considers 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.

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

7.6.1.3 Insufficient or unreliable information – section 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.

¹⁸¹ Anti-Dumping Commission, Dumping and Subsidy Manual (November 2018), p. 29.

7.6.1.3.1 Previous volumes of exports by Indah Kiat – section 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.¹⁸² The previous volumes of exports by Indah Kiat to Australia of A4 copy paper is reflected in Figure 10 below.

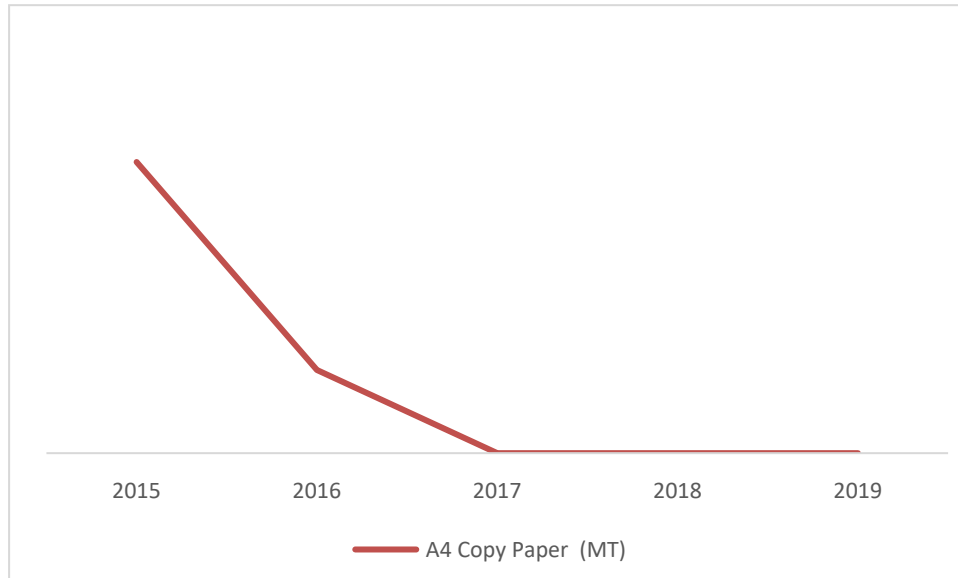


Figure 10: Indah Kiat exports to Australia

7.6.1.3.2 Patterns of trade for like goods – section 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 2015.¹⁸³

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.¹⁸⁴

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

¹⁸² Confidential Attachment 13: Australian import data analysis -Analysis of Indah Kiat and Pindo Deli imports into Australia.

¹⁸³ Further information in relation to imports of A4 copy paper is included in Chapter 6 of this SEF.

¹⁸⁴ Confidential Attachment 14: Australian import data analysis - Analysis of imports from Indonesia.

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).

7.6.1.3.3 Factors affecting patterns of trade – section 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 website¹⁸⁵ 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.¹⁸⁶ Australian Paper advised this information was sourced from TradeData International Pty Ltd (TradeData), which itself 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 having not received any submissions following the SEF in regard to its reliability, 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.

7.6.1.4 *Commission's consideration – section 269TAB(2A)*

Having regard to the above, the Commission considers that there is insufficient 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 section 269TAB(2B).

¹⁸⁵ <http://www.iktangerang.com/> and www.asiapulppaper.com as accessed during June 2020 and August 2020.

¹⁸⁶ EPR number 12, Confidential Attachment A-10.1.2_Tradedata Indo export code 48025690.

7.6.1.5 Determination of export price – section 269TAB(2B)

7.6.1.5.1 Previous export price – section 269TAB(2B)(a)

An export price for Indah Kiat was determined under section 269TAB(1) for the purposes of publishing the notice under sections 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 section 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.

7.6.1.5.2 Third country export price – section 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 and 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 anti-dumping measures. 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 reflective of arms length transactions, as required by the terms of section 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.

7.6.1.5.3 Another exporter's export price – section 269TAB(2B)(c)

Export prices for like goods exported to Australia by other exporters from Indonesia have been determined under section 269TAB(1) for the purposes of publishing the notice under sections 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 section 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 section 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.

7.6.1.6 Commission's consideration – section 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 section 269TAB(1), pursuant to section 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 that it is not open for the Minister to use the export price determined previously for other Indonesian exporters of like goods.

The Commission notes the information relevant to establishing that export price was 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.

7.6.1.7 Adjustments to the export price – section 269TAB(2G)

Section 269TAB(2G) enables the Minister to make adjustments to the export price ascertained under section 269TAB(2B) to reflect what the export price would have been had there not been an absence 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.

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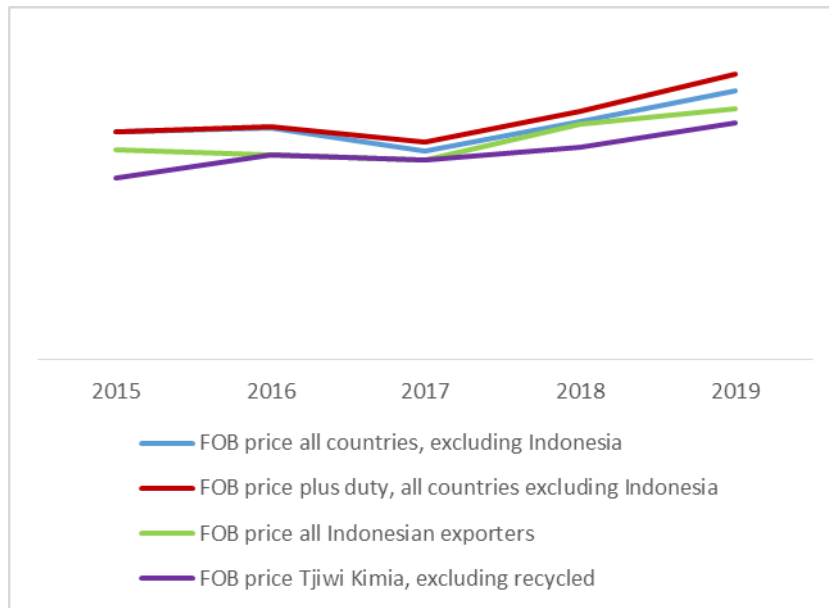


Figure 11: Weighted average export prices, all countries 2015-2019

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 relevant¹⁸⁷ 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.¹⁸⁸ 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.¹⁸⁹ The same degree of similarity in pricing was not evident when comparing weighted average export prices of other Indonesian exporters into Australian during 2015.

¹⁸⁷ Tjiwi Kimia sold certain types of A4 recycled copy paper not sold by Indah Kiat.

¹⁸⁸ 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.

¹⁸⁹ Confidential Attachment 15: Indah Kiat and Pindo Deli 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 sale for Tjiwi Kimia and Indah Kiat in 2015 to this importer found that the terms of sale were similar and there is no information to indicate that the terms of sales for Tjiwi Kimia have changed since 2015.¹⁹⁰ During the original investigation, the exporters also advised that the process for negotiating and undertaking sales to Paper Force for each exporter were similar.
- The data obtained from both exporters and the common importer in Investigation 341 enabled the Commission to identify products within Tjiwi Kimia's 2019 exportations that had sufficiently similar product characteristics to Indah Kiat's exportations in 2015 so as not to require the Commission to make any specification adjustments under section 269TAB(2G)(b).
- To assess the accuracy of the import data, the Commission was able to reconcile a 2015 export price calculated from the import database 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 verified transaction data for Tjiwi Kimia.¹⁹¹

7.6.2 Normal value

7.6.2.1 Approach in SEF – Normal value pursuant to section 269TAC(2)(c)

As outlined above and in Appendix D, the Commission considers that there is a particular market situation for A4 copy paper in Indonesia. The Commission considers that because of the particular 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 it is relevant to the circumstances of Indah Kiat for the review period are contained in Appendix E of this report. The benchmark indicates that competitive market woodchip prices, after relevant adjustments¹⁹², were materially higher during 2015 than the costs of woodchip recorded in Indah Kiat's records in 2015. The Commission considers that the amount for the woodchips in the records of Indah Kiat reflects the "particular market situation" established in 2015. The Commission is therefore satisfied that the woodchip

¹⁹⁰ The similar terms included the terms of payment, shipping terms and sales were largely sold through common trading entities, together with other confidential entities involved in the sales.

¹⁹¹ Tjiwi Kimia's 2015 export price was verified as part of Investigation 341. Reference is made to the record of the Paper Force importer verification and Tjiwi Kimia exporter verification in Investigation 341.

¹⁹² See Appendix E for a description of the adjustments made.

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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 considers that, because of the market situation, 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 (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 2019.¹⁹³

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 are 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 section 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 section 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 section 45(2) of the Regulation.

7.6.2.2 *Adjustments to normal value*

To ensure that a fair comparison can be made between the normal value and the export price of goods exported to Australia at Free On Board (FOB) terms, the Commission is satisfied that the following adjustments in Table 11 are appropriate. The Commission notes that these values were verified during the conduct of the original investigation and, as a result, the Commission is satisfied that they are reliable and specific to Indah Kiat. Consistent with the cost adjustment methodology specified in section 7.5.1, the Commission has adjusted the costs applied in making these adjustments, where appropriate, to reflect costs in 2019.

Adjustment Type	Deduction/addition
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¹⁹³ See section 7.5.1 for details of the timing adjustment made.

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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

7.6.3 Submissions received in response to SEF 547.

7.6.3.1 *Timing adjustment to export price*

In their joint submissions, Indah Kiat and Pindo Deli stated that it was appropriate for the Commission to use a time-adjusted export price as opposed to another price.¹⁹⁴ They submitted that it was not appropriate to use third country prices based on the data from TradeData.¹⁹⁵ The exporters advised that they ‘were familiar with the manner in which this export data is compiled’¹⁹⁶ and submitted that the TradeData export data was not appropriate for the following reasons:

- the data did not include ‘a sufficient level of detail to permit a reasonable calculation of [an] export price’;¹⁹⁷
- based on their knowledge of how this data is collected, the data includes a ‘larger range of goods than those subject to the review’;¹⁹⁸
- they ‘sell on different credit terms delivery terms’ depending on the customer and the market’¹⁹⁹, and their knowledge of ‘the manner in which the export data is compiled is often, if not always, does not require credit and delivery terms to be reported with specificity’;²⁰⁰ and
- using the Tjiwi Kimia import price data was appropriate as:
 - ‘it is an affiliate of both Indah Kiat and Pindo Deli’ and ‘that there is a high degree of correlation between export prices’;²⁰¹ and

¹⁹⁴ EPR number 20, pp. 2-3.

¹⁹⁵ Ibid, p. 2.

¹⁹⁶ EPR number 20, p. 2.

¹⁹⁷ Ibid.

¹⁹⁸ Ibid.

¹⁹⁹ Ibid.

²⁰⁰ EPR number 20, pp. 2-3.

²⁰¹ EPR number 20, p. 3.

- exports of Indah Kiat, Pindo Deli and Tjiwi Kimia 'were to the same importer, [the] product characteristics were similar and [the] data from [Investigation 341 verified] the data's accuracy'.²⁰²

Australian Paper submitted that it considers it is not appropriate to apply a timing adjustment to Indah Kiat's export price based on price movements of affiliated exporter Tjiwi Kimia, noting that Tjiwi Kimia is not subject to measures.²⁰³ Whilst acknowledging that both exporters had not exported to Australia during the review period, Australian Paper stated that using export price movements over a period of time would be notional and not reliable for the intended purpose.²⁰⁴ Australian Paper also stated the Commission had not sufficiently explained why it was appropriate to use the prices of Tjiwi Kimia.²⁰⁵ Australian Paper submitted that movements in prices in a third country (e.g., Korea or Japan) would be considered to be more reliable and representative.

The Commission has reconsidered the timing adjustment and is satisfied that it is preferable to use the import prices of Tjiwi Kimia for the reasons outlined in sections 7.6.1.5.2 and 7.6.1.7.

In coming to this view, the Commission notes that Australian Paper has neither addressed the Commission's concerns in regard to the use of the third country export data, nor explained why movements in prices in a third country would be more reliable and representative of what the exporters' export prices would have been, had they exported A4 copy paper to Australia during the review period.

The Commission further notes that, among other things, it appears that Australian Paper considers it is not appropriate to use Tjiwi Kimia's import prices because it is not subject to anti-dumping measures.²⁰⁶ The Commission acknowledges this contention but notes no information was provided about whether the third country exports were also subject to anti-dumping measures. Accordingly, the Commission does not consider this factor to be persuasive.

7.6.3.2 Assessment of arms length nature of Indah Kiat's export sales to Paper Force

In relation to the analysis of the 2015 dumping margins, Australian Paper submitted that the Commission should re-evaluate the arms length assessment of the transactions between Indah Kiat and Paper Force.²⁰⁷ The Commission's consideration of Australian Paper's assessment of this issue is considered in section 3.3.4.

²⁰² Ibid.

²⁰³ EPR number 21, p. 9. Australian Paper also submitted that the Commission made specification adjustments. The Commission did not make any specification adjustments.

²⁰⁴ Ibid, pp. 9 and 13.

²⁰⁵ Ibid, p. 9.

²⁰⁶ EPR number 21, p. 9.

²⁰⁷ EPR number 21 pp. 6-7.

The Commission has obtained an up to date company search on Paper Force. This company search has confirmed that there have been no material changes to the officeholders or ownership of Paper Force since 2015.²⁰⁸

7.6.3.3 CMI fixed sales margin adjustment to normal value

Similar to the submission made in respect to the 2015 investigation period, Australian Paper submitted that the Commission, consistent with the findings in REP 341, should not make a downwards adjustment to Indah Kiat's normal value for the CMI fixed sales margin and only allow an adjustment for the supermarket shelf rental cost.²⁰⁹

As outlined in section 3.3.4, the Commission notes that subsequent to the then Assistant Minister accepting the Commissioner's recommendations in REP 341, Indah Kiat applied to the ADRP seeking, in part, a review of the disallowance of its claimed downwards adjustment for the CMI fixed sales margin.²¹⁰ The Minister subsequently accepted the ADRP's recommendation,²¹¹ allowed the adjustment and accordingly amended the dumping duty notice to reflect the inclusion of this downwards adjustment.

In this review, the Commission notes that sales in the export market are at a different level of trade to the constructed domestic price for the review period. As a result, and having regard to Australian Paper's submission and the reasoning of the ADRP, the Commission is satisfied that a CMI fixed sales margin adjustment is appropriate to ensure a fair comparison between the normal value and the export price of the goods.

7.6.3.4 Woodchip benchmark

In their joint submission, Indah Kiat and Pindo Deli expressed disagreement with adjusting Indah Kiat's costs but agreed with the Commission's decision to use benchmarks based on woodchip exports from Indonesia.²¹²

In respect to the 2015 investigation period, Australian Paper submitted that it disagreed with the Commission's decision to use an Indonesian export price to establish a woodchip benchmark in 2015.²¹³ Australian Paper submitted the most appropriate benchmark to use is the average import pricing into China and Japan from all the countries nominated

²⁰⁸ Confidential Attachment 16: Company search on Paper Force.

²⁰⁹ EPR number 21, pp. 9-10.

²¹⁰ ADRP Review 2017/55. A copy of the application is available at <https://www.industry.gov.au/data-and-publications/anti-dumping-review-panel-past-reviews/a4-copy-paper-exported-from-the-federative-republic-of-brazil-the-peoples-republic-of-china-the-republic-of-indonesia-and-the-kingdom-of-thailand>

²¹¹ ADRP Report Number 55 [523].

²¹² EPR number 20.

²¹³ EPR number 21, pp. 4-5.

by Australian Paper in its submission.^{214 215} Whilst Australian Paper has not made a similar submission in regard to the 2019 review period, the Commission has considered the information provided by Australian Paper in light of the woodchip benchmark used in the 2019 review period.

The Commission's assessment of the use of the woodchip benchmark and Australian Paper's submission on this issue for 2019 are discussed in Appendix E: *2015 Review period cost benchmarks*.

Having considered these submissions, the Commission is satisfied that Indonesian sourced import prices into Japan remains an appropriate benchmark for assessing domestic competitive market costs in Indonesia.

7.6.4 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**.

7.7 Pindo Deli

7.7.1 Export price

Export price is determined in accordance with section 269TAB.

Pindo Deli advised the Commission it did not export A4 copy paper to Australia during the review period.²¹⁶

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 its questionnaire response.²¹⁷

This information indicated there were no exports by Pindo Deli to Australia in the review period under the relevant Indonesian tariff code and subheading.²¹⁸ On the basis of this

²¹⁴ Ibid.

²¹⁵ The Commission refers to internationally traded pricing as either being an import price or an export price. The use of either term is dependent on the source of the data. Where the data is sourced from the country of export, it is referred to as an "export price". Where the data is sourced from the country where the exported goods arrived, it is referred to as being an "import price".

²¹⁶ EPR number 8.

²¹⁷ EPR number 12, Confidential Attachment A-10.1.2_Tradedata Indo export code 48025690.

²¹⁸ Confidential Attachment 12: Indonesian export data analysis – Analysis of Indah Kiat and Pindo Deli exports from Indonesia and Confidential Attachment 13: Australian import data analysis – Analysis of Indah Kiat and Pindo Deli imports into Australia.

information, the Commissioner considers there was an absence of exports of the goods by Pindo Deli in the review period.

7.7.1.1 Approach in SEF – Export price determined in accordance with section 269TAB(2B)

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

Section 269TAB(2A) specifies that the export price of the goods exported to Australia may be determined by the Minister in accordance with section 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
 - (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 section 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 Pindo Deli, established in accordance with section 269TAB(1), for a decision of a kind mentioned in section 269TAB(2D);
- (b) the price paid or payable for like goods sold by Pindo Deli 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 section 269TAB(1) for a decision mentioned in section 269TAB(2D).

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

7.7.1.2 Exporter of the goods – section 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.²¹⁹

In addition, and pursuant to section 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 sections 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.

7.7.1.3 Insufficient or unreliable information – section 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.

7.7.1.3.1 Previous volumes of exports by Pindo Deli –section 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.²²⁰ The previous volumes of exports by Pindo Deli to Australia of A4 copy paper is reflected in Figure 12.

²¹⁹ Anti-Dumping Commission, Dumping and Subsidy Manual (November 2018), p. 29.

²²⁰ Confidential Attachment 13: Australian import data analysis -Analysis of Indah Kiat and Pindo Deli imports into Australia.

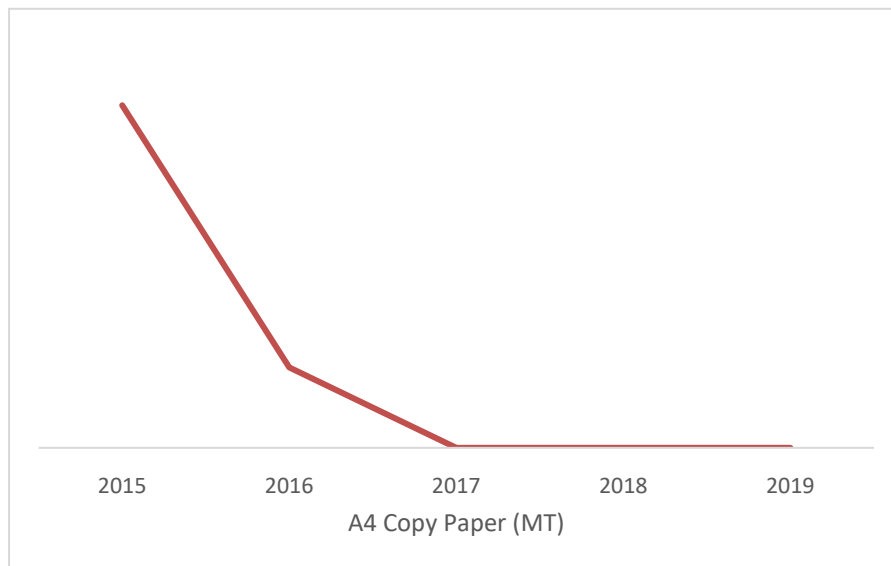


Figure 12: Pindo Deli export volumes to Australia

7.7.1.3.2 Patterns of trade for like goods – section 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 2015.²²¹

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).

7.7.1.3.3 Factors affecting patterns of trade – section 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.

²²¹ Further information in relation to imports of A4 copy paper is included in Chapter 6 of this SEF.

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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)²²², 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 2018²²³. The discontinuation of exports is reflected in Figure 13.

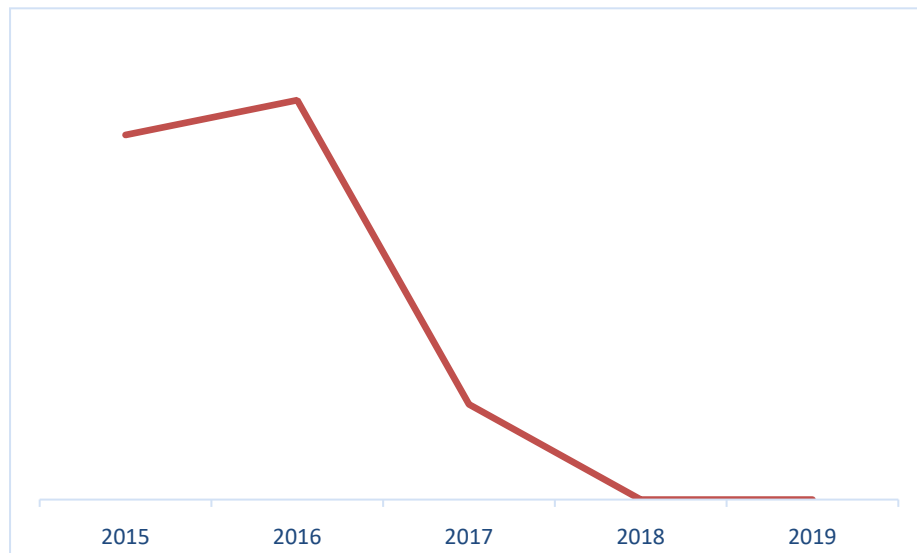


Figure 13: Pindo Deli export volumes to third countries

Australian Paper advised this information was sourced from TradeData, which itself 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 having not received any submissions regarding the reliability of this data 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.

7.7.1.4 Commission's consideration – section 269TAB(2A)

Having regard to the above, the Commission considers that, for Pindo Deli, there is insufficient 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

²²² <https://asiapulppaper.com/>

²²³ EPR number 12, Confidential Attachment A-10.1.2_Tradedata Indo export code 48025690.

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 section 269TAB(2B).

7.7.1.5 Determination of export price – section 269TAB(2B)

7.7.1.5.1 Previous export price – section 269TAB(2B)(a)

An export price for Pindo Deli was determined under section 269TAB(1) for the purposes of publishing the notice under sections 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 section 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.

7.7.1.5.2 Third country export price – section 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 to any country during the review period. Consequently, the Commission considers that third country sales are not available to establish an export price for Pindo Deli.

7.7.1.5.3 Another exporter's export price – section 269TAB(2B)(c)

Export prices for like goods exported to Australia by other exporters from Indonesia have been determined under section 269TAB(1) for the purposes of publishing the notice under sections 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 section 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 section 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.

7.7.1.6 Commission's consideration – section 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 section 269TAB(1), pursuant to section 269TAB(2B)(a).

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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 the information relevant to establishing that export price was 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.

7.7.1.7 Adjustments to the export price – section 269TAB(2G)

Section 269TAB(2G) enables the Minister to make adjustments to the export price ascertained under section 269TAB(2B) to reflect what the export price would have been had there not been an absence 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 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 14.

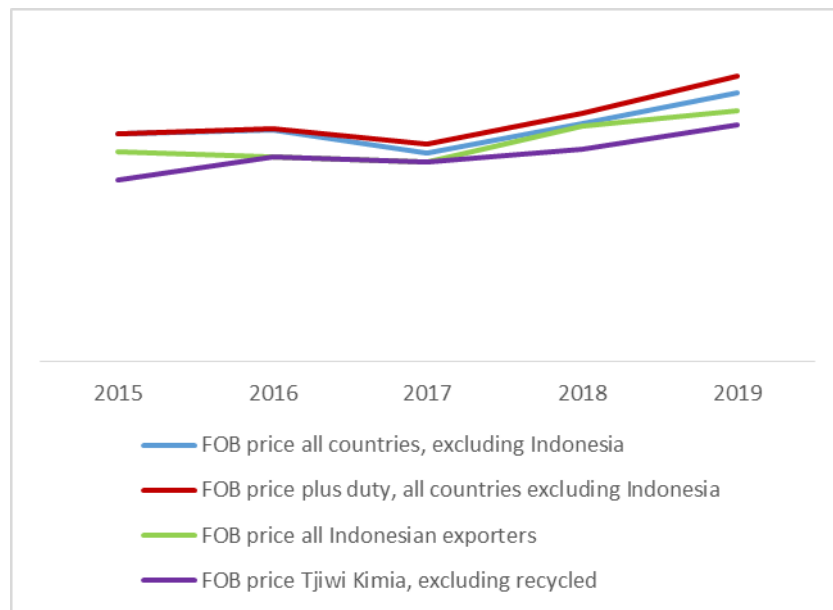


Figure 14: Weighted average export prices, all countries 2015-2019

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

section 269TAB(1). The index value was calculated using relevant²²⁴ import prices of Indonesian exporter, Tjiwi Kimia.²²⁵

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.²²⁶ The same degree of similarity in pricing was not evident when comparing the average weighted export prices of other Indonesian exporters into Australian 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 sale 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 2015.²²⁷ During the original investigation, the exporters also advised that the process for negotiating and undertaking sales to Paper Force for each exporter were similar.²²⁸
- The data obtained from both exporters and the common importer in Investigation 341 enabled the Commission to identify products within Tjiwi Kimia's 2019 exportations that had sufficiently similar product characteristics to Pindo Deli's exportations in 2015 so as not to require the Commission to make any specification adjustments under section 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 export price for Tjiwi Kimia in 2015²²⁹ to within a small margin of difference,

²²⁴ Tjiwi Kimia sold certain types of A4 recycled copy paper not sold by Pindo Deli.

²²⁵ 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.

²²⁶ Confidential Attachment 15: Indah Kiat and Pindo Deli Common Customer Price Analysis.

²²⁷ The similar terms included the terms of payment, shipping terms and sales were largely sold through common trading entities, together with other confidential entities involved in the sales.

²²⁸ 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.

²²⁹ Tjiwi Kimia's 2015 export price was verified as part of Investigation 341. Reference is made to the record of the Paper Force importer verification and Tjiwi Kimia exporter verification in Investigation 341.

confirming a high level of correlation in the ABF data to verified transaction data for Tjiwi Kimia.

7.7.2 Normal value

7.7.2.1 Approach in SEF – Normal value pursuant to section 269TAC(2)(c)

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 particular 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 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 indicates 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 considers that the amount for pulp in the records of Indah Kiat reflect the "particular market situation" established in 2015. 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 in 2015, because of the particular market situation, 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 (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 2019.²³⁰

In doing so, the Commission has considered the circumstances of Pindo Deli and 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 are constructed, in line with the model matching criteria applied in Investigation 341, using the cost of production of the goods for each model

²³⁰ See section 7.5.1 for details of the timing adjustment made.

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 section 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 section 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 section 45(2) of the Regulation.

7.7.2.2 Adjustments to normal value

To ensure that a fair comparison can be made between the normal value and the export price of goods exported to Australia at Free On Board (FOB) terms, the Commission is satisfied that the following adjustments in Table 12 are appropriate. The Commission notes that these values were verified during the conduct of the original investigation and, as a result, the Commission is satisfied that they are reliable and specific to Pindo Deli. Consistent with the cost adjustment methodology specified in section 7.5.1, the Commission has adjusted the costs applied in making these adjustments, where appropriate, to reflect costs in 2019.

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

7.7.3 Submissions received in response to SEF 547

Australian Paper submitted in relation to the 2019 dumping margins for Pindo Deli that:²³¹

- the downwards adjustment to the normal value for the CMI fixed sales margin should not be made; and
- the Commission should reevaluate its determination of the arms length nature of the export transactions with importer Paper Force.

Australian Paper's reasoning for making these adjustments is the same as those made for Indah Kiat. Consistent with the Commission's findings in section 7.6.3 of this report, the Commission considers that the CMI adjustment should be made and is satisfied the sales between Pindo Deli and Paper Force continue to be at arms length prices for the purposes of the review period.

²³¹ EPR number 21.

Australian Paper also stated its comments on the determination of the export price for Indah Kiat applies equally for Pindo Deli.²³² From this statement it is unclear if Australian Paper is referencing the Commission's decision to use Tjiwi Kimia's import price movements as the basis for applying a timing adjustment. The Commission notes the TradeData Indonesian export data indicates that Pindo Deli did not export A4 copy paper to any third countries during 2019. Consequently, there is no third country data available to the Commission to establish an export price or calculate a timing adjustment based on third country sales by Pindo Deli.

7.7.4 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**.

²³² EPR number 21, p. 10.

8 REVOCATION REVIEW

8.1 Finding

The evidence before the Commissioner does not demonstrate any recommencement of dumped exports to Australia by Indah Kiat or Pindo Deli that would cause material injury to the Australian Industry.

In addition, and pursuant to section 269ZDA(1A), a revocation review notice in relation to the measures has been published,²³³ and the Commissioner is not satisfied as a result of this review that revoking the anti-dumping measures applying to Indah Kiat and Pindo Deli 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.

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

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:²³⁴

- 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 section 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 to 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, and the Manual provides that the Commission conduct a current and prospective examination.²³⁵

The Commission's assessment of the likelihood of certain events occurring and their anticipated effect necessarily requires an assessment of a hypothetical situation. This

²³³ EPR number 1, ADN 2018/028.

²³⁴ Section 269ZDA(1)(a).

²³⁵ Dumping and Subsidy Manual November 2018, p. 168.

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.²³⁶ However, the Commissioner's conclusions and recommendation must nevertheless be based on facts.²³⁷

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)*.²³⁸ In that case the Federal Court stated that the context in which the word "likely" appeared in section 269ZHF(2) suggested that Parliament used that word to convey "more probable than not", rather than a lesser degree of certainty.²³⁹ 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 section 269ZDA(1A).

The Manual also notes that the term 'likely' has been taken to mean 'probable' within the WTO Jurisprudence.²⁴⁰

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 opposed 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) group²⁴¹ of companies, of which Indah Kiat and Pindo Deli are members.²⁴² Australian Paper submitted that this information demonstrated that both Indah Kiat and Pindo Deli had significant production capacity which was not being fully utilised. Australian Paper also provided information to indicate that Indonesian producers were export oriented.²⁴³

²³⁶ ADRP Report No. 44 (Clear Float Glass) refers.

²³⁷ Ibid.

²³⁸ [2009] FCA 838.

²³⁹ Ibid, [49] (Rares J).

²⁴⁰ 168, 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].

²⁴¹ APP is 100% owned by Sinar Mas Group (SMG). It is noted that in submissions to the Commission that the terms SMG and APP are used interchangeably to reflect the same group of companies that make up pulp and paper businesses of the SMG group which form part of the APP group of companies.

²⁴² EPR number 12, p. 18 and Confidential Attachment A-10.1.1.- RISI Indonesian capacity report UWF.

²⁴³ Ibid.

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 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.²⁴⁴

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 anti-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.²⁴⁵

8.5 Submissions received in response to SEF 547 in relation to the proposed recommendation that the notice be revoked in its application to Indah Kiat and Pindo Deli

The GOI, Indah Kiat and Pindo Deli stated in their respective submissions that they agreed with the Commission’s proposed recommendation that the notice be revoked in its application to Indah Kiat and Pindo Deli.²⁴⁶

Australian Paper disagrees with the recommendation to revoke the anti-dumping measures and considers the available information supports the retention of measures at

²⁴⁴ 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. The Commission has also considered further claims made by Australian Paper in its response to SEF 547 regarding the arms length nature of the transactions with Paper Force. Please see sections 3.3.4, 3.4.4, 7.6.3 and 7.7.3 of this report.

²⁴⁵ EPR numbers 7, 12 and 17.

²⁴⁶ EPR numbers 19 and 20.

the revised 2015 dumping margins.²⁴⁷ Australian Paper stated that it disagreed with the Commissioner's preliminary finding that the revocation of the measures would not lead to a continuation of, or a recurrence of, the dumping and the material injury the measures are intended to prevent.²⁴⁸

Specifically, Australian Paper submitted that:

- the lack of cooperation by Indah Kiat and Pindo Deli in respect of the 2019 review period requires the Commissioner to determine them to be uncooperative and, as a result, rely upon the reassessed dumping margins for 2015 for the purposes of establishing the 2019 review period variable factors. If the Commission were to adopt the 2015 reassessed dumping margins, the Commission would conclude that the margins of dumping for the exporters were not negligible;²⁴⁹
- the variable factors and dumping margins determined for both exporters were "notional";²⁵⁰
- there is an absence of an examination of the future threat of injury having regard to the impact of the measures and the historic dumping by the two exporters;²⁵¹
- the Commission's assessment of the threat of future material injury from Indah Kiat and Pindo Deli is limited, reliant upon incorrect dumping margin calculations and failed to take account of the serious nature of the injurious price undercutting that was confirmed by the Commission in Investigation 341;²⁵²
- the imposition of the anti-dumping measures imposed in April 2017 were an effective deterrent to the dumped exports by Indah Kiat and Pindo Deli;²⁵³
- future exports by the exporters are likely to be at dumped prices and above negligible levels, the distribution channels into the Australian market have been maintained and there exists a very probable likelihood of a recurrence of price undercutting due to the market situation finding that affords Indonesian exports a pricing advantage on the Australian market;²⁵⁴ and
- the Australian industry will experience a recurrence of the material injury from the dumped exports from Indah Kiat and Pindo Deli that the measures are intended to prevent.²⁵⁵

²⁴⁷ EPR number 20, p. 13.

²⁴⁸ EPR number 21, p. 10.

²⁴⁹ EPR number 21, p. 1.

²⁵⁰ Ibid, p. 1.

²⁵¹ Ibid, p. 1.

²⁵² Ibid, p. 10.

²⁵³ Ibid, p. 13.

²⁵⁴ Ibid, pp. 13-14.

²⁵⁵ Ibid p.14.

Specifically in relation to Indah Kiat, Australian Paper submitted that:

- the Commission’s proposed recommendation to revoke the measures on Indah Kiat rests primarily on the negligible margin of dumping determined for 2019 and the absence of actual exports to Australia by Indah Kiat in 2018 and 2019;²⁵⁶
- the “notional” margin of dumping that is negligible cannot be relied upon;²⁵⁷
- the notional margin of 0.1 per cent is understated due to the incorrect inclusion of the adjustment for the CMI fixed sales margin and, if excluded, the dumping margin for Indah Kiat in the 2019 investigation period would be above negligible levels;²⁵⁸
- Indah Kiat would likely recommence exports to Australia if the measures are revoked as it:
 - has the lowest-cost position of the three APP exporters;
 - possesses excess capacity to increase production for supply to the Australian market;
 - can supply via already established distribution channels;
 - will export, in Australian Paper’s view, at dumped prices; and
 - previously exported at dumped prices, above negligible levels, that undercut the Australian industry’s selling prices resulting in lost sales and injury for the Australian industry;²⁵⁹
- not only have adjustments been incorrectly afforded to the exporters in the Commission’s preliminary dumping margin assessment, but the normal value calculation includes arbitrary and unexplained timing adjustments to both export prices and cost to make and sell which are likely to impact the normal value and dumping margins, and the rationale and basis for which are unclear. This draws into question the preliminary assessment that the dumping margin is negligible, and therefore renders the Commission’s position that Indah Kiat does not present a “threat to material injury” on this basis unreliable and improperly determined;²⁶⁰
- the Commission has failed to provide due consideration to the impact of the measures applied in April 2017 that have acted to deter Indah Kiat (and Pindo Deli) from exporting to Australia at dumped and injurious prices;²⁶¹ and
- contrary to the Commission’s assessment and conclusions (which are based upon erroneous preliminary calculations of the 2019 dumping margins for Indah Kiat and Pindo Deli), Australian Paper considers that the available information establishes that, if the measure on Indah Kiat are revoked, it is likely that exports of A4 copy paper from Indah Kiat will re-commence at dumped prices resulting in a recurrence of material injury that the anti-dumping measures are intended to prevent.²⁶²

²⁵⁶ Ibid, p. 13.

²⁵⁷ Ibid, p. 13.

²⁵⁸ Ibid, p. 12.

²⁵⁹ Ibid, p. 12.

²⁶⁰ Ibid, p. 13.

²⁶¹ Ibid, p. 13.

²⁶² Ibid, p. 13.

Specifically in relation to Pindo Deli, Australian Paper submitted that

- the Commission's "notional" dumping margin for 2019 was understated for reasons demonstrated earlier in its submission;²⁶³
- the Commission had down-played Pindo Deli's export volumes to Australia being only 0.13 per cent of total exports from Indonesia to Australia. The absence of exports by Pindo Deli in 2018 and 2019 and the small share of total exports held in 2015 appear to be factors relied upon by the Commission to recommend that the measures be revoked in relation to Pindo Deli";²⁶⁴
- it disagrees with the Commission's simplistic analysis;²⁶⁵
- in 2015 Indonesia accounted for approximately 22 per cent of the Australian market and that the ongoing relationship with related domestic trader Paper Force, the APP mills history of capacity shifting volumes to mills with no dumping measures, and the significant production and supply capacity demonstrated that there is a real and imminent threat that Pindo Deli will resume exports to Australia, undercut the domestic prices and cause a resumption of material injury to the Australian industry;²⁶⁶
- in 2015 the Indonesian exporters were the lowest priced imports in the Australian market and undercut the Australian industry. Pindo Deli has the highest dumping margin of all of the Indonesian exporters. It is therefore reasonable to conclude that exports by Pindo Deli were targeted to undercut the Australian industry's selling prices and were successful in achieving this in 2015;²⁶⁷
- no consideration has been afforded to the impact of the measures applied in April 2017 that have acted to deter Pindo Deli from exporting to Australia. The measures have prevented Pindo Deli from exporting at dumped and injurious prices. In the absence of the measures and without any deterrent there is no reasonable explanation provided by the Commission to specify why Pindo Deli could not, or would not, resume injurious exports;²⁶⁸
- despite the Commission confirming that exports by Pindo Deli being at dumped prices above negligible levels, the Commission has not contemplated that past performance by Pindo Deli (and Indah Kiat) is indicative of likely future intentions in this revocation review;²⁶⁹ and
- the combination of the available under-utilised capacity, the significant margins of dumping in 2015 and the notional margins in 2019, the continued supply of Indonesian exports by the APP-affiliated trading entity, Paper Force, into the Australian market in 2019, and the export focus of Indonesian producers,

²⁶³ Ibid, p. 11.

²⁶⁴ Ibid, p. 11.

²⁶⁵ Ibid, p. 11.

²⁶⁶ Ibid, p. 11.

²⁶⁷ Ibid, p. 12.

²⁶⁸ Ibid, p. 12.

²⁶⁹ Ibid, p. 12.

demonstrate that if the measures are revoked that it is likely that dumping and material injury will recur from the exports by Pindo Deli.²⁷⁰

With respect to the Australian Paper's submission to find Indah Kiat and Pindo Deli to be 'uncooperative exporters', please see section 7.3 for the Commission's response.

In addition, the Commission notes that the relevant assessment under the Act in relation to a revocation review is whether revoking the measures would lead, or be likely to lead, to a continuation of, or a recurrence of, the dumping and material injury that the measures are intended to prevent.²⁷¹ On this basis, the Commission has considered Australian Paper's submissions in relation to 'threat' of material injury to be in relation to whether the material injury would recur if the measures were revoked.

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 dumping margin established in this review for Indah Kiat is 0.1 per cent.

Australian Paper submitted in its questionnaire response that Indah Kiat was the largest pulp and paper producer in Indonesia, with a production capacity of 1.45 million tonnes.²⁷² 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.²⁷³ Australian Paper submitted that the lower cash cost position and higher output capability would result in Indah Kiat recommencing exports to Australia.²⁷⁴

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

Australian Paper places emphasis on Indah Kiat's prior conduct of dumping in the 2015 investigation to support a conclusion that Indah Kiat will likely dump in the future. However, the Commission notes its examination involves a prospective examination on the issue on whether dumping would be likely to occur in the future. This necessarily also requires an examination of more contemporaneous information, particularly where there has been a four year intervening period since the last determination.²⁷⁵

²⁷⁰ Ibid, p. 12.

²⁷¹ Section 269ZDA(1A)(b).

²⁷² EPR number 12, p. 19.

²⁷³ Ibid.

²⁷⁴ Ibid.

²⁷⁵ The investigation period for Investigation 341 was 1 January 2015 to 31 December 2015.

The Commission has had regard to Australian Paper's submission about the effect of the imposition of measures in April 2017. The Commission notes that Indah Kiat ceased exporting A4 copy paper to Australia during 2016 and has not exported A4 copy paper to Australia since the imposition of measures.

The Commission's consideration of the issues raised by Australian Paper in relation to the determination of Indah Kiat's dumping margin are discussed in Chapter 7 of this report. As specified in Chapter 7, the Commission, having considered Australian Paper's submissions regarding the determination of the 2019 dumping margin, remains satisfied that a dumping margin of 0.1 per cent for Indah Kiat is the preferable determination.

As a result, if the measures are revoked and Indah Kiat recommenced exporting A4 copy paper to Australia, the Commission is not satisfied that those exports would result in a dumping margin above negligible levels. The Commission is also not satisfied that this level of dumping is likely to cause 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 for, or recurrence of, the material injury that the measures are intended to prevent.

8.7 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, in the event the measures are revoked:

- the likelihood of Pindo Deli's future exports, if any, being at dumped prices; and
- the likelihood of Pindo Deli recommencing exports if and whether those exports, if any, would cause material injury to the Australian industry.

8.7.1 The likelihood of Pindo Deli's future exports, if any, being at dumped prices

In the original investigation, the Assistant Minister²⁷⁶ determined the dumping margin for Pindo Deli to be 33 per cent. As specified in Chapter 7, the dumping margin established in this review for Pindo Deli is 17.5 per cent. Based on this dumping margin, the Commission is satisfied that future exports, if any, would likely be at dumped prices.

8.7.2 The likelihood of Pindo Deli recommencing exports if the measures were revoked and whether those exports, if any, would cause material injury

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 2015.²⁷⁷ These export volumes to Australia

²⁷⁶ Craig Laundry, Assistant Minister for Industry, Innovation and Science, Parliamentary Secretary to the Minister for Industry, Innovation and Science (Assistant Minister).

²⁷⁷ Confidential Attachment 17: Australian Import Data Analysis.

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 other countries under the relevant Indonesian tariff code for A4 copy paper since 2018.²⁷⁸ This is reflected in Figure 15.

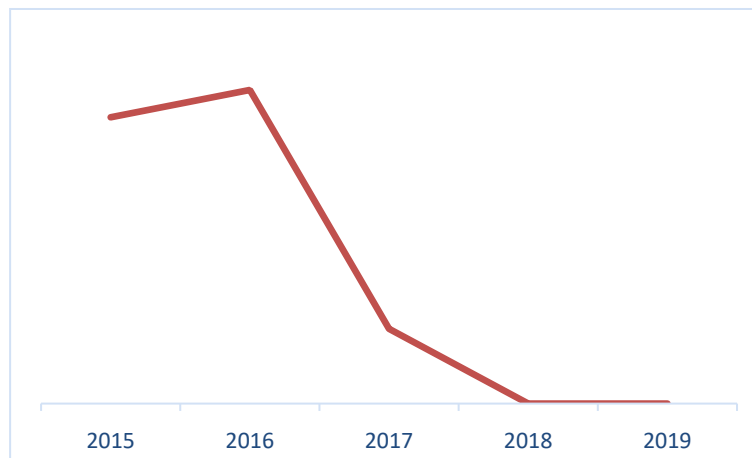


Figure 15: Pindo Deli third country export volumes 2015 to 2019

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

In its questionnaire response, Australian Paper stated: ²⁷⁹

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.

²⁷⁸ EPR number 12, Confidential Attachment A-10.1.2_Tradedata Indo export code 48025690. See analysis in Confidential Attachment 12: Indonesian export data analysis - Analysis of Indah Kiat and Pindo Deli exports from Indonesia.

²⁷⁹ EPR number 12, p. 20.

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 341.²⁸⁰

The evidence before the Commission indicates that, since 2018, Pindo Deli has stopped exporting A4 copy paper both to Australia and to other countries. Whilst Australian Paper has submitted that the measures imposed in 2017 have deterred Pindo Deli from exporting to Australia, it has not addressed the evidence that Pindo Deli has not exported A4 copy paper to any country since 2018. Prior to this time Pindo Deli was exporting these goods to more than 20 countries in 2017. The Commission finds this information to be persuasive and considers the information casts significant doubt on the contention that Pindo Deli did not recommence exporting the goods to Australia since 2016 solely due to the anti-dumping measures. In turn this casts doubt on whether Pindo Deli would be likely to recommence exporting the goods to Australia should the anti-dumping measures be revoked.

For these reasons, the Commission is not satisfied that the evidence before it demonstrates that it is likely that Pindo Deli would recommence exports of A4 copy paper to Australia if the measures were revoked. Without a recurrence of exports of the goods, there cannot be a recurrence of dumping, or injury caused by dumping.

With respect to material injury, the Commission notes 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.

During the original investigation period, the Commission agrees with Australian Paper that Indonesia accounted for approximately 22 per cent of imports into the Australian A4 copy paper market. However, the Commission emphasises that in 2015 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. There is no information before the Commission to be satisfied that, should Pindo Deli recommence exporting the goods to Australia, the amount of goods imported by Pindo Deli, as a proportion of the Australian market, would be materially greater to this amount and therefore be above negligible levels.

The Commission is also not satisfied that it is likely that Tjiwi Kimia would switch supply to Pindo Deli, in the event that the anti-dumping measures were revoked, or that this would result in Pindo Deli exporting goods to Australia in amounts that would cause material injury to Australian industry. The Commission notes that the RISI cash cost reports provided to the Commission by Australian Paper as part of its industry questionnaire response indicate that Tjiwi Kimia has a slight cash cost advantage over Pindo Deli.²⁸¹ The Commission also notes that currently Tjiwi Kimia is not subject to anti-dumping measures for goods exported to Australia. Accordingly, the Commission cannot identify a

²⁸⁰ Australian industry Questionnaire response, p. 21.

²⁸¹ EPR number 12, Confidential Attachment A-10.1.3_RISI APP Indo Cash Cost Report.

financial benefit associated with Tjiwi Kimia switching its supply to Pindo Deli should the anti-dumping measures be revoked.

The Commission further notes that the RISI cash costs indicate that Indah Kiat has a substantial cash cost advantage over both Pindo Deli and Tjiwi Kimia due to its integrated mill. As a result, if Tjiwi Kimia was minded to switch supply, which the Commission maintains is not borne out as likely on the evidence before the Commission, it is more likely to switch its supply to Indah Kiat on the basis that Indah Kiat appears more financially appealing. Compared to both Tjiwi Kimia and Indah Kiat, Pindo Deli appears to be the most expensive producer.²⁸²

For the reasons outlined above, and having considered relevant evidence and submissions before the Commission, the Commission considers that, even if Pindo Deli recommenced exporting A4 copy paper to Australia, the volume of its exports would not exceed a negligible volume and therefore not result 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.

8.8 Conclusion

For the reasons outlined above, even if Indah Kiat and Pindo Deli recommenced exporting A4 copy paper to Australia, due to the negligible dumping margin that would result and the negligible volumes of the goods that would be exported, respectively, the Commissioner is not satisfied that revoking the measures would lead to a continuation of, or a recurrence of, the dumping and material injury that the measures are intended to prevent.

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

²⁸² The Commission notes that RISI cash cost report concords the Commission's understanding of the relative 2015 costs to manufacture of Indah Kiat, Tjiwi Kimia and Pindo Deli obtained in Investigation 341.

9 NON-INJURIOUS PRICE

9.1 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, section 8(5BA) of the Dumping Duty Act applies. Section 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 interim countervailing duty, do not exceed the non-injurious price (NIP).²⁸³

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 section 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.

Under this provision, the Minister is not obliged to, but still may, consider applying a lesser amount of duty.

9.2 Submissions received in response to SEF 547 regarding non-injurious price

Australian Paper submitted that it supported the Commission's proposed recommendation that, due to the particular market situation finding, the Minister is not required to have regard to the desirability of applying the lesser duty rule.²⁸⁴

9.3 Commissioner's findings

The Commissioner finds 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 recommends that the Minister continue to be satisfied that, in accordance with section 269TAC(2)(a)(ii), the situation in the Indonesian market for A4

²⁸³ 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.

²⁸⁴ EPR number 21.

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copy paper continues and that sales are not “suitable” for the purposes of section 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.

10 FINDINGS AND RECOMMENDATIONS

10.1 Findings

The Commissioner has found that, in relation to A4 copy paper exporter to Australia Indonesia by Indah Kiat and Pindo Deli:

- the ascertained export price has changed;
- the ascertained normal value has changed;
- the non-injurious price has changed.

The Commission is not 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 the material injury that the measures are intended to prevent.

10.2 Recommendation

The Commissioner recommends that the Minister **declare**:

- in accordance with subsection 269ZDB(1)(a)(ii), with effect from 12 March 2020 and for the purposes of the Act and the Dumping Duty Act, the dumping duty notices are taken to have been revoked in relation to Indah Kiat and Pindo Deli

If this the Minister accepts this recommendation, 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 will be eligible for a refund.

11 APPENDICES AND ATTACHMENTS

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	2015 investigation period: Cost benchmarks
Non Confidential Appendix D	2019 review period: Particular market situation and suitability of domestic sales
Non Confidential Appendix E	2019 review period: Cost benchmarks
Confidential Appendix 1	Original investigation period: Calculations for reassessment of 2015 export prices, normal values and dumping margins for Indah Kiat and Pindo Deli
Confidential Appendix 2	Review period: Calculations for 2019 export prices, normal values and dumping margins for Indah Kiat and Pindo Deli
Confidential Appendix 3	Review period: Calculations and data relating to the verification and assessment of the economic condition of the Australian industry
Confidential Attachment 1	RISI analysis
Confidential Attachment 2	2015 market share analysis from Investigation 341
Confidential Attachment 3	Investigation 341 import data analysis
Confidential Attachment 4	Calculations on data sourced from RISI
Confidential Attachment 5	Proper comparison analysis – CTMS
Confidential Attachment 6	Proper comparison analysis – Profit assessment tables
Confidential Attachment 7	Proper comparison analysis – Price assessment tables
Confidential Attachment 8	Import verification work program for Paper Force in Investigation 341
Confidential Attachment 9	Importer profit analysis
Confidential Attachment 10	Australian Paper recycled content price analysis and Indonesian gsm price analysis
Confidential Attachment 11	Data and analysis commissioned from RISI: Indah Kiat and Pindo Deli cost reports

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Confidential Attachment 12	Indonesian export data analysis – Analysis of Indah Kiat and Pindo Deli exports from Indonesia
Confidential Attachment 13	Australian import data analysis – Analysis of Indah Kiat and Pindo Deli imports into Australia
Confidential Attachment 14	Australian import data analysis – Analysis of imports from Indonesia
Confidential Attachment 15	Indah Kiat and Pindo Deli common customer price analysis
Confidential Attachment 16	Company search on Paper Force
Confidential Attachment 17	Australian import data analysis
Confidential Attachment 18	2015 competition cost price assessment
Confidential Attachment 19	Verified domestic sales data from Investigation 341
Confidential Attachment 20	Analysis of woodchip import data provided by Australian Paper
Confidential Attachment 21	2019 particular market situation assessment
Confidential Attachment 22	2019 suitability of sales assessment
Confidential Attachment 23	Indonesian woodchip import and export volume analysis

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
21 Jul 2020	Government of Indonesia	19
21 Jul 2020	Pindo Deli and Indah Kiat	20
21 Jul 2020	Australian Paper	21
29 Jul 2020	Australian Paper	22

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:²⁸⁵

- 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.²⁸⁶ 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.²⁸⁷ 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.²⁸⁸ The market segments in the Australian market is illustrated in Figure B1.²⁸⁹

²⁸⁵ REP 341, p. 30.

²⁸⁶ REP 341, p. 98.

²⁸⁷ REP 341, p. 93.

²⁸⁸ REP 341, p. 30.

²⁸⁹ REP 341, p. 98.

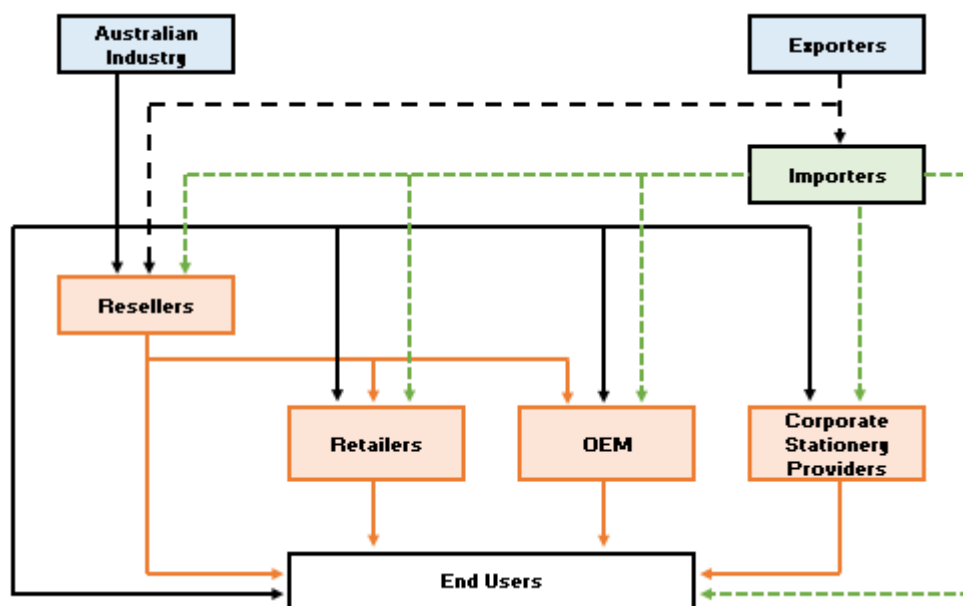


Figure B1: Market segments for A4 copy paper in the Australian market

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.²⁹⁰

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 B2.²⁹¹ 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.

²⁹⁰ REP 341, p. 30.

²⁹¹ Confidential Attachment 18: 2015 Competition Cost Price Assessment.

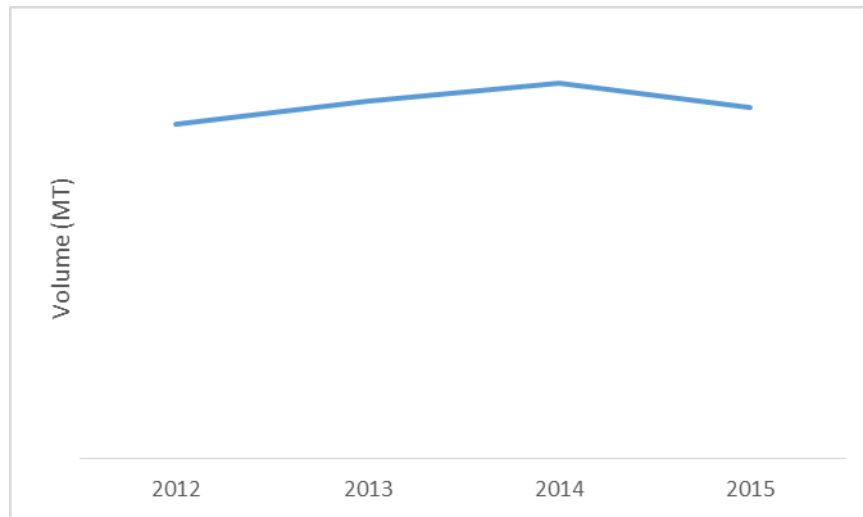


Figure B2: Trend in Australian market by volume

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 B3.²⁹² Significant sources of imported A4 copy paper in 2015 ranked by volume include China, Indonesia, Thailand and Brazil.

²⁹² Ibid.

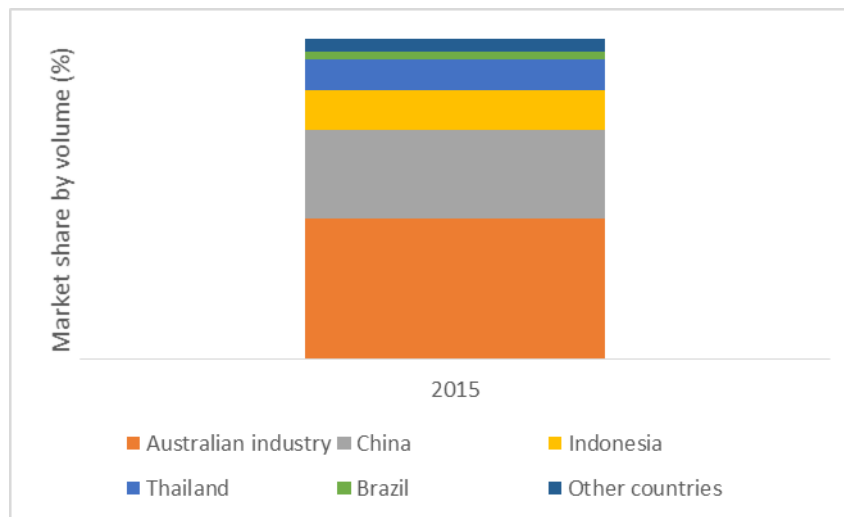


Figure B3: Market share by volume of sources of A4 copy paper in the Australian market

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.²⁹³

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 consumer²⁹⁴, workplace safety²⁹⁵, competition²⁹⁶ and business²⁹⁷ 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*²⁹⁸ 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.

²⁹³ Ibid.

²⁹⁴ Refer to consumer laws on the Australian Consumer Law website at www.consumerlaw.gov.au.

²⁹⁵ Refer to work health and safety regulation on www.business.gov.au/work-health-and-safety.

²⁹⁶ Refer to the national statutory framework on Australian Competition and Consumer Commission's website at www.accc.gov.au.

²⁹⁷ Refer to business regulation on www.business.gov.au/regulations.

²⁹⁸ '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.²⁹⁹ 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.³⁰⁰

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

²⁹⁹ IP Australia on www.ipaustralia.gov.au.

³⁰⁰ ‘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.³⁰¹

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.³⁰²

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.³⁰³ 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

³⁰¹ REP 341, p. 31.

³⁰² REP 341, p. 25 and p. 106.

³⁰³ 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.³⁰⁴

The Commission identified that A4 copy paper is price sensitive and that price is the key driver for sales in Australia.³⁰⁵ Brand recognition and promotions are key attributes that influence purchasing decisions and consumer preferences.³⁰⁶

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.³⁰⁷

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 Investigation 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

³⁰⁴ Ibid.

³⁰⁵ REP 341, pp. 105-106.

³⁰⁶ REP 341, p. 25, p. 68 and p. 106.

³⁰⁷ REP 341, p. 25.

that there was evidence of direct competition. The nature of this competition was also confirmed through discussions with a major retailer.³⁰⁸

During Investigation 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.³⁰⁹

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.³¹⁰ 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.³¹¹

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.³¹²

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.³¹³ Price reductions such as discounts and rebates are used in the Australian market by various participants.³¹⁴

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.

³⁰⁸ REP 341, pp. 92-93.

³⁰⁹ REP 341, p. 95.

³¹⁰ REP 341, p. 107.

³¹¹ REP 341, p. 105.

³¹² REP 341, p. 93.

³¹³ REP 341, p. 25 and p. 106.

³¹⁴ 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.³¹⁵

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.³¹⁶ 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.

³¹⁵ Confidential Attachment 19: Verified domestic sales data from Investigation 341.

³¹⁶ REP 341, p. 53.

PUBLIC RECORD

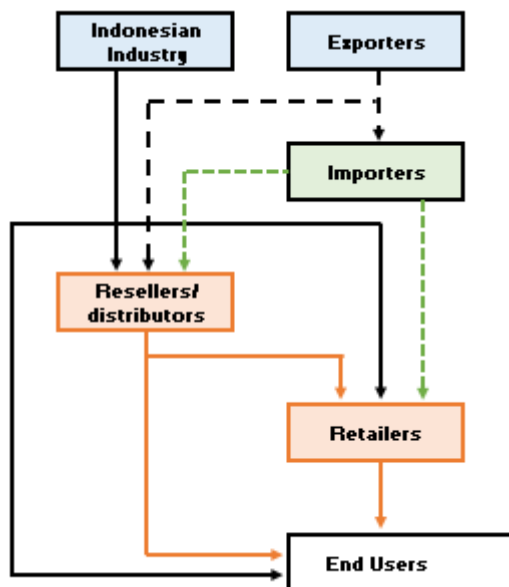


Figure B4: Market segments for A4 copy paper in the Indonesian market

An Indonesian producer, the 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.³¹⁷

The consumption trend of the Indonesian market in terms of both domestically produced and imported A4 copy paper is shown in Figure B5.³¹⁸

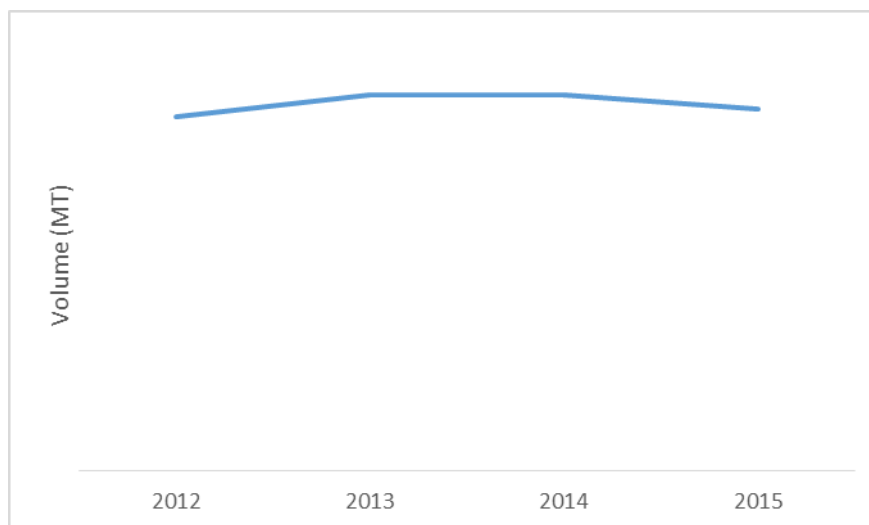


Figure B5: Trend in Indonesian market by volume

³¹⁷ Case 341, EPR number 18, p. 44.

³¹⁸ Confidential Attachment 18: 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 2015.³¹⁹ 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 Group³²⁰ and the APRIL Group³²¹. 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.

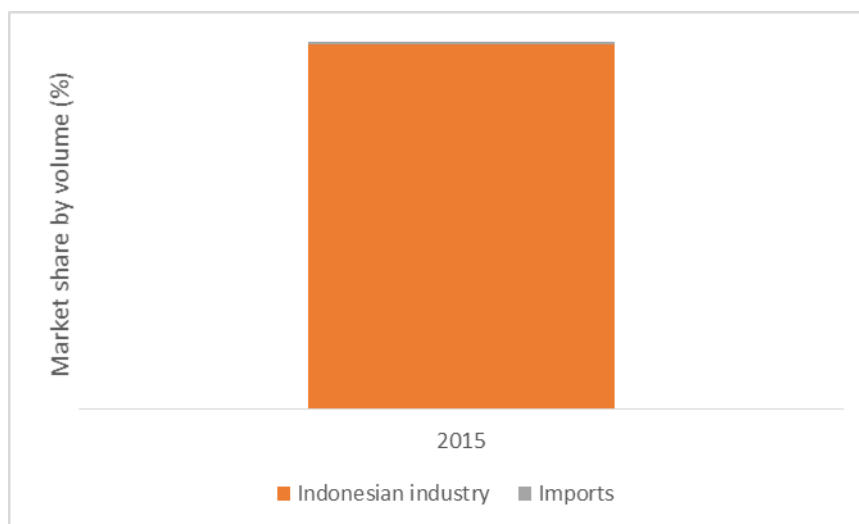


Figure B6: Market share by volume of sources of uncoated copy paper in the Indonesian market

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.

³¹⁹ EPR number 11, p. 10.

³²⁰ Sinar Mas Group refers to: PT Indah Kiat Pulp & Paper Tbk; PT Pindo Deli Pulp and Paper Mills; PT Pabrik Kertas Tjiwi Kimia Tbk and its other affiliated cross-owned companies.

³²¹ The 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.³²² The Government of Indonesia also stated that there were no special taxation regulations that apply only to the copy paper industry.³²³

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

³²² REP 341, p. 79.

³²³ EPR number 11, p. 10.

The Commission is aware that the 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. The 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
- The APRIL Group stated that they sold a number of different products on the Indonesian market. The 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, the APRIL Group, stated that the Indonesian market was extensive with multiple buyers and sellers making it highly competitive.³²⁴ 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

³²⁴ Case 341, EPR number 18, p. 44.

selling price of A4 copy paper sold by the cooperating Indonesian producers. Based on 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 the 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 because of that 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.³²⁵ On this basis, the Commission considers that sales in the domestic Indonesian A4 copy paper market are not suitable for determining a price under section 269TAC(1). As a consequence, the Commission has constructed normal values under section 269TAC(2)(c).

In relation to determining the cost of production or manufacture for the purposes of section 269TAC(5A)(a), section 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 341.³²⁶ This additional information has now enabled the Commission to assess a benchmark at the woodchip level of production for Indah Kiat.

³²⁵ 2015 Analysis of Dumping Margins Chapter.

³²⁶ 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 to access a range of relevant pricing for woodchips that can 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 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 associated with the market situation 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, because of the

market situation they are not a competitive market cost suitable for the purposes of constructing a normal value under section 43(2) of the Regulation.

C2.2.2 *Import prices*

Data provided indicates that the pricing of woodchips imported into Indonesia is not suitable as a benchmark that 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 WRI. This pricing data includes 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 are made to the benchmark price.

The Asian region 2015 woodchip price series available from WRI are:³²⁷

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

The Commission has assessed the import pricing for woodchips sourced from Indonesia in relation to the other import sources after considering submissions received in response to SEF 547 (see in section C2.4). The Commission is satisfied Indonesian sourced import prices are the preferable benchmark for assessing domestic competitive market costs in Indonesia.

³²⁷ The quoted Asian region 2015 woodchip price series available from WRI specified in SEF 547 was incorrectly listed. Report 547 has been updated to reflect the correct countries available in the WRI reports. The misquoted countries did not affect the analysis completed by the Commission in SEF 547 which was based on the countries available from WRI, not the quoted countries in SEF 547.

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 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; and
- a profit has been deducted. The profit deducted was Indah Kiat's profit on A4 copy paper sales during 2015.

C2.4 Submissions received in response to SEF 547 regarding the benchmarks relevant to Indah Kiat

Whilst not agreeing with the decision to make an adjustment to Indah Kiat's costs, Indah Kiat in its joint submission with Pindo Deli agreed with the Commission's decision to use benchmarks based on woodchip exports from Indonesia.³²⁸

Australian Paper submitted³²⁹ that it obtained woodchip price import data from TradeData International for China and Japan for woodchips sourced from the countries nominated by the Commission.

In respect of imports into China, Australian Paper included prices of exports from Australia, Brazil, Chile, Indonesia, South Africa, Thailand and Vietnam which it believes should have been included in the Commission's benchmark as they had similar or greater import volumes when compared to Indonesia. Australian Paper stated that, overall, Chinese import prices for imports sourced from Indonesia were closely correlated to the other import prices, but were at the low end of the price range price range of the seven major export countries.

In respect of imports into Japan, Australian Paper included prices of exports from Australia, Brazil, Chile, Ecuador, Indonesia, Malaysia, Mozambique, New Zealand, South Africa, Thailand and Vietnam which it believes should have been included in the Commission's benchmark. Australian Paper advised that these import sources should be included as they had similar or greater import volumes when compared to Indonesia. Australian Paper submitted that Japanese import prices for imports sourced from Indonesia were approximately 7.2 per cent below the average pricing of the countries (based on its analysis) and were the second lowest price of all these countries.

³²⁸ EPR number 20.

³²⁹ EPR number 21.

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Figures C1 and C2, below, have been copied from Australian Paper's confidential price analysis attached to its submission. Prices included in the charts have been redacted. The black lines on these charts reflects the average price calculated by Australian Paper.

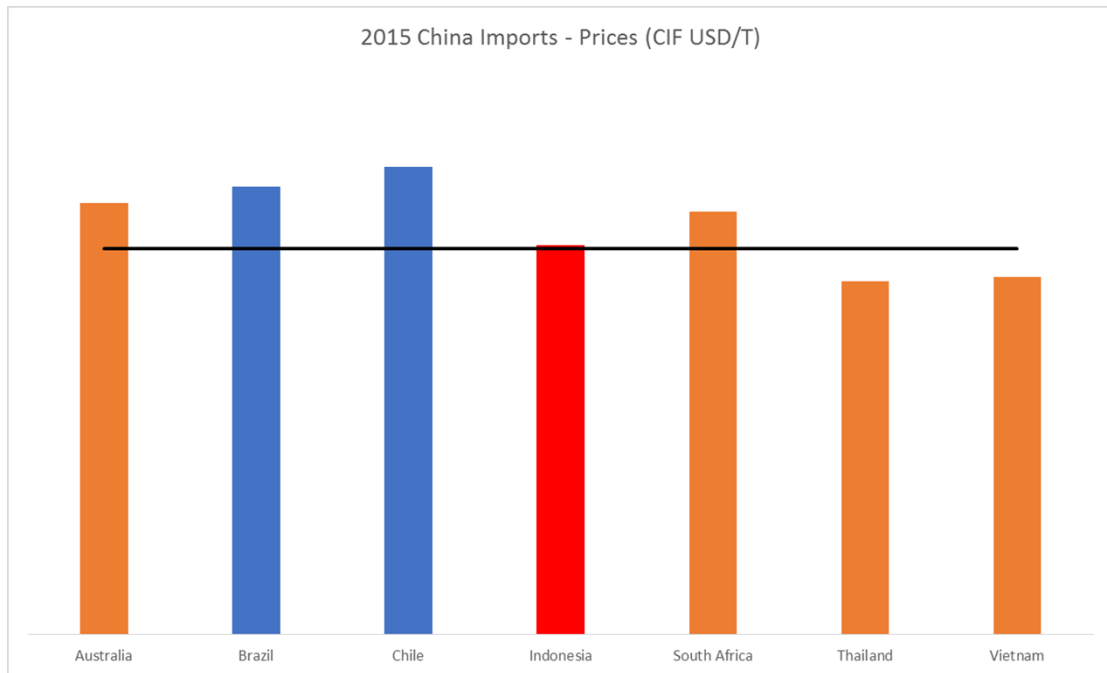


Figure C1: Redacted Chinese import prices from Australian Paper submission

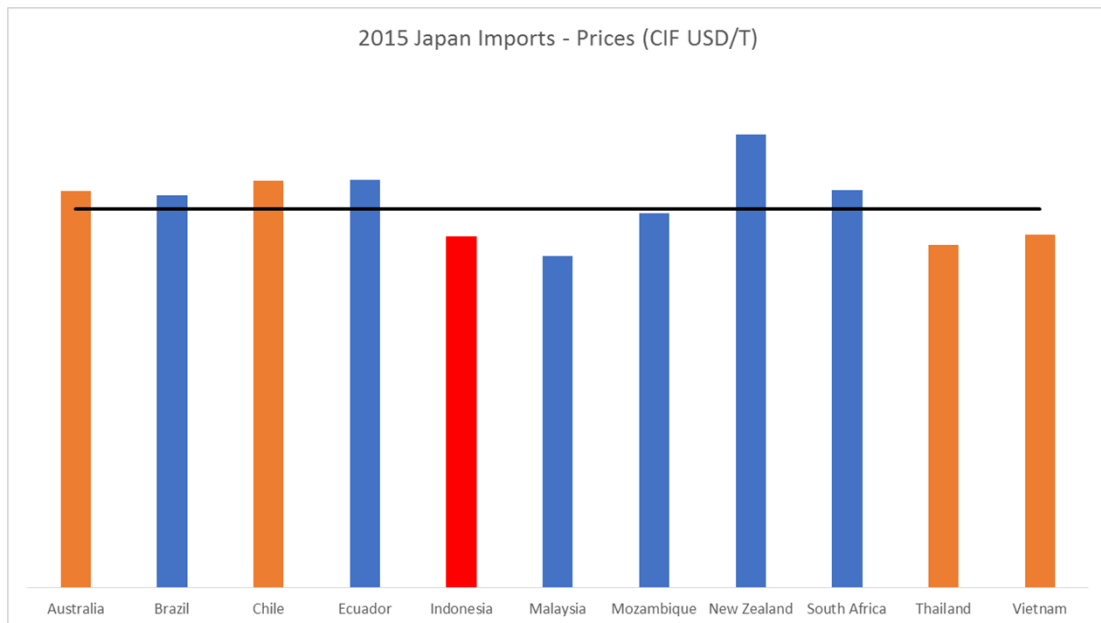


Figure C2: Redacted Japanese import prices from Australian Paper submission

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The Commission has reviewed Australian Paper's price analysis and notes the following:

The Commission's exclusion of countries from its analysis in SEF 547

The Commission identified that the stated countries available from WRI in SEF 547 were incorrectly listed for 2015. The Commission has corrected this error in this report. For clarity, the Commission confirms that the 2015 import prices analysed in SEF 547 were:

- imports into China originating from Australia, Chile, Indonesia, South Africa, Thailand and Vietnam; and
- imports into Japan originating from Australia, Brazil, Chile, Indonesia, Malaysia, South Africa, Thailand, and Vietnam.

The import data obtained by Australian Paper included a broader range of import sources than the WRI data used by the Commission.

Anomalies in the 2015 data and average value calculations

The Commission reviewed the data provided by Australian Paper and noted the following anomalies:

- September 2015 data for Chinese imports from Brazil had a calculated unit price of USD 27,000 per tonne. This is substantially higher than other pricing;
- November 2015 data for Chinese imports from South Africa had a calculated unit price of USD 9,000 per tonne. This is substantially higher than other pricing; and
- September 2015 data for Japanese imports from Indonesia did not include import quantities. This prevents the Commission from calculating a price per tonne for that month.

Due to these anomalies, the Commission is not satisfied that the data provided is reliable nor accurate. Accordingly, the Commission has disregarded these transactions from its analysis of the import data provided by Australian Paper.³³⁰ After disregarding these transactions, the Commission is satisfied that there is a high level of correlation between the WRI data and the import data provided by Australian Paper.

The Commission also notes that the average prices calculated by Australian Paper were an average price of all countries exporting to China and Japan, not just the respective countries nominated by Australian Paper. In the Commission's view, the use of all import sources to calculate the average price has marginally overstated the average price calculated by Australian Paper. The Commission therefore recalculated the average import prices based on the seven and ten import sources nominated by Australian Paper respectively for China and Japan.

Suitability of the prices used by Australian Paper in its analysis

The prices used by Australian Paper in its analysis were CIF prices that are inclusive of insurance and ocean freight costs. The Commission considers that it is necessary to

³³⁰ Pursuant to section 269TAC(7).

adjust the CIF prices to exclude ocean freight costs³³¹ to ensure the prices are properly comparable, particularly where there are substantial differences in freight distances.³³² For the purpose of assessing Australian Paper's proposed prices, the Commission adjusted the prices by calculating a freight cost using an estimated ocean freight distance³³³ and applying the bulk shipping rate³³⁴ used by the Commission in calculating the dumping margin for Indah Kiat.³³⁵

Figures C3 and C4, below, reflect the adjusted CIF prices after deducting estimated freight costs.

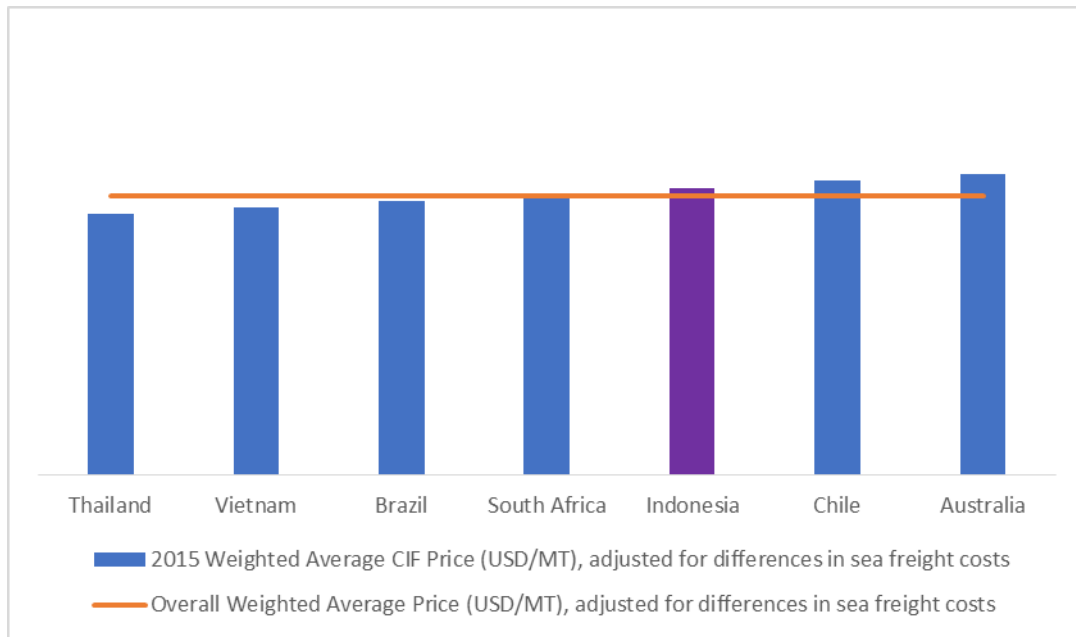


Figure C3: Chinese import prices adjusted for estimated freight costs

³³¹ The Commission did not make an adjustment for marine insurance costs given that they are typically not a significant cost and are unlikely to vary materially between import sources.

³³² Pursuant to section 269TAC(9).

³³³ Ocean freight distances were calculated using data at www.sea-distance.org and also compared to S&P Global Platts Portworld (www.portworld.com), which found that the port distances specified between the two websites concords within a small margin of difference. The Commission used this website to determine the sea distance between a departure port and an arrival port. Ports were selected based on a range of factors, including the shortest distance, the size of the port and whether the port accepted bulk goods like woodchips. Where multiple sea routes were available, the Commission selected the shortest route.

³³⁴ The Commission used a bulk freight rate calculated in the original investigation. Australian Paper during the course of this review provided the Commission with a freight rate for woodchips on a confidential basis. The rate specified in the confidential data provided by Australian Paper was higher, but within a reasonable range of the rate used by the Commission. The Commission considers using its lower calculated rate is more appropriate as it was a more conservative cost for adjusting the CIF prices.

³³⁵ Confidential Attachment 20: Analysis of Woodchip import data provided by Australian Paper.

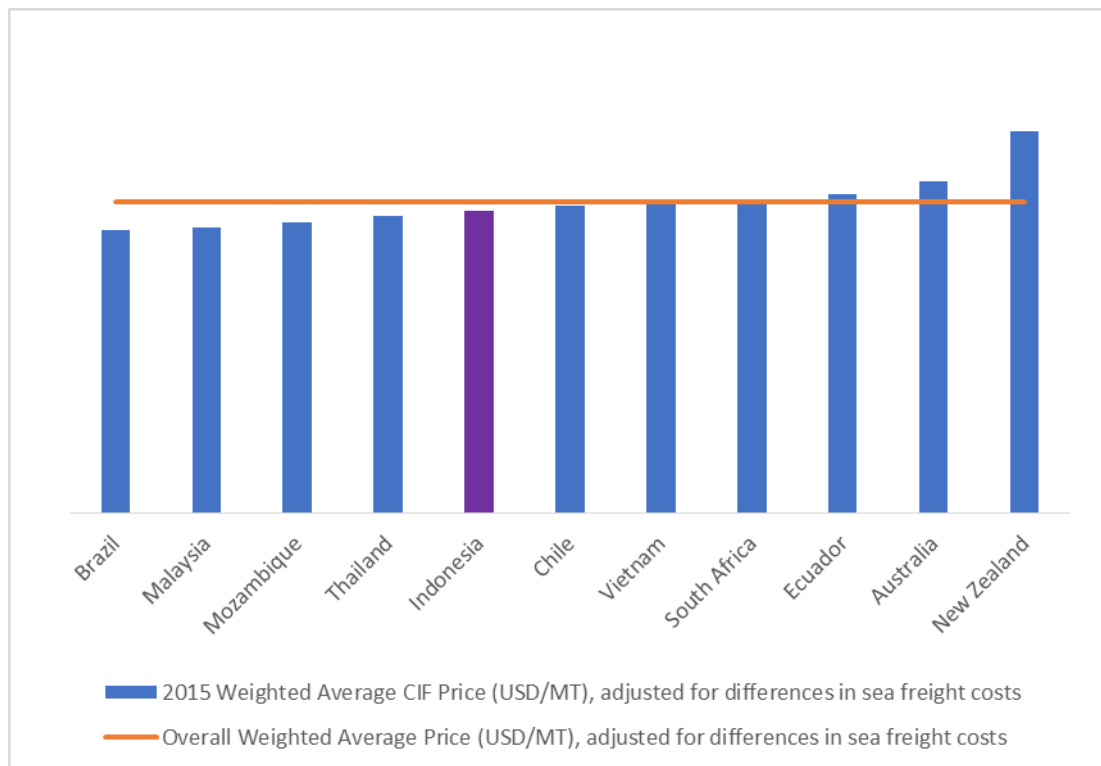


Figure C4: Japanese import prices adjusted for estimated freight costs

After adjusting for estimated freight costs, the Commission notes that the:

- Indonesian import price into China is above the average import price for Australian Paper's selected Chinese import sources and is the fifth lowest price of these seven selected import sources; and
- Indonesian import price into Japan is below the average price by 2.7 per cent and is the fifth lowest price of the 11 countries nominated by Australian Paper.

Suitability of the countries included in Australian Paper's average pricing for imports into China and Japan

The Commission agrees with claims by Australian Paper, outlined in its submission, that import volumes are an appropriate consideration in determining a benchmark.

As noted in section C4 of SEF 547 and C4 of this report, claims were made by interested parties during Investigation 341 that the Commission had not adequately considered Indonesia's comparative advantage in timber production.³³⁶ The GOI also claimed that Indonesia's primary comparative advantage in timber production was in comparison to Australia.³³⁷

³³⁶ SEF, Section C4.

³³⁷ The GOI submitted in Investigation 341 that "Acacia or eucalyptus tree[s] in Indonesia [have] a growth rate of 5-6 years compared to 20-25 years in sub-tropical regions", Investigation 341 EPR number 191, p. 8. The APRIL Group also submitted in Investigation 341 that "Indonesia has a huge comparative advantage in the growing of pulpwood. Due to the combination of climate and rich soil in Indonesia, a pulpwood species

To address concerns around comparative advantage:

- the Commission had reviewed the RISI Review³³⁸ to assess comparative timber production costs for different Asian economies and to address concerns that the Commission had not adequately accounted for Indonesia's comparative advantage in producing timber.³³⁹ The Commission ultimately disagreed with the comparative advantage claims noting, in part, that the RISI Forest Review found that it was more costly to produce timber in Indonesia than in other Asian countries.
- For the purposes of assessing the effect of the log ban, the Commission's analysis focused on differences between Malaysian and Indonesian log prices. The Commission considered that the Malaysian log price was the best measure for assessing distortions in the Indonesian log market, having similar growing and climatic conditions, similar shipping costs and general market conditions.³⁴⁰
- For the purposes of selecting an appropriate benchmark in Investigation 341, the Commission determined, based on the RISI Review, that growing costs for acacia pulpwood in Indonesia were not significantly less than growing costs for eucalyptus pulpwood in South America, notably Brazil.³⁴¹

Where interested parties have raised claims around comparative advantage, the Commission considers it necessary, insofar as it is practicable, to consider issues of comparative advantage when selecting an appropriate benchmark.

The Commission further notes that of the countries included in Australian Paper's proposed average benchmark, the RISI Review indicates that both the growing times and costs for Australia, Chile, Mozambique, New Zealand and South Africa are substantially different to that of the other countries, including Indonesia, specified in the average price benchmark proposed by Australian Paper.³⁴²

Assessment

Having assessed the adjusted prices in the import data submitted by Australian Paper, the Commission is satisfied that it remains preferable to use the Indonesian import prices into Japan and China to establish the benchmark. After adjusting for freight costs, the Indonesian import price is above the weighted average Chinese import price of the import sources nominated by Australian Paper. The Indonesian import price into Japan, whilst below the average price of the 11 countries nominated by Australian Paper, is priced in the middle range of the prices of these nominated import sources. The Commission is also satisfied that it is preferable to only include import sources that are likely to have similar climatic or growing conditions to Indonesia. If Japanese import prices from

such as acacia grows to maturity as quickly as in five or six years. In comparison, plantation hardwood grown in Australia will take between 12 to 20 years to mature for harvest", Investigation 341, EPR number 63, p. 6.

³³⁸ RISI Global Tree Farm Economics Review.

³³⁹ Report 341, Section A2.5.1.

³⁴⁰ Report 341, Section A2.9.4.1.

³⁴¹ Report 341, Section A4.5.2.

³⁴² Based on information in RISI Review.

Australia, New Zealand and South Africa, which are in temperate or sub-tropical zones, are excluded from the average price benchmark, the difference between the price of imports into Japan from Indonesia and the average price benchmark is substantially less than 1 per cent.

Having analysed this pricing, the Commission is satisfied the Indonesian import prices into China and Japan reflect competitive market prices in the Asian region and, after making relevant adjustments, best reflect the competitive market costs for Indah Kiat within Indonesia. On this basis the Commission is satisfied that it is preferable to use the Indonesian import prices rather than the average import prices proposed by Australian Paper.

Given the anomalies identified in the TradeData for Indonesian imports into Japan for the month of September 2015, the Commission considers that it is preferable to use the data sourced from WRI for establishing the benchmark rather than the Indonesian import pricing in the data provided by Australian Paper.

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, 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 to 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, because of the particular market situation they are not a competitive market cost suitable for the purposes of constructing a normal value under section 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 East Asia (acacia, BHK);
- Indonesia to Korea (acacia, BHK);
- South America to China (eucalyptus, 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 East Asia (acacia, BHK);
- Indonesia to China (mixed acacia, BHK);
- Indonesia to Korea (acacia, BHK); and
- 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 ocean 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.

C3.4 Submissions received prior to SEF, but not considered in SEF

Australian Paper made a submission on 16 June 2020 which, in part, provided analysis of pulp prices. Australian Paper in its analysis drew the conclusion that *"...it is clear that Indonesian BHK export prices since 2015 have been considerably lower than global and even Asian region average prices. The data supports the Commission's determination made in Investigation 341 that a particular market situation existed and continues to exist in respect of pulp used in the production of the like goods."*³⁴³

For the purposes of assessing appropriate pulp benchmarks, the Commission examined Australian Paper's claims in regard to Indonesian export prices of pulp being lower than global and Asian region average prices. The Commission notes that Australian Paper's analysis is comparing TradeData sourced Indonesian export pricing for pulp, which is Free on Board (FOB) prices, to RISI sourced pricing which are predominately cost, insurance and freight (CIF) prices. Generally speaking, FOB prices tend to be lower than CIF prices given that they are inclusive of freight costs and insurance costs. Before any comparison can be made between the TradeData export prices and the RISI pricing, adjustments for these differing shipping terms need to be made. The Commission also

³⁴³ EPR number 17, p. 3.

considers it preferable to compare regional pricing in the Asian region rather than global prices which includes pricing in Europe and North America. The European and North American prices are likely to include influences not relevant to the Asian region.

As a consequence, the Commission considers its analysis specified in section C3.2.3 which takes into consideration these factors is preferable.

C3.5 Submissions received in response to SEF 547 regarding the benchmarks relevant to Pindo Deli

Whilst not agreeing with the decision to make an adjustment to its costs, Pindo Deli agreed with the Commission's decision to use benchmarks based on pulp exports from Indonesia.³⁴⁴

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 Investigation 341, SMG argued the following:³⁴⁵

- 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; and
- 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.

³⁴⁴ EPR number 20.

³⁴⁵ REP 341, section A2.9.6.12.

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.³⁴⁶

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.³⁴⁷

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.

However, the Commission notes its approach outlined in section C2.4 where it has only included import sources likely to have a similar tropical climatic or growing conditions to Indonesia, when determining the preferable benchmark. The Commission considers this approach best approximates the cost of production in Indonesia.

³⁴⁶ Ibid.

³⁴⁷ REP 341, section A2.9.2.2.

APPENDIX D APPROACH IN SEF: 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 the 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

Section 269TAC(2) provides for the determination of the normal value of goods where that value cannot be ascertained under section 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 section 269TAC(1)”.³⁴⁸ If there is a market situation such that sales are not suitable for the purposes of section 269TAC(1), normal values may instead be constructed under section 269TAC(2)(c) or determined by reference to prices of exports to a third country under section 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 section 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.

³⁴⁸ 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 facilities³⁴⁹ and they account for around 90 per cent of Indonesian pulp capacity;³⁵⁰
- 50 to 60 per cent of total pulp production in Indonesia is consumed in Indonesia.³⁵¹ The rest is exported;
- No export tariff applied to pulp and there were no export quotas for pulp³⁵² and Latin American or Brazilian based benchmarks and Indonesian export based benchmarks are broadly aligned and reflect competitive market prices;³⁵³
- Policies and programs of the GOI have affected the structure and development of Indonesia's forestry sector and increased the supply of timber;³⁵⁴
- an export ban imposed by the GOI on logs distorted the domestic supply of timber³⁵⁵ and the net impact of the export ban on Indonesian logs reduced prices;³⁵⁶

³⁴⁹ REP 341, section A2.9.3, p. 173.

³⁵⁰ REP 341, section A2.9.2.3, p. 167.

³⁵¹ REP 341, section A2.9.2.3, p. 167.

³⁵² REP 341, section A2.9.2.6, p. 170.

³⁵³ REP 341, section A2.8.6.3, p. 165.

³⁵⁴ REP 341, section A2.9.2.4, p. 168.

³⁵⁵ REP 341, section A2.9.2.6, p. 170.

³⁵⁶ 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;³⁵⁷
- pulp is a key raw material input into paper³⁵⁸ and typically comprises between 60 to 65 per cent of the total cost of A4 copy paper;³⁵⁹
- the Indonesian pulp industry has been the largest beneficiary of the resulting increased access to timber³⁶⁰ and the primary beneficiary of identified timber-related GOI policies and programs was the Indonesian pulp industry;³⁶¹
- 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;³⁶²
- 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;³⁶³
- 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 producers³⁶⁴;
- without these interventions higher input costs would be reflected in higher domestic prices for A4 copy paper";³⁶⁵ 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

³⁵⁷ REP 341, section A2.9.2.1, p. 166.

³⁵⁸ REP 341, section A2.7.1, p. 151.

³⁵⁹ REP 341, section A2.7.1, footnote 211, p. 151.

³⁶⁰ REP 341, section A2.9.2.4, p. 168.

³⁶¹ REP 341, section A2.9.3.1, p. 173.

³⁶² REP 341, section A2.9.4, p. 174.

³⁶³ REP 341, section A2.9.6.5, p. 183.

³⁶⁴ REP 341, section A2.9.3.1, p.173.

³⁶⁵ REP 341, section A2.9.4, p. 174.

support for development of timber plantations and prohibition on exporting of timber logs.³⁶⁶

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.³⁶⁷

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.³⁶⁸ 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

³⁶⁶ REP 341, section A2.9.4, pp. 173-174.

³⁶⁷ 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.

³⁶⁸ 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;³⁶⁹
- Importer Identification Numbers are not required for Import Licensing;³⁷⁰
- [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];³⁷¹
- 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 Examination³⁷²
- [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.³⁷³
- 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

³⁶⁹ EPR number 11, p. 14.

³⁷⁰ EPR number 11, p. 14.

³⁷¹ EPR number 11, p. 19.

³⁷² EPR number 11, p. 26.

³⁷³ EPR number 11, p. 29.

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- to protect the health and safety of humans, animals, fish, plants and the environment.³⁷⁴
- [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. 12/2014.³⁷⁵
- [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)³⁷⁶
 - 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.³⁷⁷

³⁷⁴ EPR number 11, p. 30.

³⁷⁵ EPR number 11, p. 33

³⁷⁶ EPR number 11, p. 35

³⁷⁷ EPR number 11, p. 35

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- 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).³⁷⁸
- [Changes in process to determine if an infringement has occurred in the forestry industry]
 - 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 / 2019.³⁷⁹
- [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.³⁸⁰
- [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.³⁸¹

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

³⁷⁸ EPR number 11, p. 35.

³⁷⁹ EPR number 11, p. 36.

³⁸⁰ EPR number 11, p. 38.

³⁸¹ EPR number 11, p. 47.

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.”³⁸²

D3.3 Australian industry

In its questionnaire response, Australian Paper 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.

Australian Paper provided an additional submission to the Commission which included information in relation to:³⁸³

- Australian Paper’s purchase of pulp, confirming that they had not purchased pulp from Indonesia;
- commentary around the types of pulp manufactured in Australia and trees grown in Australia and Indonesia; and
- analysis of pulp export data from Indonesia.

The Commission notes that Australian Paper pulp analysis compared Indonesian export pricing for pulp which are at a Free on Board (FOB) price to RISI pricing which was predominately cost, insurance and freight (CIF) prices. Before any comparison can be made between the TradeData export prices and the RISI pricing, adjustments for the differing shipping terms needs to be made. Apart from this analysis, the Commission has

³⁸² EPR number 11, p. 62.

³⁸³ EPR number 17. The Commission had insufficient time to consider this submission from Australian Paper prior to the publication of SEF 547. This submission was examined in preparing this report.

considered the information provided by Australian Paper in its particular market situation and suitability assessment.

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 2019:³⁸⁴

- 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;
- 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 the APRIL Group.

³⁸⁴ Confidential Attachment 21:–2019 PMS Assessment.

D4 2019 Particular market situation 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".³⁸⁵ 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.³⁸⁶

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 the 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 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 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

³⁸⁵ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper* (Indonesia), para. 7.56.

³⁸⁶ Ibid.

paper in Indonesia are not suitable for use in determining a normal value under section 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 section 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 section 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.

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.

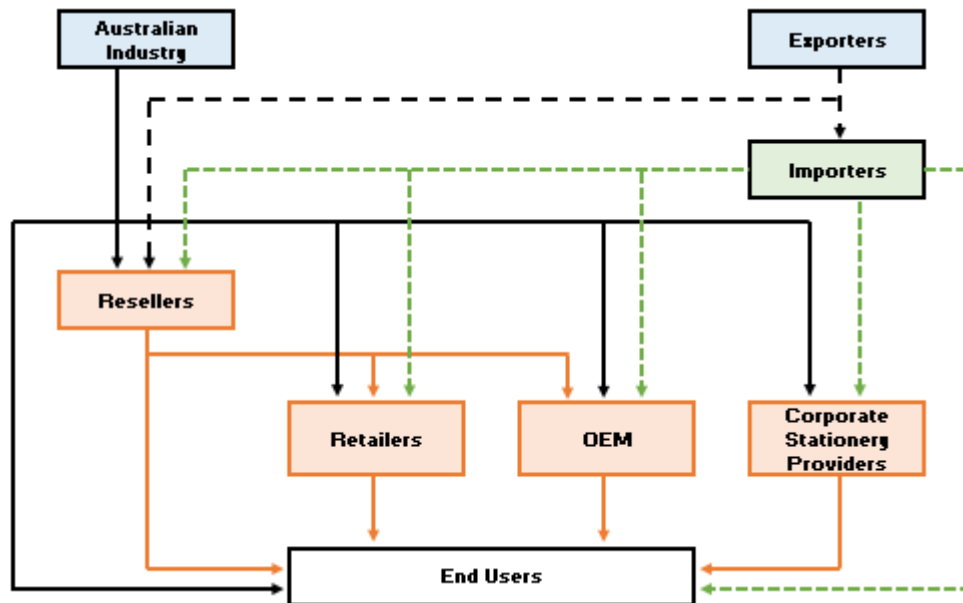


Figure D1: Market segments for A4 copy paper in the Australian market

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.

The size of the Australian market in terms of both domestically produced and imported A4 copy paper is shown in Figure D2.³⁸⁷ 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.

³⁸⁷ Confidential Attachment 22: 2019 Suitability Assessment.

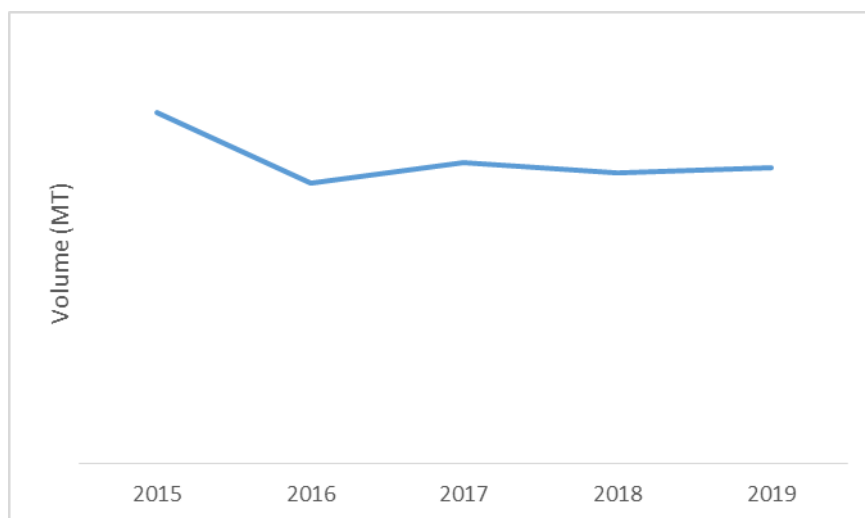


Figure D2: Trend in Australian market by volume

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:³⁸⁸

- 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.

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

³⁸⁸ REP 463, p. 26.

as shown in Figure D3.³⁸⁹ Significant sources of imported A4 copy paper in 2019 ranked by volume include China, Indonesia, Thailand and Malaysia.

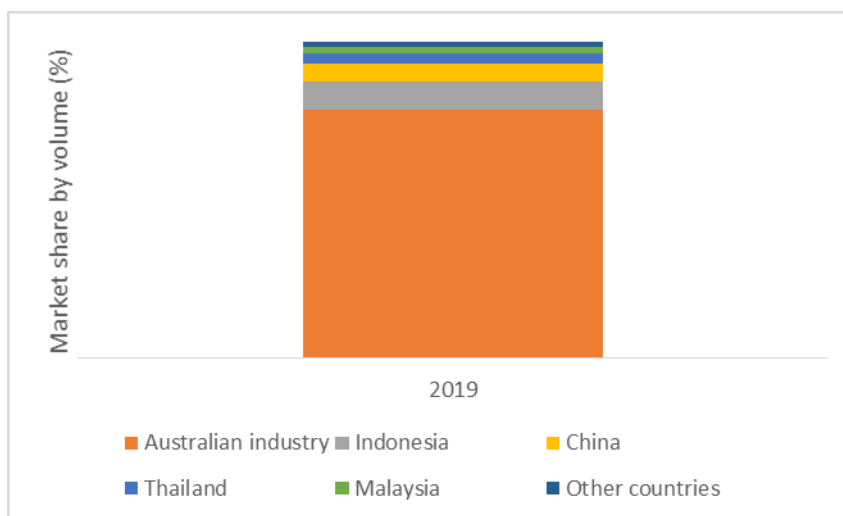


Figure D3: Market share by volume of sources of A4 copy paper in the Australian market

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.³⁹⁰

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 consumer³⁹¹, workplace safety³⁹², competition³⁹³ and business³⁹⁴ regulations.

The Commission is not aware of any 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*³⁹⁵ that market participants will be required to comply with if they intend to harvest timber in

³⁸⁹ Confidential Attachment 22: 2019 Suitability Assessment.

³⁹⁰ Ibid.

³⁹¹ Refer to consumer laws on the Australian Consumer Law website at www.consumerlaw.gov.au.

³⁹² Refer to work health and safety regulation on www.business.gov.au/work-health-and-safety.

³⁹³ Refer to the national statutory framework on Australian Competition and Consumer Commission's website at www.accc.gov.au.

³⁹⁴ Refer to business regulation on www.business.gov.au/regulations.

³⁹⁵ 'Code of Practice for Timber Production', on ablis.business.gov.au.

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.³⁹⁶ 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.³⁹⁷

³⁹⁶ IP Australia on www.ipaustralia.gov.au.

³⁹⁷ '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.³⁹⁸

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

³⁹⁸ Confidential Appendix 3: 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.³⁹⁹ 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.

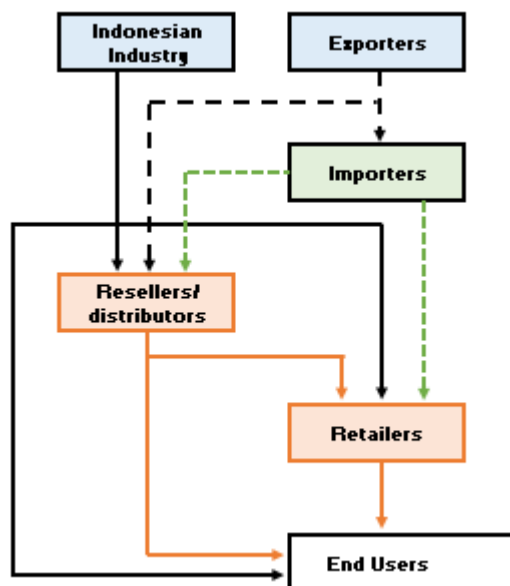


Figure D4: Market segments for A4 copy paper in the Indonesian market

In the original investigation, an Indonesian producer, the 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.⁴⁰⁰ The Commission has no evidence before it to consider that this has changed.

³⁹⁹ EPR number 12, Confidential Attachment E-1_Indonesia Bi Annual Paper Tracking April 2020.

⁴⁰⁰ 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 D5.⁴⁰¹

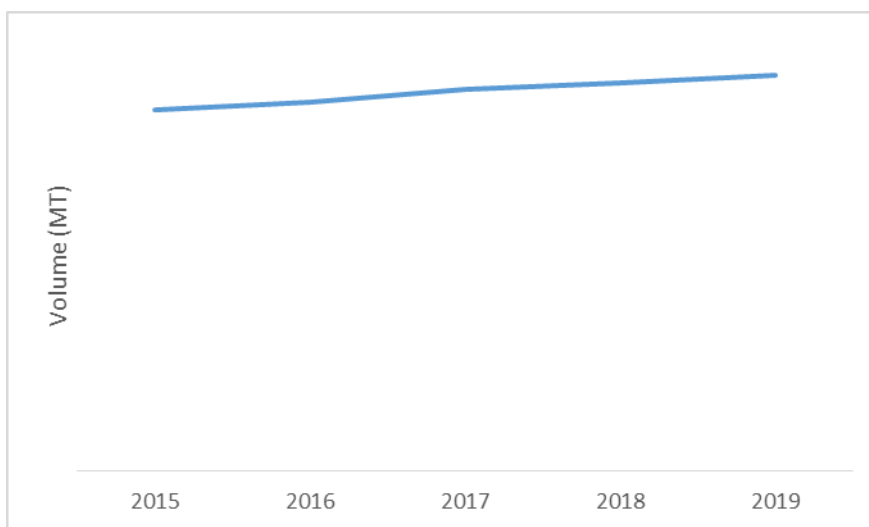


Figure D5: Trend in Indonesian market by volume

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 Group⁴⁰² and the APRIL Group⁴⁰³. 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.⁴⁰⁴ The Indonesian market for uncoated copy paper was predominantly supplied by domestic paper manufacturers as shown in Figure D6. This

⁴⁰¹ Confidential Attachment 22: 2019 Suitability Assessment.

⁴⁰² Sinar Mas Group refers to: PT Indah Kiat Pulp & Paper Tbk; PT Pindo Deli Pulp and Paper Mills; PT Pabrik Kertas Tjiwi Kimia Tbk.

⁴⁰³ The APRIL Group refers to PT Riau Andalan Pulp and Paper (RAPP) and its other affiliated cross-owned companies.

⁴⁰⁴ Confidential Attachment 22: 2019 Suitability Assessment.

information also showed that Indonesia exported almost 80 per cent of its copy paper production which indicates excess domestic supply.⁴⁰⁵

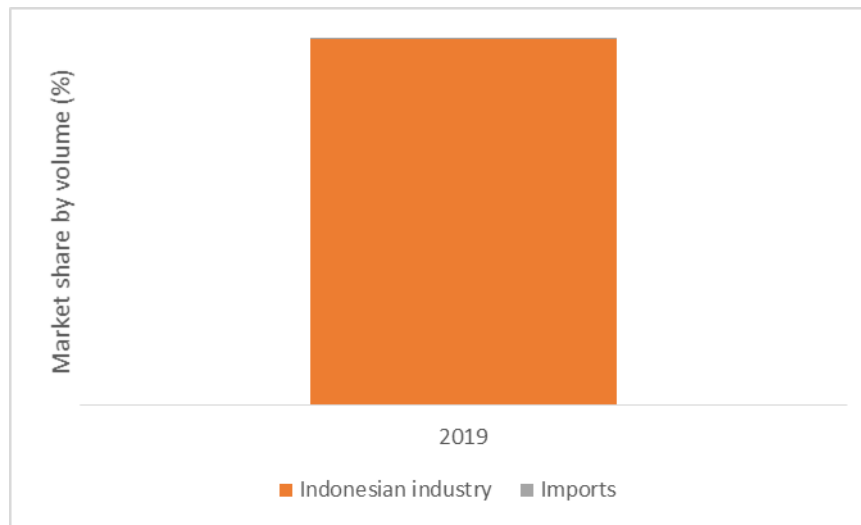


Figure D6: Market share by volume of sources of uncoated copy paper in the Indonesian market

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.⁴⁰⁶

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.⁴⁰⁷ 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

⁴⁰⁵ Ibid.

⁴⁰⁶ Ibid.

⁴⁰⁷ REP 341, p. 79.

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.

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 the 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 2019.⁴⁰⁸ The Commission is aware of some seasonal variability in the demand for A4 copy paper in Indonesia. In the original investigation, the 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.

⁴⁰⁸ Confidential Attachment 22: 2019 Suitability Assessment.

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.

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 D7.⁴⁰⁹

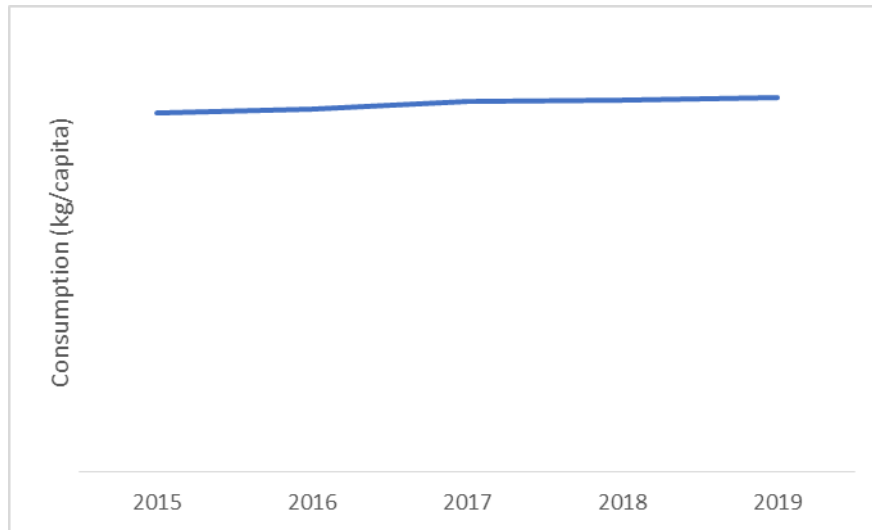


Figure D7: Trend in Indonesian per capita consumption of uncoated copy paper

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.⁴¹⁰ Sinar Mas and the 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:

⁴⁰⁹ Ibid.

⁴¹⁰ Commercial in confidence information from Australian Paper (Indonesia Paper Bi Annual Paper Tracking April 2020).

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- 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
- The APRIL Group stated that they sold a number of different products on the Indonesian market. The 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.

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.⁴¹¹ 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.⁴¹² 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

⁴¹¹ Commercial in confidence information from Australian Paper (Indonesia Paper Bi Annual Paper Tracking April 2020).

⁴¹² Commercial in confidence GOI and RISI data in 547 – Confidential 2019 Suitability Assessment.

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 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.

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, the APRIL Group, stated that the Indonesian market was extensive with multiple buyers and sellers making it highly competitive.⁴¹³ Australian Paper provided Indonesian market intelligence information containing competition information.⁴¹⁴ 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 2015.⁴¹⁵ While we do not

⁴¹³ Case 341, EPR number 18, p. 44.

⁴¹⁴ Commercial in confidence information from Australian Paper (Indonesia Paper Bi Annual Paper Tracking April 2020).

⁴¹⁵ REP 341, section A2.9.2.1, p. 166.

have similar data for 2019, logs represented around 40 per cent of the cost to manufacture pulp for Indonesian producers.⁴¹⁶

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 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 the normal value under section 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 section 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 section 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.”⁴¹⁷
- “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”.”⁴¹⁸

⁴¹⁶ Commercial in confidence RISI data in 547 – Confidential 2019 Suitability Assessment.

⁴¹⁷ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.73.

⁴¹⁸ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.74. (footnotes omitted)

- “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.”⁴¹⁹
- “[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.”⁴²⁰
- “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.”⁴²¹
- “[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.”⁴²²
- “[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.”⁴²³
- “[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.”⁴²⁴
- “[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.”⁴²⁵
- 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);⁴²⁶
- A “particular market situation” may have no effect on export prices;⁴²⁷
- “...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

⁴¹⁹ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.74.

⁴²⁰ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.75.

⁴²¹ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.75.

⁴²² Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.76.

⁴²³ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.76.

⁴²⁴ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.80.

⁴²⁵ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.81.

⁴²⁶ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.76.

⁴²⁷ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.75.

whether domestic prices permitted a proper comparison with those export prices.”⁴²⁸

- “... we consider that, in at least some cases, differences in the impact on domestic and export sales could prevent a proper comparison.”⁴²⁹

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 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.⁴³⁰

Thus, in undertaking its assessment of whether sales are not “suitable” for the purposes of determining the normal value under section 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 Investigation 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 section 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 section 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

⁴²⁸ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.90.

⁴²⁹ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.57.

⁴³⁰ *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).

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.

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:⁴³¹

- [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.⁴³²

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

⁴³¹ EPR number 11, pp. 61-67.

⁴³² EPR number 13, pp. 70-92 and EPR number 14, pp. 69-88.

“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.”⁴³³

The Commission further notes that the WTO Panel explicitly rejected this argument from the GOI and stated the following:⁴³⁴

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.⁴³⁵ 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)⁴³⁶ 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

⁴³³ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper*, para. 7.76.

⁴³⁴ Paragraph 7.80 of DS529 Panel report.

⁴³⁵ EPR numbers 8 (p. 2) and 9 (p. 3).

⁴³⁶ In response to the Commission’s questionnaires, the GOI, Indah Kiat and Pindo Deli 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.

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 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 Investigation 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.⁴³⁷

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.⁴³⁸ 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.⁴³⁹ 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

⁴³⁷ EPR number 11, p. 10.

⁴³⁸ Commercial in confidence ABF and Australian Paper data in 547 – Confidential 2019 Suitability Assessment.

⁴³⁹ The goods produced by all exporters and the Australian industry are alike, have similar specifications and common end-uses.

paper to Asia (61 per cent); Europe (14 per cent); Middle East (9 per cent); and North America (2 per cent).⁴⁴⁰

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 2019.⁴⁴¹ 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.⁴⁴²

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.⁴⁴³

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)⁴⁴⁴ and APRIL. BHK is the largest wood pulp grade produced in Indonesia,

⁴⁴⁰ Commercial in confidence RISI data in 547 – Confidential 2019 Suitability Assessment.

⁴⁴¹ ADC calculations using commercial in confidence RISI data in 547 – Confidential 2019 Suitability Assessment.

⁴⁴² 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.

⁴⁴³ Commercial in confidence ABF data in 547 – Confidential 2019 Suitability Assessment.

⁴⁴⁴ APP is 100% owned by Sinar Mas Group.

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 destinations include Korea (8 per cent), Bangladesh (7 per cent) and India (6 per cent).⁴⁴⁵

Between 2015 and 2019, Indonesian copy paper production capacity increased by around 11 per cent (or approximately 236,000 tonnes).⁴⁴⁶ 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.⁴⁴⁷ SMG and the 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.⁴⁴⁸ 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.⁴⁴⁹ 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 Australia⁴⁵⁰, the price at which the pulp is purchased is consistent with

⁴⁴⁵ ADC calculations using commercial in confidence RISI data in 547 – Confidential 2019 Suitability Assessment.

⁴⁴⁶ Ibid.

⁴⁴⁷ Ibid.

⁴⁴⁸ 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.

⁴⁴⁹ Confidential Appendix 3: Verification work program and attachments. See also submission from Australian Paper, EPR number 17.

⁴⁵⁰ 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

internationally traded prices of pulp.⁴⁵¹ 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.

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 section 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 section 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

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.

⁴⁵¹ In Investigation 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. See also pulp price analysis in section E3.2.3 for 2019.

goods exported to Australia.⁴⁵² 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 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.

⁴⁵² 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.

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.⁴⁵³ As such,

⁴⁵³ 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

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.

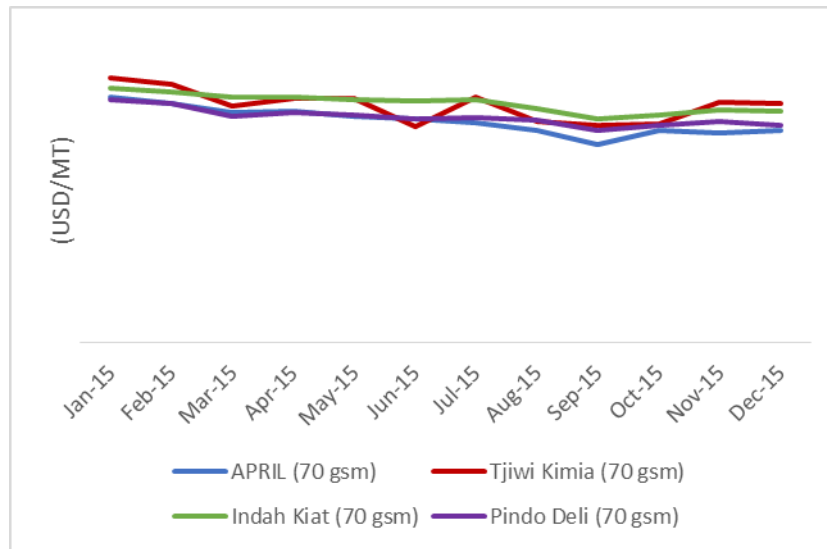


Figure D8: Indonesian domestic A4 copy paper unit pricing by producer

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.⁴⁵⁴ 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.⁴⁵⁵

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.

Indonesian pulp is exported and sold at internationally competitive market prices, rather than at a reduced price.

⁴⁵⁴ This was verified at the Australian industry visit by evidence of pricing negotiations and by a comparison of prices.

⁴⁵⁵ REP 341, pp. 105-106.

PUBLIC RECORD

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.

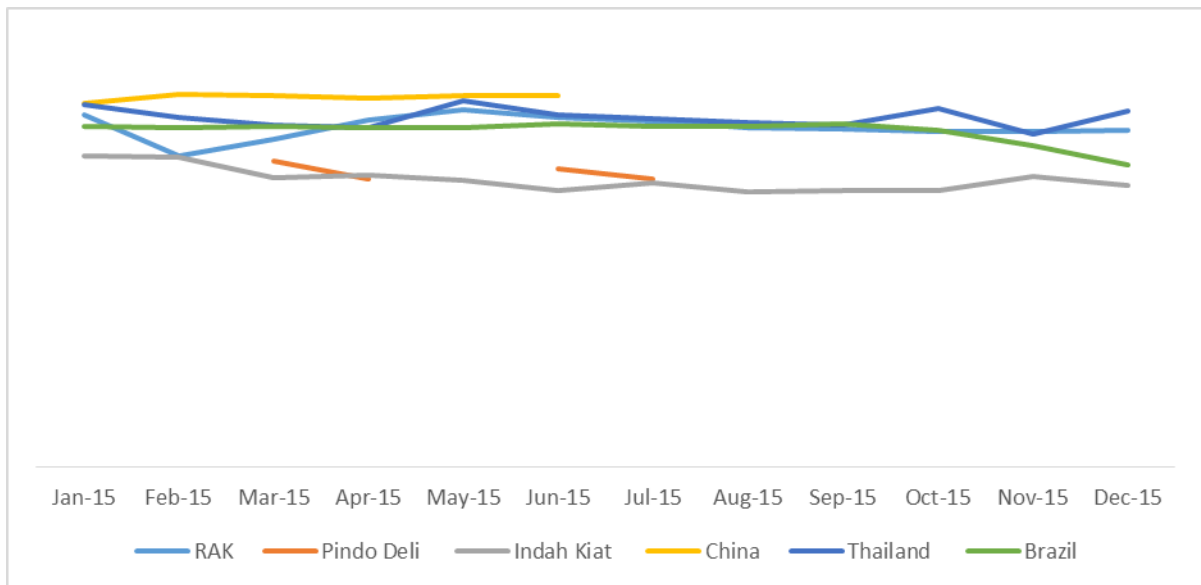


Figure D9: Comparison of Indonesian and other countries ascertained export price

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.⁴⁵⁶ 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 section 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 section 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).

⁴⁵⁶ 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 APPROACH IN SEF: 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 that 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 section 269TAC(1). As a consequence, the Commission has constructed normal values under section 269TAC(2)(c).

In determining the cost of production or manufacture for the purposes of section 269TAC(5A)(a), section 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 are 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 341.⁴⁵⁷ This additional information has now enabled the Commission to assess a benchmark at the woodchip level of production for Indah Kiat in 2015 that can be applied in relation to the 2019 review period.

⁴⁵⁷ 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, 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.

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. The Indonesian exporters and their associated entities in this review are among 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 the amount for woodchips in the 2015 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, because of the

particular market situation they are not a competitive market cost suitable for the purposes of constructing normal value under section 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 a normal value under section 43(2) of the Regulation.

E2.2.2 Import prices

Data indicates that the pricing of woodchips imported into Indonesia during 2019 is not suitable as a benchmark that would reflect competitive market prices.⁴⁵⁸ 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 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 are made to the benchmark price.

The Asian region 2019 woodchip prices available from WRI are:

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

The Commission has assessed the import pricing for woodchips sourced from Indonesia in relation to the other import sources, including assessing the TradeData import data provided by Australian Paper.⁴⁵⁹ After assessing submissions in response to SEF 547, the Commission maintains its view that it is preferable to use the Indonesian import prices

⁴⁵⁸ The GOI provided import and export data of certain materials in its government questionnaire response. This included woodchips (EPR number 11, confidential attachment *Exhibit 2_Realizaion of export and import on certain products_2015-2020*). The Commission also reviewed the woodchip export and import data provided by the GOI in Investigation 341 and notes that for the same tariff code there has been an increase in imports of 'chip wood', but imports in 2019 were only in the vicinity of 1,000 MT. The Commission compared this to the woodchip import data provided by Australian Paper as part of its submission of 20 July 2020 (EPR number 21). This analysis identified that the Indonesian import volumes were significantly less than 1 per cent of Indonesian total exports of woodchips to Japan and substantially less than the total import volumes of woodchips into both China and Japan. The analysis of woodchip volumes is contained in Confidential Attachment 23: Indonesian woodchip import and export volume analysis.

⁴⁵⁹ EPR number 21, Confidential Attachment 1 - Woodchip_China Japan_Import Analysis 2015.

into Japan as the benchmark for assessing domestic competitive market costs in Indonesia (see section E2.4 below for analysis).

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 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; and
- a profit has been deducted. The profit deducted was Indah Kiat's profit on non A4 copy paper sales during 2015.

E2.4 Submissions received in response to SEF 547 regarding the benchmarks relevant to Indah Kiat

Whilst not agreeing with the decision to make an adjustment to Indah Kiat's costs, Indah Kiat in its joint submission with Pindo Deli agreed with the Commission's decision to use benchmarks based on woodchip exports from Indonesia.⁴⁶⁰

Australian Paper in its submission in response to SEF 547, commented on the woodchip benchmark used for the 2015 period, however did not comment on the woodchip benchmark used in relation to the 2019 review period.⁴⁶¹ The Commission notes that the TradeData import data provided with its submission also included woodchip import data relating to 2019.⁴⁶²

For completeness, the Commission has similarly assessed the WRI benchmark against the 2019 import prices provided by Australian Paper in its submission. The Commission also sought to adopt the same import sources into China and Japan proposed by Australian Paper in relation to 2015 for the purposes of this analysis. However, it was noted that the import data for 2019 did not include Japanese imports sourced from Mozambique.

Anomalies in the 2019 data

The Commission reviewed the data provided by Australian Paper and noted the following anomalies:

⁴⁶⁰ EPR number 20.

⁴⁶¹ See section C2.4 for the Commission's consideration of Australian Paper's submission regarding the benchmark prices used in relation to Indah Kiat for the 2015 analysis of dumping margins.

⁴⁶² EPR number 21, Confidential Attachment 1 - Woodchip_China Japan_Import Analysis 2015.

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- October 2019 data for imports into China originating from Indonesia had a calculated unit price of USD 50.15 per tonne; and
- January 2019, March to September 2019 and November 2019 data for imports into China originating from Indonesia had calculated unit prices of between USD 9,704.97 and USD 13,539.46 per tonne.

The Commission considers this import data for the Chinese imports from Indonesia to be substantially outside the range of pricing identified in the WRI prices and the other import data provided by Australian Paper and is therefore not satisfied that Chinese import data for Indonesian imports is reliable or accurate. Accordingly, the Commission has disregarded this data from its analysis. After disregarding this data, the Commission notes that there is a high level of correlation between the WRI data and the import data provided by Australian Paper.

Amendments made to the import data provided by Australian Paper

The prices used by Australian Paper in its analysis were CIF prices, which are inclusive of insurance and ocean freight costs. Similar to the approach taken in section E.2.3, the Commission considers that it is necessary to adjust the CIF prices to exclude ocean freight costs to ensure that the prices are properly comparable, particularly where there are substantial differences in freight distances. For the purpose of assessing Australian Paper's import prices, the Commission adjusted the prices by calculating a freight cost by using an estimated ocean freight distance⁴⁶³ and applying a bulk shipping rate.⁴⁶⁴⁴⁶⁵

⁴⁶³ Ocean freight distances were calculated using data at www.sea-distance.org and also compared to S&P Global Platts Portworld (www.portworld.com), which found that the port distances specified between the two websites concords within a small margin of difference. The Commission used this website to determine the sea distance between a departure port and an arrival port. Ports were selected based on a range of factors, including the shortest distance, the size of the port and whether the port accepted bulk goods like woodchips. Where multiple sea routes were available, the Commission selected the shortest route.

⁴⁶⁴ The Commission used a bulk freight rate calculated in the original investigation. Australian Paper during the course of this review provided the Commission with a freight rate for woodchips on a confidential basis. The rate specified in the confidential data provided by Australian Paper was higher, but within a reasonable range of the rate used by the Commission. The Commission considers using its lower calculated rate as more appropriate as it was a more conservative cost for adjusting the CIF prices.

⁴⁶⁵ Confidential Attachment 20: Analysis of Woodchip data provided by Australian Paper.

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Figures E1 and E2, below, reflect the adjusted CIF prices after deducting estimated freight costs.

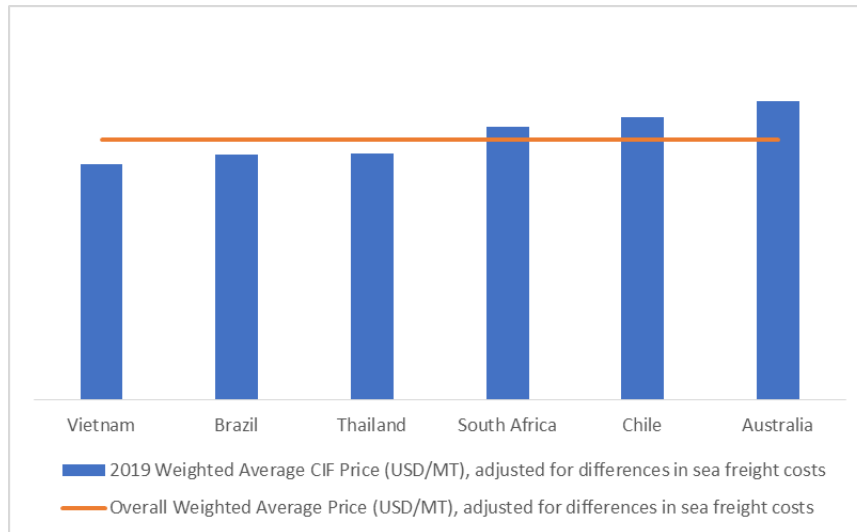


Figure E1: Chinese import prices adjusted for estimated freight costs

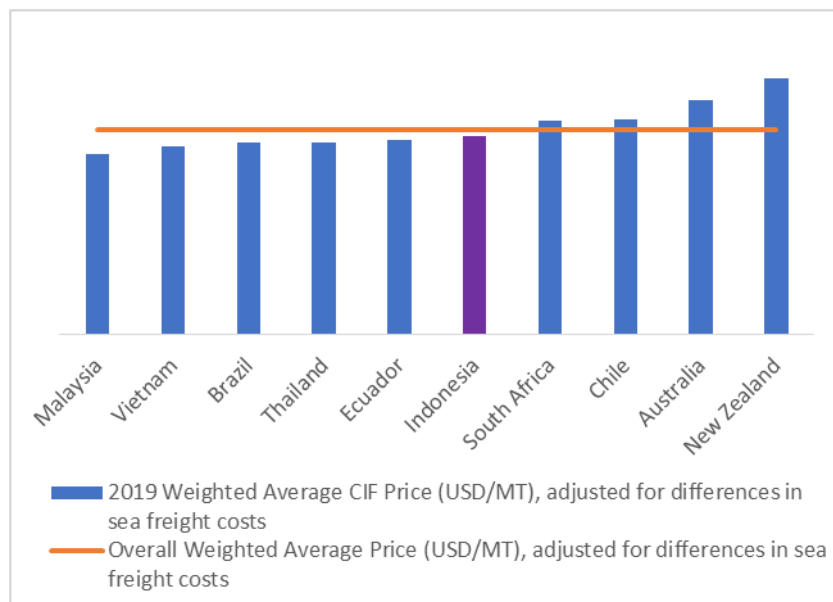


Figure E2: Japanese import prices adjusted for estimated freight costs

After adjusting for estimated freight costs, the Commission notes that Indonesian import prices for Japan are below the average import price by 3 per cent and are the sixth highest price of the ten countries included in the Commission's analysis.

Whilst the Commission was unable to rely on import prices into China from Indonesia due to anomalies in the information provided, the Commission notes that the average import prices for China and Japan are reasonably aligned with the average import price for China being slightly more than the average import price for Japan by about 1.3 per cent.

Suitability of the countries included in Australian Paper's average pricing for imports into China and Japan

The Commission agrees with the claims by Australian Paper in its submission, that import volumes are an appropriate consideration in determining a benchmark.

As noted in sections E4 of SEF 547 and E4 of this report, claims were made by interested parties during Investigation 341 that the Commission had not adequately considered Indonesia's comparative advantage in timber production.⁴⁶⁶ The GOI also claimed that Indonesia's primary comparative advantage in timber production was in comparison to Australia.⁴⁶⁷

To address concerns around comparative advantage in Investigation 341:

- the Commission analysed information in the RISI Review to assess the comparative timber production costs for different Asian economies.⁴⁶⁸ The Commission ultimately disagreed with the Indonesian comparative advantage claims noting, in part, that the RISI Forest Review found that it was more costly to produce timber in Indonesia than in other Asian countries.
- For the purposes of assessing the effect of the log ban, the Commission's analysis focused on differences between Malaysian and Indonesian log prices. The Commission considered that the Malaysian log price was the best measure for assessing distortions in the Indonesian log market, having similar growing and climatic conditions, similar shipping costs and general market conditions.⁴⁶⁹
- For the purposes of selecting an appropriate benchmark in Investigation 341, the Commission determined, based on the RISI Review, that growing costs for acacia pulpwood in Indonesia was not significantly less than the growing costs for eucalyptus pulpwood in South America, notably Brazil⁴⁷⁰.

Where interested parties have raised claims around comparative advantage, the Commission considers it necessary, insofar as it is practicable, to consider issues of comparative advantage when selecting an appropriate benchmark. The Commission considers that these considerations around comparative advantage are still relevant to the 2019 review period as they were in the original investigation.

⁴⁶⁶ SEF, Section C4.

⁴⁶⁷ The GOI submitted in Investigation 341 that "Acacia or eucalyptus tree[s] in Indonesia [have] a growth rate of 5-6 years compared to 20-25 years in sub-tropical regions", Investigation 341 EPR number 191, p. 8. The APRIL Group also submitted in Investigation 341 that "Indonesia has a huge comparative advantage in the growing of pulpwood. Due to the combination of climate and rich soil in Indonesia, a pulpwood species such as acacia grows to maturity as quickly as in five or six years. In comparison, plantation hardwood grown in Australia will take between 12 to 20 years to mature for harvest", Investigation 341, EPR number 63, p. 6.

⁴⁶⁸ Report 341, Section A2.5.1.

⁴⁶⁹ Report 341, Section A2.9.4.1.

⁴⁷⁰ Report 341, Section A4.5.2.

The Commission further notes that, of the countries included in Australian Paper's proposed average benchmark, the RISI review⁴⁷¹ indicates that both the growing times and costs for Australia, Chile, Mozambique, New Zealand and South Africa are substantially different to that of the other listed countries, including Indonesia.⁴⁷²

The Commission considers it preferable to only include import sources which are likely to have similar climatic or growing conditions to Indonesia given the concerns raised in Investigation 341 in regard to the claims of comparative advantage. If the import prices from Australia, New Zealand and South Africa, which are in temperate or sub-tropical zones and have substantially different growing times, are excluded from the average price benchmark proposed by Australian Paper, the Indonesian import price into Japan is above the average price by 2.21 per cent. This is reflected in Figure E3 below.

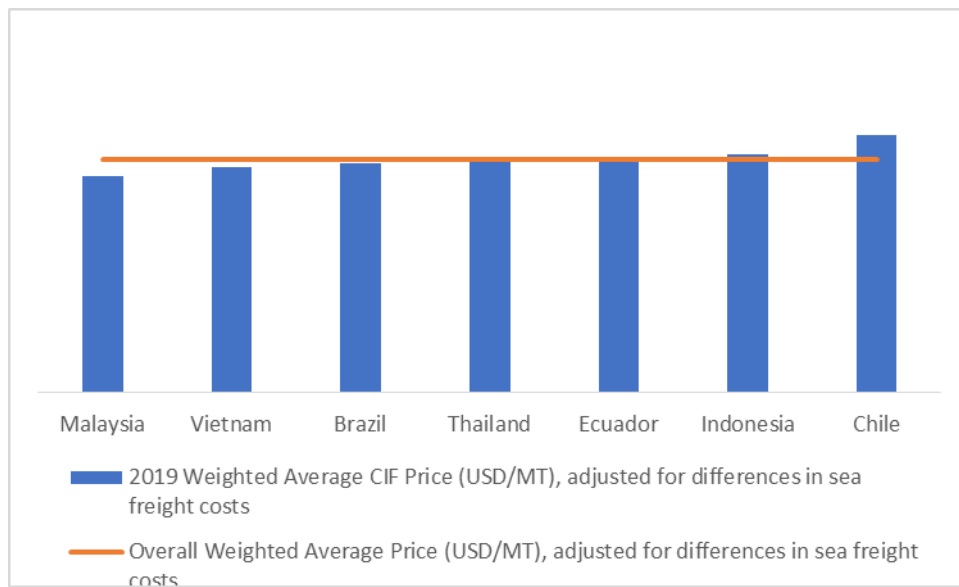


Figure E3: Japanese import prices adjusted for estimated freight costs, excluding Australia, New Zealand and South African imports

Assessment

Having assessed the 2019 adjusted prices in the import data submitted by Australian Paper, the Commission remains satisfied that it is preferable to use the Indonesian import prices into Japan to establish the benchmark. After adjusting for freight costs and excluding imports from Australia, New Zealand and South Africa, the Indonesian import prices are above the weighted average Japanese import prices provided by Australian Paper and are in the upper range of the prices of the import sources analysed. Whilst the Commission was unable to rely on the Indonesian import prices into China, the

⁴⁷¹ The Commission relied on the RISI Review obtained in Investigation 341 for the 2019 review period. This RISI review relates to 2016. The Commission made enquiries with RISI to determine if this report had been updated since 2016. RISI advised that the report had not been updated. The Commission considers that this information is still relevant to 2019, particularly in relation to growing times in different regions and the relative cost differences between countries for the purpose of assessing any comparative advantage.

⁴⁷² Based on information in RISI Review.

Commission notes that average import prices into Japan and China are broadly consistent, but overall lower than the import prices into Japan.

Having analysed this pricing, the Commission is satisfied that the Indonesian import prices into Japan reflect a competitive market price in the Asian region and, after making relevant adjustments, would best reflect the competitive market costs for Indah Kiat within Indonesia. Further, given the anomalies identified in the TradeData in 2015 and 2019, the Commission considers that it is preferable to use the data sourced from WRI for establishing the benchmark.

E3 Pindo Deli

E3.1 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, 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. The Indonesian exporters and their associated entities in this review are among 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, because of the particular market situation they are not a competitive market cost suitable for the purposes of constructing normal value under section 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 section 43(2) of the Regulation.

E3.2.2 Import prices

Data 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:

- Canada to Korea (mixed, northern BHK);
- China, domestic prices (BHK)
- East Asia, imports and contract price (mixed, northern BHK);
- East Asia, imports and contract price (mixed, southern HK);
- Indonesia to Korea pulp price indications (acacia, BHK);
- Indonesia to China pulp price indications (mixed, acacia); and
- United States to Korea (mixed, southern 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 into the region from Canada, the United States, and 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 it prepared its price data. The Commission examined the global data methodology and price specification document for RISI on its 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 its 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 East Asia (acacia, BHK); and
- Indonesia to Korea (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 ocean 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.

E3.4 Submissions received prior to SEF, but not considered in SEF

Australian Paper made a submission on 16 June 2020 which, in part, provided analysis of pulp prices. Australian Paper in its analysis drew the conclusion that *"....it is clear that Indonesian BHK export prices since 2015 have been considerably lower than global and even Asian region average prices. The data supports the Commission's determination made in Investigation 341 that a particular market situation existed and continues to exist in respect of pulp used in the production of the like goods."*⁴⁷³

⁴⁷³ EPR number 17, p. 3.

For the purposes of assessing appropriate pulp benchmarks, the Commission examined Australian Paper's claims in regard to Indonesian export prices of pulp being lower than global and Asian region average prices. The Commission notes that Australian Paper's analysis is comparing TradeData sourced Indonesian export pricing for pulp, which are Free on Board (FOB) prices, to RISI sourced pricing which are predominately cost, insurance and freight (CIF) prices. Generally speaking, FOB prices tend to be lower than CIF prices given that a CIF price is inclusive of freight costs and insurance costs. Before any comparison can be made between the TradeData export prices and the RISI pricing, adjustments for these differing shipping terms need to be made. The Commission also considers it preferable to compare regional pricing in the Asian region rather than global prices which includes pricing in Europe and North America. The European and North American prices are likely to include influences not relevant to the Asian region.

As a consequence, the Commission considers its analysis specified in section E3.2.3 which takes into consideration these factors is preferable.

E3.5 Submissions received in response to SEF 547 regarding the benchmarks relevant to Pindo Deli

Whilst not agreeing with the decision to make an adjustment to its costs, Pindo Deli agreed with the Commission's decision to use benchmarks based on pulp exports from Indonesia.⁴⁷⁴

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.⁴⁷⁵

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.

⁴⁷⁴ EPR number 20.

⁴⁷⁵ *Steelforce Trading Pty Ltd v Parliamentary Secretary to the Minister for Industry, Innovation and Science* [2018] FCAFC 20 [118] and [125] (Perram J).

During Investigation 341, SMG argued the following:⁴⁷⁶

- 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; and
- 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.⁴⁷⁷

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.⁴⁷⁸

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.

However, the Commission notes its approach outlined in section E2.4 where it has only included import sources likely to have similar tropical climatic or growing conditions to

⁴⁷⁶ REP 341, section A2.9.6.12.

⁴⁷⁷ Ibid.

⁴⁷⁸ REP 341, section A2.9.2.2.

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Indonesia, when determining the preferable benchmark. The Commission considers this approach best approximates the cost of production in Indonesia.