



**Australian Government**  
**Department of Industry, Science,  
Energy and Resources**

**Anti-Dumping  
Commission**

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*CUSTOMS ACT 1901 - PART XVB*

**STATEMENT OF ESSENTIAL FACTS**  
**INVESTIGATION NO. 548**

**ALLEGED DUMPING OF CERTAIN KRAFT PAPERBOARD**  
**EXPORTED TO AUSTRALIA**  
**FROM THE UNITED STATES OF AMERICA**

**5 March 2021**

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### ABBREVIATIONS

ABF	Australian Border Force
ADN	Anti-Dumping Notice
the Act	<i>Customs Act 1901</i>
the applicant	Visy Glama Pty Ltd
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
CON 548	<i>Consideration Report No. 548</i>
EPR	electronic public record
FOB	free on board
the goods	certain kraft paperboard as described at section 3.3, also referred to as the goods under consideration
GPIAC	Graphic Packaging International Australia Converting Pty Ltd
GPIL	Graphic Packaging International, LLC
GSM	grams per square metre
INV 548	<i>Anti-Dumping Investigation No. 548</i>
the investigation period	1 January 2018 to 31 December 2019
large format	12 or more beverage can multipack
the Manual	<i>Dumping and Subsidy Manual</i>
MCC	model control code
the Minister	the Minister for Industry, Science and Technology
NWST	non wet strength treated
OCOT	ordinary course of trade
PAD	preliminary affirmative determination
REQ	exporter questionnaire response
SEF	statement of essential facts
small format	less than 12 beverage can multipack
the Smook Book	<i>Handbook for Pulp &amp; Paper Technologists</i> by Gary Smook
the USA	the United States of America
Visy	Visy Glama Pty Ltd
WestRock	WestRock Company
WestRock Australia	WestRock Packaging Solutions Pty Ltd
WestRock MWV	WestRock MWV, LLC

## 1 SUMMARY AND RECOMMENDATIONS

### 1.1 Summary

This statement of essential facts (SEF) has been prepared in response to an application by Visy Glama Pty Ltd (Visy, the applicant) for the publication of a dumping duty notice in respect of certain kraft paperboard (the goods or goods under consideration) exported to Australia from the United States of America (the USA).

This SEF sets out the facts on which the Commissioner of the Anti-Dumping Commission (the Commissioner) proposes to rely. The Commissioner proposes to terminate this investigation in its entirety, subject to any submissions received in response to this SEF. This is on the basis that the Commissioner is satisfied that, for:

- one exporter, there has been no dumping of the goods; and
- all exports from the USA, there was no material injury caused to an Australian industry for like goods.

### 1.2 Authority to make a decision

Division 2 of Part XVB of the *Customs Act 1901* (the Act)<sup>1</sup> describes, among other things, the procedures to be followed and the matters to be considered by the Commissioner in conducting investigations in relation to the goods covered by an application under section 269TB(1).

#### 1.2.1 Application

On 5 March 2020, Visy lodged an application alleging that the Australian industry has suffered material injury caused by the goods exported to Australia from the USA at dumped prices.<sup>2</sup>

Having considered the application, the Commissioner decided not to reject the application and initiated an investigation into the alleged dumping of the goods exported to Australia from the USA on 30 March 2020.

*Consideration Report No. 548* (CON 548) and a public notice (Anti-Dumping Notice (ADN) No. 2020/032) provide further details relating to the initiation of the investigation and are available on the Anti-Dumping Commission's (the Commission's) website at [www.adcommission.gov.au](http://www.adcommission.gov.au).<sup>3</sup>

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<sup>1</sup> All legislative references in this report are to the *Customs Act 1901*, unless otherwise stated.

<sup>2</sup> Electronic Public Record (EPR) item No. 1.

<sup>3</sup> EPR item Nos. 2 and 3, respectively.

### **1.2.2 Preliminary affirmative determination**

On 29 May 2020, the Commissioner published a Day 60 Status Report.<sup>4</sup> The Commissioner did not make a preliminary affirmative determination (PAD) at that time, or at a later date prior to this SEF, because he was not satisfied, under section 269TD(1)(a), that there appeared to be sufficient grounds for the publication of a dumping duty notice.

### **1.2.3 Statement of essential facts**

The Commissioner must, within 110 days after the initiation of an investigation, or such longer period as is allowed under section 269ZHI(3),<sup>5</sup> place on the public record a SEF on which the Commissioner proposes to base a recommendation to the Minister for Industry, Science and Technology (the Minister) in relation to the application.<sup>6</sup>

The SEF was originally due to be placed on the public record by 20 July 2020. However, the due date for the SEF and final report was extended on two occasions.<sup>7</sup>

The Commissioner is now required to place the SEF on the public record by 5 March 2021.

### **1.2.4 Final report**

The Commissioner's final report and recommendations in relation to this investigation must be provided to the Minister on or before 10 May 2021,<sup>8</sup> unless the investigation is terminated earlier.

## **1.3 Findings and conclusions**

The Commissioner's findings and conclusions in this SEF are based on available information at this stage of the investigation. A summary is provided below.

### **1.3.1 The goods and like goods (Chapter 3)**

The Commissioner considers that the applicant does not produce like goods to the goods under consideration.

### **1.3.2 Australian industry (Chapter 4)**

The Commissioner is not satisfied that the applicant, Visy, represents an Australian industry producing like goods to the goods under consideration.

There is no evidence of, and therefore the Commissioner does not consider, that there is an Australian industry producing like goods with respect to the goods under consideration.

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<sup>4</sup> ADN No. 2020/055.

<sup>5</sup> Note that this power has been delegated to the Commissioner. ADN No. 2017/10 provides further explanation.

<sup>6</sup> Section 269TDAA(1).

<sup>7</sup> Refer to ADN Nos. 2020/082 and 2020/134, EPR item Nos. 14 and 26 respectively.

<sup>8</sup> Under section 269TEA.

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As the Commissioner does not consider that there is an Australian industry producing like goods with respect to the goods under consideration, the Commissioner has determined that exports of the goods from the USA have not caused material injury to an Australian industry and, accordingly proposes to terminate the entire investigation (as outlined in Chapter 6 of this SEF).

### **1.3.3 Dumping margins (Chapter 5)**

The Commission's assessment of dumping margins is set out in Table 1.

<b>Exporter</b>	<b>Dumping Margin</b>
Graphic Packaging International, LLC (GPIL)	49.2%
WestRock Company (WestRock)	- 0.5%
Uncooperative and all other exporters	66.6%

**Table 1 - Dumping margins**

The Commissioner is satisfied that there has been no dumping by WestRock and therefore proposes to terminate the investigation in so far as it relates to WestRock (as outlined in Chapter 6 of this SEF).

### **1.3.4 Proposal to terminate the dumping investigation (Chapter 6)**

Subject to any submissions received in response to this SEF, the Commissioner proposes to terminate the investigation:

- in relation to the WestRock on the basis that there has been no dumping by this exporter of any of the goods subject of the application, in accordance with section 269TDA(1); and
- in its entirety on the basis that the Commissioner considers there has been no injury to an Australian industry producing like goods, in accordance with section 269TDA(13).

## 2 CONDUCT OF THE INVESTIGATION

### 2.1 Investigation period

The investigation period<sup>9</sup> for the purpose of assessing dumping is 1 January 2018 to 31 December 2019 (the investigation period).

### 2.2 Contact with interested parties

#### 2.2.1 Australian producers

The Commission commenced a verification of the information provided by Visy in its application. The Commission made enquiries of Visy during the verification process. However, for reasons outlined in Chapters 3 and 4 of this SEF, the Commissioner is not satisfied that Visy represents an Australian industry producing like goods to the goods under consideration. The verification ceased on this basis.

Following submissions by GPIL<sup>10</sup> that Paper Australia Pty Ltd, trading as Opal, formerly Orora Packaging Australia Pty Ltd,<sup>11</sup> might be an Australian manufacturer of like goods, the Commission contacted Opal. Opal confirmed that it was a manufacturer of microflute. However, for the reasons outlined in Chapters 3 and 4 of this SEF, i.e. that microflute is not a like good to the goods under consideration, the Commission did not undertake verification of information provided by Opal.

#### 2.2.2 Importers

The Commission identified a number of importers from the Australian Border Force (ABF) import database that imported the goods during the investigation period. The Commissioner forwarded importer questionnaires to all importers identified and placed a copy of the importer questionnaire on the Commission's website. The Commission received completed importer questionnaire response from two importers, Graphic Packaging International Australia Converting Pty Ltd (GPIAC) and WestRock Packaging Solutions Pty Ltd (WestRock Australia).

The Commission commenced verification activities of the information provided by GPIAC, however it elected not to complete the verification process. The Commission elected not to verify the information provided by WestRock Australia. These decisions were made on the basis of the findings in Chapters 3 and 4 of this SEF, that there is no Australian industry in respect of like goods.

#### 2.2.3 Exporters

The Commission forwarded exporter questionnaires to major exporters, identified from the ABF import database, either directly or through their Australian importer of the goods. The exporter questionnaire and associated spreadsheets were also placed on the

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<sup>9</sup> As that term is defined in section 269T(1).

<sup>10</sup> EPR item Nos. 5, 17 and 21.

<sup>11</sup> The Nippon Paper Group, headed by Nippon Paper Industries Co., Ltd., purchased Orora Packaging Australia Pty Ltd which now trades as Opal.

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Commission's website for completion by other exporters which were not contacted directly.

The Commission received a response to the exporter questionnaire (REQ) from GPIL and WestRock. The Commission conducted remote verification of the information provided by GPIL and WestRock. The verification reports are available on the Commission's website.<sup>12</sup>

As set out at Chapter 5 of this SEF, the Commission considers GPIL and WestRock to be exporters of the goods.

The Commission considers those exporters that did not provide a REQ to be uncooperative exporters.<sup>13</sup>

### 2.3 Submissions from interested parties

The Commission had regard to submissions listed in **Non-Confidential Attachment 1** to the extent they were relevant to the preliminary findings in this SEF.

### 2.4 Responding to this SEF

This SEF sets out the essential facts on which the Commissioner proposes to base his decision to terminate the investigation.

It informs interested parties of the facts established and allows them to make submissions in response to the SEF. It is important to note that the SEF may not represent the final views of the Commissioner.

Interested parties have 20 days to respond to the SEF. The Commissioner will consider these responses when considering whether to terminate the investigation.

Responses to this SEF should be received by the Commissioner no later than **25 March 2021**.

Submissions should preferably be emailed to [investigations3@adcommission.gov.au](mailto:investigations3@adcommission.gov.au).

Alternatively, they may be posted to:

The Director – Investigations 3  
Anti-Dumping Commission  
GPO Box 2013  
Canberra ACT 2601

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

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<sup>12</sup> EPR item Nos. 29 and 30, respectively.

<sup>13</sup> Section 5.7 of this report refers.

## **PUBLIC RECORD**

The public record contains non-confidential submissions by interested parties, the non-confidential versions of the Commission's visit reports and other publicly available documents. It is available online at on the Commission's website.

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

### 3 THE GOODS AND LIKE GOODS

#### 3.1 Preliminary finding

The Commissioner considers that the applicant, Visy, does not produce like goods to the goods under consideration. The Commissioner is not satisfied that there is an Australian industry producing like goods with respect to the goods.

#### 3.2 Legislative framework

One condition of making an application for a dumping duty notice under section 269TB(1) is that there is, or may be established, an Australian industry producing like goods.

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

Section 269T(1) defines like goods:

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

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

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.

#### 3.3 The goods

The goods under consideration are:

*Kraft paperboard, coated on one side with clay or other inorganic substances, grammage 360-430 grams per square metre (GSM),<sup>14</sup> wet strength treated.*

Visy provided further information in its application with respect to the goods under consideration, stating that the goods have an end use of 12 or more (large format) beverage can multipack packaging.<sup>15</sup> However, the Commission is aware of other end

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<sup>14</sup> Grammage refers to the mass per unit area of all types of paper and paperboard.

<sup>15</sup> EPR item No. 1, page 9.

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uses of the goods, including smaller beverage can multipack packaging of less than 12 (small format) cans.

The goods are an intermediate product that is converted into a final product in Australia. The conversion process will generally involve printing, cutting and gluing the imported products to create individual packaging.<sup>16</sup> The goods do not include finished ready for sale packaging.<sup>17</sup>

Paperboard is usually imported in large rolls and is a solid paper-based product, consisting of one or more layers.<sup>18</sup> Kraft paperboard primarily uses virgin softwoods in the initial pulping process, rather than a substantive use of recycled material.<sup>19</sup>

Clay or other inorganic substances refers to the application of kaolin clay, calcium carbonate or other inorganic substance, to the top layer of the paperboard, allowing for high quality printing on the goods.<sup>20</sup>

The grammage range of 360-430 GSM distinguishes the goods from other imported goods that may have applications in food and beverage can multipacks.

Wet strength treatment distinguishes the goods from paperboard varieties used for other applications. As beverages are frequently stored in refrigerated environments additional moisture resistant properties are required for shape retention and to minimise the tear and collapse of packaging. These properties are achieved by the addition of certain chemicals.<sup>21</sup>

### 3.3.1 Submissions by WestRock regarding the goods

EPR No.	Date	Description
8	9 June 2020	<p>WestRock states that it does not consider it exported the goods under consideration during the investigation period on the basis that the goods it exported were not for the end use of large format beverage can packaging. In relation to the goods WestRock considers subject to the investigation, it states:</p> <p style="text-align: center;"><i>Thus the goods under consideration are certain forms of kraft paperboard, being that which is coated on one side with clay or other inorganic substances, of 360-430 GSM and wet strength treated, with an end use for 12 or more beverage can multipacks.</i></p> <p>WestRock states that it analysed the conversion records of its related importers and found that, during the investigation period, the goods it had exported had an end use of small format beverage can packaging.</p>

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<sup>16</sup> EPR item No. 1, page 14

<sup>17</sup> EPR item Nos. 1 and 16, pages 10 and 6, respectively.

<sup>18</sup> EPR item Nos. 16, 29 and 30, pages 4, 5 and 6, respectively.

<sup>19</sup> EPR item Nos. 5, 21 and 20, pages 7, 7 and 17, respectively.

<sup>20</sup> Visy states in its application at page 9, EPR item No. 1, that it formulated the goods description to describe only goods that can be converted to 12 or more beverage can packaging.

<sup>21</sup> Visy provided additional information to assist in describing the goods in its application, stating at page 9, EPR item No. 1, that it formulated the goods description to describe only goods that can be converted to 12 or more beverage can packaging.

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EPR No.	Date	Description
20	22 September 2020	WestRock restates that it does not consider it has exported the goods under consideration to the Australia during the investigation period. WestRock claim that Visy's application is clear and unambiguous in that it states " <i>the [goods under consideration] GUC is formulated to describe by physical characteristics a category of imported goods that have an end use for packaging 12 or more beverage can containers...</i> " WestRock confirms that packaging made from its imported kraft paperboard did not compete with packaging made from microflute on the basis that none of its imported product to Australia was used for beverage can packaging of 12 or more cans.

**Table 2 - Submissions from WestRock regarding the goods**

### 3.3.2 The Commissioner's response to submissions regarding the goods

The Commissioner considers that WestRock has taken a narrow interpretation of the goods under consideration, by limiting the goods under consideration to "*packaging for 12 or more beverage can multipacks*".

At the time of publishing CON 548, the further information available to the Commission from Visy's application, indicated that the goods under consideration were predominately used in packaging for 12 or more beverage can multipacks.

However, during the conduct of the investigation, the Commission became aware of multiple end uses with respect to the goods under consideration, including packaging for small format beverage can multipacks, food packaging and other similar applications.<sup>22</sup> Therefore, the Commissioner considers that:

- the goods under consideration are not limited to 12 or more beverage can multipacks; and
- WestRock exported the goods during the investigation period.

### 3.4 Tariff classification

In its application, Visy indicated that the goods are being imported to Australia under the tariff code 4810.39.00 (statistical code 83).

The Commission has also considered if other tariff codes are applicable to the goods.

The Commission verified data provided by GPIL and WestRock and identified the applicable tariff subheadings shown in Table 3.

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<sup>22</sup> EPR item Nos. 5, 8 and 17, pages 9 (confidential) 2 and 3, respectively.

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Tariff classification ( <i>Schedule 3 of the Customs Tariff Act 1995</i> )			
<i>Tariff code</i>	<i>Statistical code</i>	<i>Unit</i>	<i>Description</i>
4810.29.90	65	Tonnes	Paper and paperboard of a kind used for writing, printing or other graphic purposes, or which more than 10% by weight of the total fibre content consists of fibres obtained by a mechanical or chemi0mechanical process: Other, containing 55% or more mechanical pulp
4810.39.00	83	Tonnes	Kraft paper and paperboard, other than that of a kind used for writing, printing or other

**Table 3 - Tariff classification for the goods**

### 3.5 Model control codes

The Commission did not propose a model control code (MCC) structure at the outset of the investigation, although stated that it may implement an MCC structure if considered necessary.<sup>23</sup>

In undertaking the verification of exporters' data, the GSM of products was considered to materially affect price. The Commission, therefore, considers it reasonable that model matching take into account the GSM.

### 3.6 Like goods

An application can only be made if there exists an Australian industry producing 'like goods' to the goods the subject of the application. Like goods are defined under section 269T(1). Sections 269T(2), (3), (4), (4A), (4B) and (4C) are relevant to determining whether the like goods are produced in Australia and whether there is an Australian industry.

In its application, Visy claims that the product it produces, microflute, closely resemble the goods and are, therefore, like goods. CON 548<sup>24</sup> outlines the Commission's assessment of whether the locally produced microflute are identical to, or closely resemble, the goods, based on the information available to the Commission at the time the investigation was initiated.

The Commission received a number of submissions from interested parties in respect to the assessment of like goods summarised in section 3.6.3 below.

#### 3.6.1 Issues paper

In response to submissions received, the Commission published an issues paper in relation to like goods with regard to the goods under consideration.<sup>25</sup> The issues paper invited further submissions from interested parties and advised of the Commission's intention to seek the views of an independent industry expert.

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<sup>23</sup> ADN 2020/32, EPR item No, 3, page 3.

<sup>24</sup> At section 2.4.3.

<sup>25</sup> EPR item No. 19.

### **3.6.2 Industry expert report – Dr Nafty Vanderhoek**

The Commission briefed Dr Vanderhoek to answer the following three questions:

1. Is microflute an identical product with kraft paperboard?
2. If you do not consider microflute to be an identical product with kraft paperboard, set out whether or not they have characteristics that closely resemble one another.

When answering this question, the Commission asked that Dr Vanderhoek give consideration to physical likeness, commercial likeness, functional likeness, production likeness and any other considerations which are set out in chapter 2.3 of the *Dumping and Subsidy Manual*<sup>26</sup> (the Manual).

3. In addition to microflute, do you consider there to be other products which closely resemble kraft paperboard? If yes, specify these products and to the best of your knowledge outline whether they are manufactured in Australia, and by whom.

Dr Vanderhoek was directed to the EPR for relevant documents pertaining to Investigation No. 548 (INV 548).

On 22 December 2020, Dr Vanderhoek provided his report<sup>27</sup> to the Commission which also sets out a background, based on his experience, to the production of pulp, paper and boxes.<sup>28</sup>

At paragraph 6.6, Dr Vanderhoek answers the first question posed by the Commission by stating that microflute is not an identical product to kraft paperboard. This opinion is consistent with the conclusion formed by Mr Charles Klass in a submission at pages 2 and 16 of EPR item No. 7.<sup>29</sup>

In paragraphs 6.7 to 6.20, Dr Vanderhoek, states that “*That technology allows these expectations [end-use customer expectations] to be met in multiple ways through a combination of fibre selection, processing methods equipment choice, construction preferences, and print options.*” Dr Vanderhoek in his report compared the converted products, stating that they are ‘*most sensibly compared at the final product stage, that is the finished box.*”

With respect to the second question asked by the Commission, Dr Vanderhoek considers that, for the application under consideration, “12 or more beverage can multipacks assumes a fibreboard box (solid or corrugated) for weight bearing contents where

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<sup>26</sup> Available on the Commission’s website: [www.adcommission.gov.au](http://www.adcommission.gov.au)

<sup>27</sup> Dr Vanderhoek, in providing his opinion and preparing his report, states the following:

*In presenting this report, I acknowledge a duty to give impartial assistance to the Anti-Dumping Commission. No matters of significance have been withheld from the Anti-Dumping Commission and I agree to comply with the Expert Witness Code of Conduct and Guideline – Persons Giving Independent Expert Opinion. Additionally, I certify that I have read the Expert Witness Code of Conduct and agree to be bound by the code. I confirm that I have prepared this report to the best of my ability in accordance with the code.*

<sup>28</sup> EPR item No. 28.

<sup>29</sup> GPIL engaged Mr Klass to provide an expert opinion on whether microflute is a like good with respect to the goods under consideration.

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containment, and not stacking”, is the prime requirement. He concluded at paragraph 7.1(b) of his report that microflute is a like good alternative for kraft paperboard when used in the application of 12 or more beverage can multipack packaging.

Finally, at paragraph 6.21, Dr Vanderhoek answers the third question asked by the Commission, stating that there are no other products that closely resemble kraft paperboard, other than microflute, that is able to meet the performance requirements for 12 or more beverage can multipack packaging. Mr Klass, in a submission at page 6 of EPR item No. 33, makes reference to other fibrous products that are used in the construction of 12 or more beverage can multipack packaging, however agrees with Dr Vanderhoek, stating *“I agree that there is no known manufacturer of this paperboard grade in Australia”*.

### **3.6.3 The Commission’s assessment of Dr Vanderhoek’s report**

The Commission accepts the background information, technical explanations and conclusions in relation to questions 1 and 3 in Dr Vanderhoek’s report.

In relation to question 2, the report does not provide a detailed comparison of the similarities and differences of physical, commercial, functional and production characteristics between locally produced microflute, manufactured by Visy, and the goods under consideration.

Rather Dr Vanderhoek’s assessment compares the goods under consideration and Australian produced goods in one final end-use product, being packaging for 12 or more beverage can multipacks. Dr Vanderhoek concludes that because both microflute and kraft paperboard can be used to construct packaging for 12 or more beverage can multipacks they are “like good” alternatives, and therefore like goods to the goods under consideration.

The Commission has considered Dr Vanderhoek’s response to question 2. The Commission accepts that Dr Vanderhoek may be correct from a technical and scientific standpoint, i.e. that microflute is an alternative to kraft paperboard. However, section 269T requires the Commission to conduct a broader comparison between microflute and kraft paperboard based on their characteristics as products, rather than limiting the assessment to one particular market in which a converted product may compete. The Commission considers that Dr Vanderhoek’s opinion that microflute is a “like good alternative” for use in a particular application is not the same as it being a like good for a dumping investigation.

The Commission considers that it is appropriate to assess whether Visy manufactures a like good having regard to microflute and the imported goods at the point in which they are intermediate products that exist prior to conversion to a final end-use product as expanded on in section 3.6.5.

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**3.6.4 Submissions received from interested parties with regard to like goods**

The Commission sets out below a summary of the relevant submissions (and expert opinion) from interested parties. The Commissioner, in forming his view to terminate this investigation, has had regard to all submissions outlined at Non-Confidential Attachment 1.

EPR No.	Date	Submission by	Description
5	13 May 2020	GPIL	In its submission of 13 May 2020, GPIL state that the similarities of microflute to kraft paperboard are superficial, however the differences are fundamental. GPIL state that microflute is not a type of paper or paperboard; rather it is a corrugated cardboard that is a result of converting paper products. GPIL highlights the physical, commercial, functional and production differences between microflute and kraft paperboard.
7	4 June 2020	GPIL	On 4 June 2020, GPIL provided the Commission with a report by an industry expert, Mr Charles Klass (the Klass Report). Mr Klass was asked by GPIL to provide an expert opinion on the question: <i>Is microflute a “like good” to the goods under consideration?</i> Mr Klass states that, in providing his opinion and preparing his report, he agreed to: <ul style="list-style-type: none"> <li>do so at a high professional standard;</li> <li>act impartially and not conduct himself as an advocate for the case of the client; and</li> <li>be familiar with and, to the extent relevant to the matter, act in accordance with the Federal Court of Australia Expert Evidence Practice Note (GPN-EXPT).</li> </ul> Mr Klass provides an analysis on the physical, commercial, functional and production characteristics and concludes that microflute and kraft paperboard are not like goods.
9	19 June 2020	Visy	Visy provided a submission in response to GPIL’s submission of 13 May 2020 and the Klass Report. Visy claim that the commercial background to the investigation is self-evident that microflute and kraft paperboard are completely substitutable. Visy states its microflute product is also generally known as “N” flute and provides further clarification of its thickness. <sup>30</sup> Visy provides a physical comparison of the end use product, being large format beverage can multipack packing, made from either microflute or kraft paperboard, stating that the differences in visual appearance of the packaging made from both materials is microscopic and that the shape is identical.

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<sup>30</sup> EPR item No. 9, page 10.

EPR No.	Date	Submission by	Description
			<p>Visy addresses other physical, production and commercial characteristics, noting that it formulated the goods description in its application to capture only those goods that compete with Visy's packaging made from microflute.</p> <p>With respect to the Klass Report, Visy disagrees with the conclusion arrived at by Mr Klass and states that Mr Klass omitted key points of comparison between the two products and responds to the Klass report as follows:</p> <ul style="list-style-type: none"> <li>• the three layers of paper in microflute are not individually known as 'paperboard' but simply paper layers or liners;</li> <li>• kraft paperboard, a solid sheet, is a fusion of several plies, similar to the layers of microflute;</li> <li>• the list of packaging and display applications cited for 'microflute' is misleading and includes products made from all fluted corrugated products, not merely microflute;</li> <li>• Visy's flute size for its microflute product is 0.7mm, the diagram on page 9 of the Klass report shows microflute (F flute) with a height of 0.75mm;</li> <li>• Visy's microflute product has a thickness of 0.7mm and not 0.85mm as asserted;</li> <li>• ragged edges result from a process called rotary die cutting, whereas both kraft paperboard and microflute use a converting process known as flatbed die cutting;</li> <li>• Visy disagrees with the statements contending that microflute has less optimal printing outcomes;</li> <li>• large format beverage can multipack packaging made from both microflute or kraft paperboard requires a reinforcing strip inside the packaging;</li> <li>• the different pine species is not a significant difference;</li> <li>• it is false and misleading to state that microflute is sold for a variety of applications, other than beverage carriers, including packaging food and non-food items, Visy stating that this refers to all fluted corrugated products;</li> <li>• the conversion of microflute to an end product is done offline, not online as asserted; and</li> <li>• Visy does not agree with statements that microflute and kraft paperboard are made from different products, that they perform differently under wet conditions and that there is differences in print outcomes.</li> </ul>
15	26 July 2020	GPIL	<p>Mr Klass responds to Visy's submission, EPR Item No. 9 (summarised below), on 26 July 2020 with a Supplementary Report. Mr Klass states that he stands by his opinions in his earlier report.</p> <p>Mr Klass refutes Visy's statement that his initial report "aggregates E flute with N flute, calling them both microflute".</p> <p>Mr Klass response specifically as follows:</p>

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EPR No.	Date	Submission by	Description
			<ul style="list-style-type: none"> <li>• Whether the three layers of microflute are referred to as paper, paperboard or liner, Mr Klass' conclusion remains the same;</li> <li>• The diagram in attachment VG-3 of GPIL's submission illustrates "Folding Box Board" rather than GPIL's kraft paperboard. Mr Klass suggests this demonstrates a lack of understanding of the manufacturing process, where solid unbleached kraft paperboard is a solid fibre material formed into a solid sheet. The plies referred to only exist on the wet end of the paper machine and the fibres intermingle at the interface to form a solid sheet;</li> <li>• Visy's statement that Mr Klass was referring to the entirety of all fluted corrugated products was incorrect. Rather Mr Klass was referring only to microflute;</li> <li>• The inclusion of diagrams on page 9 or Mr Klass' initial report serve only to assist non-technically trained readers in the understanding of the definition of microflute;</li> <li>• Mr Klass was provided two samples to assist with the preparation of his initial report: <ul style="list-style-type: none"> <li>a. a sheet of GPIL's coated unbleached kraft paperboard, printed for use in a 24 pack of Coca Cola Classic cans; and</li> <li>b. a carton of Pepsi Max Taste No Sugar 30 pack of cans, made from Visy's microflute product.</li> </ul> </li> </ul> <p>Mr Klass agrees with Visy's statement that the flute height is 0.7mm, however the overall thickness, which includes the two outside liners, is 0.85mm;</p> <ul style="list-style-type: none"> <li>• Mr Klass did not mention rotary die cutting in his initial report. The cracking Mr Klass refers to is a result of the fundamental differences in the materials used in construction;</li> <li>• Mr Klass provides close up photos of the printing of each sample and compares the sharp edges of the work "ENERGY" on GPIL's product to the uneven definition of Visy's product. Mr Klass also notes the undulations of Visy's product, giving a washboard appearance;</li> <li>• Mr Klass based his statements on utilising a reinforcing strip in his initial report on the fact that in the USA 30 can pack beverage carriers made from GPIL's kraft paperboard do not have such a strip. Mr Klass states that the overlap of the manufacturer's joint (in relation to the GPIL product) provides adequate strength with no need for a separate reinforcing strip. He states that, if GPI Australia<sup>31</sup> has a reinforcing strip, it would be cautionary;</li> <li>• The difference in pine is technical, however are physically different;</li> </ul>

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<sup>31</sup> Graphic Packaging International Converting Australia Pty Ltd.

**SEF 548 – Kraft Paperboard – The United States of America**

EPR No.	Date	Submission by	Description
			<ul style="list-style-type: none"> <li>• With regard to competing in the same market, Mr Klass repeats his earlier statement about the different markets in which microflute is used; and</li> <li>• Mr Klass is not aware if Visy converts its microflute in-line or not, but it is technically possible. GPIL's kraft paperboard undergoes sheeting and printing in Australia, before converting. The converting of printed sheets into beverage carrier cartons is the same process for both products.</li> </ul>
16	26 July 2020	GPIL	<p>GPIL submits generally with respect to the investigation:</p> <ul style="list-style-type: none"> <li>• Microflute is not a like good to kraft paperboard;</li> <li>• Visy must clarify what it regards as the like goods before the investigation proceeds further;</li> <li>• Visy makes demonstrably wrong statements about microflute and E flute corrugated board; and</li> <li>• Microflute is a paper based product, but that does not assist Visy.</li> </ul>
18	7 September 2020	Visy	<p>Visy states its views of the overarching purpose of the Anti-Dumping system and discusses the definition of like goods as defined in section 269T(1).</p> <p>Visy contends that the most important factor in comparing kraft paperboard to microflute is whether the market identifies, in a practical sense, these products as being substitutable for one another.</p> <p>Visy cites the following in support of its statements:</p> <ul style="list-style-type: none"> <li>• Marine Power Australia Pty Ltd and Another v Comptroller General of Customs and others (1989) FCA, Lockhart, L., 9 June 1989, unreported, paragraph (v) pages 562 and 572;</li> <li>• GM Holden Limited v Commissioner of the Anti-Dumping Commission and others [2014] FCA 708, Mortimer, J., 4 July 2014 VID 555 of 2013, paragraphs 117 and 123, 134;</li> <li>• Anti-Dumping Review Panel Report No. 103 – <i>Steel Pallet Racking exported from the People's Republic of China and Malaysia</i> (August 2019) at paragraph 65;</li> <li>• <i>European Communities – Anti-Dumping Measure on Farmed Salmon from Norway</i>, WT/DS337/R; and</li> <li>• <i>Korea – Anti-Dumping Duties on Pneumatic Valves from Japan</i>, WT/DS504/R.</li> </ul> <p>Visy does not agree with GPIL's contention that it is comparing a downstream (end) use of microflute as a point of comparison, it concurs that the point of comparison must be the rolls of kraft paperboard as imported, against its microflute continuous sheeting.</p> <p>Visy states that, other than the timing of printing, both kraft paperboard and microflute are subjected to a near identical conversion process to produce the final packaging product.</p> <p>Visy submits that it has not altered the description of the like goods in its dumping application.</p> <p>Visy responds specifically to GPIL's submissions, EPR Item Nos.15 and 16, as follows:</p> <ul style="list-style-type: none"> <li>• Hungry Jacks fluted products discussed by GPIL is an E flute product imported into Australia;</li> </ul>

## SEF 548 – Kraft Paperboard – The United States of America

EPR No.	Date	Submission by	Description
			<ul style="list-style-type: none"> <li>• The beer slab packaging pictured in GPIL’s submission is a Visy Board product, not Visy’s (i.e. Visy Glama Pty Ltd), and is known as R flute;</li> <li>• Mr Klass confirms Visy’s position that there is a difference between microflute and other fluted products;</li> <li>• Visy notes Mr Klass’ use of Wikipedia rather than GPIL references. However, notes that the goods description of the goods under consideration does not distinguish between kraft paperboard with one solid layer or multiple layers; and</li> <li>• Visy states that, because it supplied the Australian market [for large format beverage can packaging] for in excess of 15 years, the asserted differences in visual appearance, printability, wet strength capability and cracking is immaterial.</li> </ul>
20	22 September 2020	WestRock	<p>WestRock submits that microflute is not “like” wet strength treated kraft paperboard in the required sense. WestRock refer to the Klass Report, highlighting differences that include:</p> <ul style="list-style-type: none"> <li>• WestRock’s kraft paperboard product, CarrierKote, adds a wet strength resin which provides an ability for packaging made from its product to be stored on ice, have stronger holds, and being less subject to failure caused by the effects of condensation;</li> <li>• the goods under consideration is produced as an unprinted roll. Microflute cannot be formed into rolls as it is too rigid with one liner pre-printed prior to being formed. The pre-printed microflute is cut and stacked during the manufacturing process; and</li> <li>• the clay coating and laminates of kraft paperboard permit a higher definition than microflute.</li> </ul> <p>WestRock also states that a critical significance of market definition to this investigation highlights the different physical, functional and production features that cause microflute to be rejected for use in producing small format beverage can multipacks.</p> <p>WestRock states that Visy concedes this, referring to Visy’s earlier submission where it writes “<i>Visy Glama is seeking protection against dumped imports for its niche microflute business, being a 0.7mm thick premium quality paper based product...that is almost exclusively used to manufacture large format beverage multipacks</i>”.</p> <p>WestRock refers to the argument by the applicant, that the most important factor for comparison is whether the market identifies the products as substitutable. WestRock observes that microflute cannot replace, and is therefore not a substitute, kraft paperboard in the small format beverage can multipack packaging segment of the Australian market.</p> <p>WestRock highlights further differences, such as run speed, conversion limitations and expense.</p>
21	22 September 2020	GPIL	<p>GPIL responds to the Commission’s Issues Paper by restating previous claims with respect to the question of ‘like goods’:</p> <ul style="list-style-type: none"> <li>• Microflute is not physically, commercially or functionally a like good to kraft paperboard;</li> <li>• Expert evidence confirms that microflute and kraft paperboard are not like goods;</li> </ul>

**SEF 548 – Kraft Paperboard – The United States of America**

EPR No.	Date	Submission by	Description
			<ul style="list-style-type: none"> <li>• The goods are large rolls of unprinted kraft paperboard, not beverage can multipacks. They are also not printed sheets of corrugated cardboard;</li> <li>• Microflute is the result of converting paper products; kraft paperboard imported to Australia has had no converting process; and</li> <li>• Visy has made demonstrably wrong statements.</li> </ul>
23	28 October 2020	Visy	<p>Visy notes that WestRock and GPIL, have lodged submissions; and that GPIL's submission does not raise any new substantive issues.</p> <p>Visy submits that WestRock's response to the Commission's Issues Paper, does not raise any issues that would affect the proposition that microflute and kraft paperboard as strictly defined by the goods description are like goods.</p> <p>Visy states that GPIL does not address that Australian market dynamics, focusing rather on peripheral issues.</p> <p>Visy notes that there has been no submissions filed by Australian customers or end users of microflute and/or kraft paperboard, stating that these parties would be incentivised to support GPIL's position. In light of the lack of industry input, Visy obtained a statement from a former senior beverage industry executive, Mr Arthur Mitropoulos.</p>
24	28 October 2020	Visy	<p>Mr Arthur Mitropoulos, a former Senior Executive with Cadbury Schweppes, Schweppes Australia and Asahi Beverages (collectively Schweppes), provided Visy with a statement on his opinion as to whether microflute and kraft paperboard are like goods when used in beverage can multipacks.</p> <p>Mr Mitropoulos describes the general process of selecting a beverage can pack supplier, stating that the primary driver was price, however also confirms that switching from using kraft paperboard to using microflute for Schweppes beverage packaging was also driven by ability for mainstream recyclability.</p> <p>Although the two products could not be interchanged instantly on the packaging machines, Mr Mitropoulos confirms that, once minor changes were made to the equipment, Schweppes could switch one paperboard supplier for another.</p> <p>In conclusion, Mr Mitropoulos believes that "<i>microflute and paperboard products are 'like' goods for beverage can multi packs (12 can packs and above)</i>".</p>
25	3 November 2020	GPIL	<p>GPIL states that Visy's responses to the Commission's issues paper (EPR item Nos. 23 and 24, do not address the questions posed by the Commission and were provided to the Commission after the date indicated in the paper.</p> <p>GPIL submits that the statement, provided by Visy, from Mr Arthur Mitropoulos, is not expert evidence and asks and answers the wrong question. GPIL highlight that Mr Mitropoulos asks whether microflute and kraft paperboard are like goods when used in beverage can multipacks, rather than at the stage when the goods cross the Australian docks.</p>

### SEF 548 – Kraft Paperboard – The United States of America

EPR No.	Date	Submission by	Description
			GPIL further highlights that Mr Mitropoulos' statement supports its position on like goods as it took 12 months to change suppliers due to material differences between kraft paperboard to microflute.
27	20 November 2020	Visy	<p>In response to GPIL's submission, EPR item No. 25, rejects the proposition that it did not address the questions raised in the Commission's Issues Paper.</p> <p>In reference to Mr Mitropoulos' statement, Visy argues that:</p> <ul style="list-style-type: none"> <li>• it never claimed that Mr Mitropoulos' statement constitutes expert evidence; rather that Mr Mitropoulos' statement speaks to his practical experience working in procurement for a global beverage company;</li> <li>• the opinion provided is not outdated, despite the fact that the original Schweppes contract was entered into 16 years ago, as Mr Mitropoulos was involved in at least three contract renewals prior to his retirement in 2017;</li> <li>• despite the goods under consideration being kraft paperboard prior to conversion in Australia, the observations [on 12 or more beverage can multi packs] are nonetheless valid; and</li> <li>• the time taken to switch suppliers does not support GPIL's position, arguing due diligence is standard practice of large beverage companies.</li> </ul>
31	15 January 2021	Visy	<p>Visy state that Dr Vanderhoek's conclusions support Visy's application for dumping measures.</p> <p>Visy notes Dr Vanderhoek's statement at paragraph 6.7 of his report and agrees that technology allows customer's expectations to be met in a variety of ways and that the products are most sensibility compared at the final product stage, being the finished box.</p> <p>Visy claims that, together with Mr Mitropoulos' statement, Dr Vanderhoek's report resolves the question raised in relation to like goods. Visy also notes that the documents provided to Dr Vanderhoek did not include the statement by Mr Mitropoulos.</p> <p>Visy urges the Commission to finalise the investigation as soon as possible, suggesting urgent consideration of issuing a PAD.</p>
32	5 February 2021	GPIL	<p>GPIL made the following submissions:</p> <ul style="list-style-type: none"> <li>• Dr Vanderhoek's report fails to address the question as to whether microflute is a like good to kraft paperboard;</li> <li>• Dr Vanderhoek makes a comparison of the end use product in relation to "12+ beverage can multipacks" and that this does not account for the fact that: <ul style="list-style-type: none"> <li>○ more than half of the kraft paperboard imported to Australia is not used for packaging of 12 or more beverage can multipacks; and</li> <li>○ a proportion of microflute produced in Australia is not used for such packaging;</li> </ul> </li> </ul>

## SEF 548 – Kraft Paperboard – The United States of America

EPR No.	Date	Submission by	Description
			<ul style="list-style-type: none"> <li>• The like goods assessment suggested by Visy, and Dr Vanderhoek’s report, propose a radical change to the conventional way like goods is assessed by the Commission;</li> <li>• The expert evidence provided by Mr Klass is substantially uncontested;</li> <li>• Dr Vanderhoek’s report confirms aspects of information provided in Mr Klass’ report, in particular that fact that microflute may not exist other than transiently in an inline converting process; and</li> <li>• the Commission cannot delegate its fact finding functions and powers to Dr Vanderhoek, nor does his report have special status by virtue of being engaged by the Commission.</li> </ul>
33	5 February 2021	GPIL	<p>Mr Klass responds to Dr Vanderhoek’s report as follows:</p> <ul style="list-style-type: none"> <li>• Mr Klass agrees with Dr Vanderhoek’s conclusion at paragraph 6.6 that “<i>Microflute is not an identical product with kraft paperboard</i>”, however the remainder of the paragraph does not answer the question of whether microflute is identical to kraft paperboard, and is irrelevant;</li> <li>• Dr Vanderhoek does not answer the question of whether he considers microflute to have characteristics closely resembling those of kraft paperboard;</li> <li>• Dr Vanderhoek does not answer the question of whether he considers there to be other products which closely resemble kraft paperboard. Mr Klass describes a product of Mexico that he states is used successfully for 12+ beverage can multipacks. Mr Klass also suggests that kraft paperboard that is not wet strength treated would more closely resemble wet strength treated kraft paperboard.</li> </ul> <p>Mr Klass stands by his previous opinion that microflute and kraft paperboard are not like goods.</p> <p>Mr Klass provides a review of Dr Vanderhoek’s report where he considers the bulk of the report to be technically correct, this does not point to a conclusion that microflute is a like good to kraft paperboard.</p>

**Table 4 - 3.6.3 Submissions received from interested parties with regard to like goods**

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### 3.6.5 The Commission's assessment of like goods

In this section the Commission has responded generally to submissions received with regard to like goods as part of its assessment of like goods.

The goods are described in the Initiation Notice (ADN No. 2020/032)<sup>32</sup> as:

*Kraft paperboard, coated on one side with clay or other inorganic substances, grammage 360-430 grams per square metre (GSM), wet strength treated.*

Visy states that it manufactures a form of fibre packaging, primarily used for beverage packaging, known as microflute (or N flute).<sup>33</sup> Visy, in its application, states that its microflute product has characteristics that closely resemble those of kraft paperboard and are, therefore, like goods with respect to the goods under consideration.

Microflute is comprised of three layers, being a clay coated top liner, a corrugated medium and a liner.<sup>34</sup>

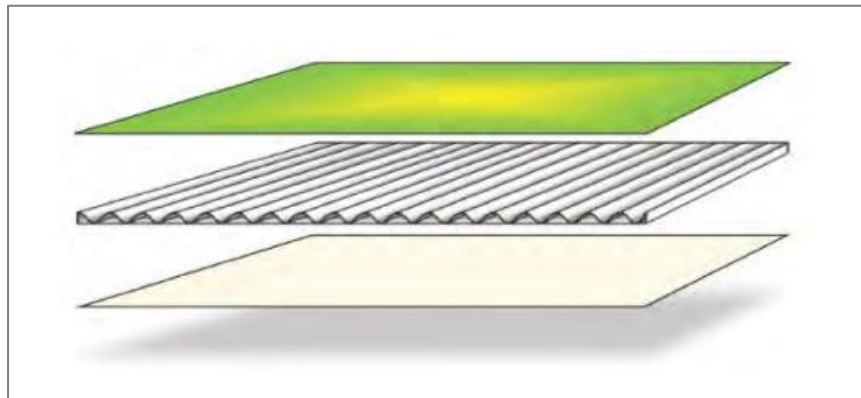


Figure 1 - Layers of microflute

The Commission's assessment below compares microflute and kraft paperboard.

The Commission's framework for assessing whether locally produced goods are identical to, or closely resemble, the goods under consideration is outlined in chapter 2 of the Manual. The Manual outlines that the Commission will give consideration to physical likeness, commercial likeness, functional likeness, production likeness and other factors.

#### Physical likeness

The Commission has assessed if the following physical characteristics of microflute closely resemble the corresponding characteristics of kraft paperboard:

- size and shape;
- weight and thickness;
- appearance;
- content and chemical;

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<sup>32</sup> EPR item No. 3.

<sup>33</sup> EPR item No. 9, page 2.

<sup>34</sup> EPR item Nos. 1, 7 and 23, pages 11, 4 and 17, respectively.

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- strength; and
- tariff classification.

### *Size and shape*

Microflute, if not consumed in the production of the end-use product inline, is stored flat in rectangular sheets which are consumed in the production of end-use product at a later stage.<sup>35</sup>

In contrast, kraft paperboard is produced as a continuous sheet and stored as large 'jumbo' rolls.<sup>36</sup> The imported goods are consumed in the production of end-use products after arriving in Australia in jumbo rolls.

### *Weight and thickness*

Microflute, as produced by Visy, is in the range of 400-420 GSM.<sup>37</sup> Kraft paperboard, as defined by the goods description, is 360-430 GSM.<sup>38</sup>

Visy has stated that the height of the flutes in its microflute product is 0.7mm, and that the total thickness (including the two liners) is 0.7mm.<sup>39</sup> The table below shows the thickness measurements of Visy's microflute product and GPIL's kraft paperboard product, as measured by Mr Klass.<sup>40</sup>

	Microflute	Kraft paperboard
Weight	400-420 GSM	360-430 GSM
Thickness	0.85mm	0.55mm

**Table 5 - Weight and thickness measurements**

Regardless of whether the thickness of microflute is 0.7mm or 0.85mm, it is both different but similar to the thickness of kraft paperboard.

### *Appearance*

Microflute is pre-printed with the end customers' designs.<sup>41</sup> The surface of the printed microflute has a visual appearance of parallel indentations.<sup>42</sup>

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<sup>35</sup> EPR item Nos. 7 and 9, pages 9 and 11, respectively; and EPR item No. 28, paragraphs 5.88 to 5.101.

<sup>36</sup> EPR item No. 15, page 12

<sup>37</sup> EPR item No. 9, page 8.

<sup>38</sup> EPR item No. 3, ADN 2020/032.

<sup>39</sup> EPR item No. 9, page 10.

<sup>40</sup> EPR item Nos. 7 and 15, pages 9 and 7-9, respectively.

<sup>41</sup> EPR item No.5, page 5.

<sup>42</sup> EPR item Nos. 5, pages 7

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Kraft paperboard is unprinted and natural brown in colour.<sup>43</sup> It is covered on one side with a latex coating to give a smooth white appearance.<sup>44 45</sup>

### *Content and chemical composition*

The basic raw material used in the manufacture of microflute is paper or paperboard. Microflute consists of three layers of paper or paperboard. The inside liner is glued together with a corrugated middle layer and then brought together with the top pre-printed layer using adhesives to form the microflute.<sup>46</sup> The middle layer is a recycled product.

The kraft paper liner of Visy's microflute product is made from the Radiata Pine.

Kraft paperboard comprises of a single layer, which is unprinted. The basic raw material used in the manufacture of kraft paperboard is virgin wood pulp. Various chemicals are added during the manufacturing process to break down the lignin. Wet strength chemical additives are added to kraft paperboard.<sup>47</sup>

The raw pulp material used in the manufacture of kraft paperboard is the US Southern Pine.<sup>48</sup>

### *Strength*

Microflute derives its strength from the corrugations in its middle layer. Visy claims this strength allows the end product, i.e. packaging, to perform well in wet environments.<sup>49</sup>

Kraft paperboard also maintains its strength in wet environments, however this is achieved through the use of chemical additives.<sup>50</sup>

Each product also derives some strength from the raw pulp material.

### *Tariff classifications*

In its application, Visy states the tariff classification for the goods imported from the USA is 4810.39.00/83. After a review of the ABF's import database, the Commission considers the goods are also imported under a second classification. The table below outlines the tariff classifications the Commission considers the goods to be imported under:

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<sup>43</sup> EPR item Nos. 5 and 15, pages 7 and 2, respectively.

<sup>44</sup> ERP item No. 29, page 5.

<sup>45</sup> GPIL provided the Commission with physical samples of the end use packaging products with one sample depicting the 'washboard' appearance of parallel indentations.

<sup>46</sup> EPR item Nos. 7 and 28, pages 16 and 12, respectively.

<sup>47</sup> EPR item Nos. 7 and 28, pages 16 and 8, respectively.

<sup>48</sup> EPR item No. 7, pages 13 and 14.

<sup>49</sup> EPR item No. 9, page 8.

<sup>50</sup> EPR item No. 7, pages 6 and 11, and EPR item No. 28 page 9.

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Tariff code	Statistical code	Unit	Description
4810.29.90	65	Tonnes	Paper and paperboard of a kind used for writing, printing or other graphic purposes, of which more than 10% by weight of the total fibre content consists of fibres obtained by a mechanical or chemi-mechanical process: - other, containing less than 55% mechanical pulp.
4810.39.00	83	Tonnes	Kraft paper and paperboard, other than that of a kind used for writing, printing or other graphic purposes: - other.

**Table 6 - Tariff classification of kraft paperboard**

Microflute falls under the following tariff classification<sup>51</sup>:

Tariff code	Statistical code	Unit	Description
4808.10.90	51	Tonnes	Paper and paperboard, corrugated (with or without glued flat surface sheets), creped, crinkled, embossed or perforated, in rolls or sheets, other than paper of the kind described in 4803. - Other

**Table 7 - Tariff classification of microflute**

### Commercial likeness

The Commission has assessed if the following commercial characteristics of microflute closely resemble the corresponding characteristics of kraft paperboard:

- Do both products compete in the same market?
- Are both products commercially interchangeable?
- Is price competition between the two products? and
- Are the distribution channels similar?

#### *Compete in the same market?*

Microflute and kraft paperboard are both intermediary products that are converted, in Australia, to an end product.<sup>52</sup> Visy, and Australian importers of kraft paperboard do not compete in a market for the intermediary products.<sup>53</sup> Some, but not all, importers compete in the same market as Visy for the end use product, that is, they compete in a market once the microflute or kraft paperboard is converted to a final product.<sup>54</sup>

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<sup>51</sup> As confirmed by ABF.

<sup>52</sup> EPR item No. 1, pages 14 and 16, and EPR item No. 16, page 6.

<sup>53</sup> While undertaking verification activities, the Commission confirmed that Visy and GPIL do not sell microflute or kraft paperboard in Australia, in a state that is not converted to a final product.

<sup>54</sup> GPIL and Visy both competed for a long term supply contract of large format beverage packaging, providing an indication that they compete in the same market for the end use product. WestRock has consistently stated that it does not convert the kraft paperboard it imports to Australia, to an end use product for 12 or more beverage can multipack packaging.

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Microflute is used in applications that include advertising and promotional displays, fast food containers, gift packs and other various applications, although the Commission notes that Visy primarily uses its microflute product in the market for large format beverage can packaging.<sup>55</sup>

Both microflute and kraft paperboard can be used for the production of large format beverage can packaging, Therefore, the end-use products of microflute and kraft paperboard can compete in same market. However, the Commission understands that microflute is not used in the production of small format beverage can packaging in Australia.<sup>56</sup>

Kraft paperboard, imported from the USA, is almost exclusively used the production of beverage can packaging in both small and large formats.<sup>57</sup> Australian converters of kraft paperboard, used in the production of small format beverage can packaging do not compete in the same market with Visy.<sup>58</sup>

### *Commercial interchangeability*

Both Visy and one Australian importer of kraft paperboard competed for a long term contract for the supply of packaging for 12 or more beverage can multipacks.<sup>59</sup>

Microflute and kraft paperboard can both be used in the production of large format beverage can packaging, however the products aren't substituted outside this scope in Australia, for example, in small format beverage can packaging.<sup>60</sup>

Recyclability is one factor that differentiates microflute and kraft paperboard. Visy market its microflute as being recyclable, whereas kraft paperboard is not marketed this way. Any commercial preference for recyclability of the end use product will render kraft paperboard an unsuitable substitute for microflute.<sup>61</sup>

### *Price competition and consumption*

Visy does not sell microflute which it produces as an intermediary product. Rather, Visy consumes the microflute in the manufacture of various products, including beverage packaging.

Similarly, importers of kraft paperboard convert kraft paperboard to a final end product, typically beverage packaging. Price competition, therefore, occurs at the end-use product level.<sup>62</sup>

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<sup>55</sup> EPR item No. 9, page 2.

<sup>56</sup> EPR item No. 20, page 4.

<sup>57</sup> <https://www.graphicpkg.com/products/aquakote/> and <https://www.westrock.com/products/paperboard/carrierkote-paperboard>

<sup>58</sup> EPR item No. 8, page 2.

<sup>59</sup> EPR item No. 1, page 27.

<sup>60</sup> EPR item Nos. 7 and 25, page 15 and 9 (footnote), respectively.

<sup>61</sup> EPR item No. 24, page 3.

<sup>62</sup> EPR item No. 1 page 15.

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Along with price, consumption of the end product may be driven by the beverage manufacturer's requirements. Although, the Commission considers it a reasonable assertion that the overall consumption levels of beverage packaging are driven by consumer preferences.<sup>63</sup>

### *Distribution channels*

The end use products are sold to manufacturers and wholesalers of products such as food and beverages, who then, fill the packaging with products to distribute to the retail market.<sup>64</sup>

There is no difference in the distribution channels for the end use products.<sup>65</sup>

### Functional likeness

The Commission has assessed if the following functional characteristics of microflute closely resemble the corresponding characteristics of kraft paperboard:

- end use; and
- performing the same functions.

### *End use*

Microflute and kraft paperboard are both used in large format beverage can packaging. However, interested parties have highlighted functional differences between the two products that result in microflute not being suitable for small beverage can packaging.

### *Performing the same functions*

In the narrow application large format beverage can packaging, interested parties have highlighted functional differences between microflute and kraft paperboard.

It has been submitted that microflute is a more rigid product that is not able to be rolled and renders itself unsuitable for use in small format beverage can packaging. Kraft paperboard is described as less rigid, meaning that it can be rolled and used in much smaller applications.<sup>66</sup>

Microflute is pre-printed,<sup>67</sup> where kraft paperboard is blank.<sup>68</sup> The ability to switch from one product to another has been described as more efficient for kraft paperboard in relation to the production of packaging.<sup>69</sup> This, coupled with the fact that kraft paperboard

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<sup>63</sup> EPR item No. 24, page 4.

<sup>64</sup> The Commission confirmed the end use customers of Visy and GPIL while undertaking verification activities.

<sup>65</sup> EPR item No. 1, page 15.

<sup>66</sup> Neither industry expert reports specifically discuss microflute's suitability for use as small format beverage can packaging, however Mr Klass does refer to the rigidity of microflute in EPR item No. 7, page 8.

<sup>67</sup> EPR item No.5, page 5.

<sup>68</sup> EPR item Nos. 5 and 15, pages 7 and 2, respectively.

<sup>69</sup> EPR item No. 7, pages 15-16.

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is used for both large and small format beverage can packaging, supports claims that kraft paperboard is more adaptable to customers' orders as they are received.

Both Visy and GPIL have made claims about performance and functionality when packaging made from each product is subjected to a chilled and wet environment.<sup>70</sup>

Mr Klass, in his report, considers kraft paperboard, treated with wet strength resins, maintains its strength and shape when wet. In contrast, he considers microflute not to perform as well in wet conditions; stating that "*both liners and the medium can absorb moisture – reducing their strength. Wetting can adversely affect the adhesive bond between the medium and the liners resulting in loss of box integrity*".<sup>71</sup>

Dr Vanderhoek refers to kraft paperboard that has been treated with 'wet strength' additives, stating that wet strength additives "*improves product strength in the wet state*".<sup>72</sup>

### Production likeness

The Commission has undertaken verification of information provided by two cooperating exporters and assessed the information provided to the Commission in submissions and reports to determine if the following production characteristics of microflute closely resemble the corresponding characteristics of kraft paperboard:

- constructed from similar materials; and
- manufacturing process.

#### *Constructed from similar materials*

Visy's microflute product is made of three layers comprising of a fluted centre layer, made from recycled paper waste, and a top and back liner made from non-wet strength treated (NWST) kraft paper.<sup>73</sup>

Both imported kraft paperboard and NWST kraft paper liners are made from kraft pulp.

The basic raw material used in the production of pulp is wood, either softwoods or hardwoods, in this case softwoods.

The recycled corrugated layer of microflute is made from recycled pulp.

#### *The manufacturing process*

In his report, Dr Vanderhoek steps out each process of production, from raw material to final end product, in distinct stages that naturally flow from one to the next in the production cycle:

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<sup>70</sup> EPR item Nos. 5, 7 and 9, pages 8, 15 and 8, respectively.

<sup>71</sup> EPR item No. 7, page 11.

<sup>72</sup> EPR item No. 28, page 9.

<sup>73</sup> EPR item Nos. 5, 9, 15, 21 and 28 pages 7, 10, 2, 7 and 17, respectively.

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- production of pulp;
- production of paper and paperboard; and
- production of boxes.

Dr Vanderhoek includes a discussion on the production of microflute in the paragraphs relevant to the production of boxes.<sup>74</sup>

A comparison of the production characteristics of microflute to those of kraft paperboard is done prior to the stage where each product is converted to an end use product.

### 1. *Pulp manufacturing process*

Pulp is produced predominantly from wood, or recycled paper waste, although can be produced from non-wood sources such as cereal straw, bamboo or hemp, among others. The kraft paperboard and NWST kraft paper liners are made softwoods.<sup>75</sup>

The conversion of woody biomass to pulp can be achieved by:

- mechanical pulping;
- chemical pulping; or
- semi-chemical pulping, using a combination of mechanical and chemical energy.

The most common chemical method is the kraft<sup>76</sup> process. The kraft process “cooks” the wood biomass using a combination of caustic soda and sodium sulphide.

Once the pulp is separated, it is cleaned, and it is at this point that chemicals are added to the kraft paperboard for the wet strength characteristic. This is the wet-end of the paper making process. The same chemicals are not added to NWST kraft paper liner.<sup>77</sup>

Recovered waste paper can also derive pulp. These recycled fibres are processed commonly by slushing, cleaning, screening and, if required, deinking. The recycled paper used as the corrugated middle layer of microflute is made from recycled pulp.

### 2. *Kraft paperboard, NWST kraft paper liners and recycled paper manufacturing process*

Apart from the addition of wet strength treatment to the kraft paperboard, the process of making kraft paperboard, NWST kraft paper liners and the recycled paper from this point is the same.

At paragraph 5.49 Dr Vanderhoek states that the “*basic raw material for paper<sup>78</sup>... or paperboard<sup>79</sup>... manufacture is wood pulp, either virgin, recycled, unbleached, bleached, deinked, or in any combination*”. Kraft paperboard, the goods under consideration, and the NWST kraft paper liners used in the manufacture of microflute, are manufactured

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<sup>74</sup> EPR item No. 28, paragraphs 5.88 to 5.110.

<sup>75</sup> EPR item No. 7, pages 13-14.

<sup>76</sup> The term “kraft” comes from the German word meaning strong.

<sup>77</sup> EPR item No. 28, paragraph 5.59.

<sup>78</sup> Less than 200 GSM.

<sup>79</sup> Greater than 200 GSM.

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using wood pulp. Recycled paper used as the corrugated middle layer of microflute is manufactured using recycled pulp.

In making kraft paperboard, NWST kraft paper and recycled paper, diluted fibre is passed over a continuous wire in three stages, forming; pressing; and drying. The machine typically used in the construction of these products is a Fourdrinier machine. The number of headboxes in this machine will define the ply.

At this point the kraft paperboard, NWST kraft paper and recycled paper is uncoated. The recycled paper and NWST kraft paper, used for the middle and inside liner layer of microflute, respectively, remain uncoated. The kraft paperboard and NWST kraft paper used for the top liner layer of microflute are then coated.

The NWST kraft paper used as the top layer in the construction of microflute is also printed at this stage as per customer specifications.

Kraft paperboard, NWST kraft paper and recycled paper is made continuously and collected into jumbo reels.

Visy sources the two NWST kraft paper layers and recycled paper layer, used to manufacture its microflute, from related suppliers.

Both GPIL and WestRock Company manufacture kraft paperboard and import to Australia to related parties in this stage of the production cycle.

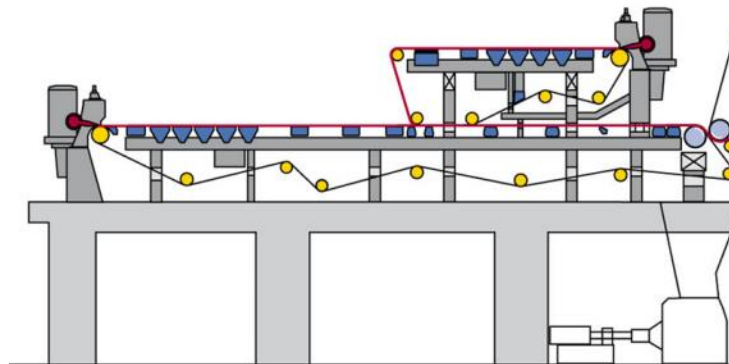


Figure 2 - Production process of paper/paperboard<sup>80</sup>

### 3. Box manufacturing process

At paragraph 5.88, Dr Vanderhoek states in his report that the “*basic raw material for fibreboard boxes is paperboard, subdivided into linerboard (often abbreviated to liners) and corrugating medium (also known as flutings).*”

The size of the corrugations, or flutes, are usually represented by an alphabet letter. Microflutes are low height corrugations that include F, G and N flute.<sup>81</sup> Visy manufactures packaging using a number of fluted products, including N flute, however states that it

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<sup>80</sup> ERP item No. 7, page 5.

<sup>81</sup> EPR item No. 28, paragraph 5.92.

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considers only its N flute product to be like goods with respect to the goods under consideration.<sup>82</sup>

Chapter 23 of the “Handbook for Pulp & Paper Technologists” by Gary Smook (the Smook Book), discusses the end use of paper and paperboard. Section 23.2, Converting, begins with the statement “*It is roughly estimated that about 75% of North American paper and paperboard output is subject to some type of converting operation before reaching the final customer.*” This section discusses corrugated board, and at page 364, refers to “small flute, mini flute or fine flute” as describing F, G and N fluted corrugation board.

The middle layer of recycled paper is passed through a machine to form the flutes. This is then laminated to the uncoated NSWST kraft paperboard using glue. The top NWST kraft paper liner is then combined with the bottom and middle layers, compressed and heated. At this point the microflute is a continuous sheet.

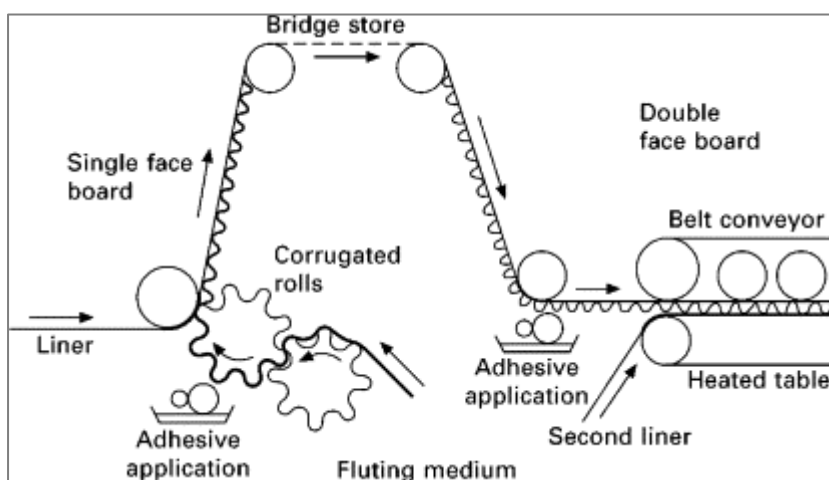


Figure 3 - Production process of microflute<sup>83</sup>

After drying, the combined board is printed, creased, slotted and cut into blanks, or other shapes of the exact size needed by the customer.<sup>84</sup> However, at paragraph 5.97 of his report, Dr Vanderhoek states that printing is commonly done in two steps, being:

- printing the paperboard; and
- laminating to the corrugated board.

The top NWST kraft paper liner is supplied to Visy, pre-printed with customer branding, from a related supplier.

Generally in the construction of boxes, corrugated fibreboard is folded and end panels are brought together to form a manufacturers join using adhesive, metal stitches or tape. In Visy's case, microflute is converted into the end use large format beverage packaging offline, glued into shape, packed and stacked on pallets, ready to send to customers.

<sup>82</sup> EPR item No. 9, page 2.

<sup>83</sup> Source: sciencedirect.com

<sup>84</sup> EPR item No. 28, paragraph 5.89.

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Dr Vanderhoek does not discuss, specifically, box manufacture using kraft paperboard, although at paragraph 5.93 Dr Vanderhoek states:

*The corrugated fibreboard box is by far the most common form of distribution packaging. Solid boxes made entirely from paperboard do exist but are less common.*

And at paragraph 5.101:

*Fibreboard boxes (corrugated or solid) are available in Australia from many different suppliers. While each large manufacturer would follow the same general principles as described in paragraphs 5.89 to 5.92, differences will exist to an extent that would take a considerable effort to quantify.*

The Commission understands that the conversion of kraft paperboard to beverage packaging undergoes similar conversion processes, with the exception that it is printed prior to being cut, glued and packed.<sup>85</sup>

### Conclusion

#### *Commission's assessment of physical likeness*

Microflute differs from kraft paperboard in relation to a number of physical characteristics.

The Commission is of the view that the weight of microflute is similar to kraft paperboard. Notwithstanding there are differences in thickness and density of the products, the Commission is also of the view that these characteristics are similar.

However the appearance, size and shape of the two products are distinctly different. Kraft paperboard, when imported, is a natural brown jumbo roll of paperboard that is not printed. Microflute, in comparison, is printed and stored in flat rectangular sheets.

One characteristic stated in the goods description for kraft paperboard, being "wet strength treated", is missing in microflute.

On balance, the Commission's preliminary view is that the physical characteristics of microflute does not closely resemble the physical characteristics of kraft paperboard.

#### *The Commission's assessment of commercial likeness*

Both microflute and kraft paperboard are intermediary products that are converted to end use products. Both products enter the markets for end use products in a similar way.

It is the Commission's preliminary view that the commercial characteristics of microflute closely resemble the commercial characteristics of kraft paperboard.

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<sup>85</sup> EPR item Nos. 7 and 18, pages 10 and 5, respectively, and EPR item No. 28, paragraph 5.101

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### *The Commission's assessment of functional likeness*

Microflute provides similar functionality that resembles kraft paperboard when used in the application of large format beverage packaging. However microflute is used in a wider range of applications than kraft paperboard. For use in small format beverage packaging, microflute does not perform the same functions as kraft paperboard. There also appear to be differences in the performance of the end products in wet environments. On the basis of the above, the Commission is of the preliminary view that microflute does not closely resemble the functional characteristics of kraft paperboard.

### *The Commission's assessment of production likeness*

Dr Vanderhoek states that the “*journey from wood to pulp, to paperboard, and then to boxes is long and arduous and involves many aspects of science and engineering*”. Information about the respective production process demonstrates that the production processes are different. It is only upon further processing that the products become substitutable.

It is the Commission's preliminary view that the production process for making microflute, while resembling some aspects of kraft paperboard production, does not closely resemble the production process of kraft paperboard.

### Conclusion

In conclusion, based on the above considerations, the Commission's preliminary view is that microflute does not closely resemble kraft paperboard imported from the USA.

Microflute does not possess a key element of the goods description, being that kraft paperboard is “wet strength treated”.

While the Commission agrees that microflute is an alternative for kraft paperboard in certain applications, there is no evidence provided by subject matter experts and interested party submissions to support that microflute as an intermediate product is a “like good” to the goods under consideration.

Table 8 below summarises the Commission's like goods assessment. In respect to commercial likeness, microflute closely resembles kraft paperboard. However, in respect of physical likeness, functional likeness and production likeness, microflute does not closely resemble kraft paperboard. On balance, when considering the key characteristics as a whole, the Commission is of the preliminary view that microflute does not closely resemble kraft paperboard.

<b>Characteristic</b>	<b>Does microflute resemble the goods under consideration?</b>
Physical likeness	Does not closely resemble
Commercial likeness	Does closely resemble
Functional likeness	Does not closely resemble
Production likeness	Does not closely resemble

**Table 8 - Assessment of characteristics**

## **4 THE AUSTRALIAN INDUSTRY**

### **4.1 Legislative framework**

The Commissioner must be satisfied that “like” goods are in fact produced in Australia. Sections 269T(2) and 269T(3) specify that for goods to be regarded as being produced in Australia, they must be wholly or partly manufactured in Australia. In order for the goods to be considered as partly manufactured in Australia, at least one substantial process in the manufacture of the goods must be carried out in Australia.

### **4.2 Assessment**

#### **4.2.1 Application and initiation**

In its application, Visy claims that its microflute product is ‘like’ to kraft paperboard, and as such, it is representative of an Australian industry producing like goods with respect to the goods under consideration.

With the information available at the time INV 548 was initiated, the Commissioner was satisfied that there is an Australian industry in respect of like goods, consequently not rejecting Visy’s application for the publication of a dumping duty notice.

#### **4.2.2 Investigation into Australian production**

As discussed in chapter 3 of this SEF, the Commission has conducted further enquiries in response to Visy’s application and does not consider microflute is a like good to the goods under consideration. Accordingly, the Commission does not consider that Visy represents an Australian industry producing like goods.

The Commission also received the following submissions about Opal potentially producing like goods in Australia.

EPR No.	Date	Submission by	Description
5	13 May 2020	GPIL	Notwithstanding that GPIL does not consider microflute to be a like good to kraft paperboard, and therefore there is no Australian industry producing like goods to the goods under consideration, GPIL states that Orora, recently purchased by Nippon Paper and now trading as Opal, is a substantial producer of microflute.
9	19 June 2020	Visy	Visy claims that GPIL falsely states that Visy is not the only producer of microflute in Australia. Visy state that Opal does not produce microflute, rather it produces products made of E flute.  Visy further states that Opal does not manufacture beverage can multipacks.
17	28 July 2020	GPIL	GPIL states that it undertook an informal survey of packaging at a local supermarket and found that Visy make an incorrect statement in saying that Opal <sup>86</sup> does not produce microflute.

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<sup>86</sup> GPIL refers to Opal by its former name, Orora, in this submission.

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EPR No.	Date	Submission by	Description
			GPIL provides a photograph of a product manufactured by Opal, formerly Orora that measures 0.89mm in thickness, being very similar to the microflute used in Visy's beverage packaging, which is 0.85mm.
18	7 September 2020	Visy	Visy states that the products that are referred to in GPIL's submission (EPR item No. 17) at paragraphs 7-9 and figures 1 and 2 are manufactured in Australia. However, Visy restates that Opal does not manufacture beverage can multipacks.
21	22 September 2020	GPIL	GPIL restates its claims with regard to Opal's production of microflute.  GPIL states that, if Visy continues to claim that microflute is a like good to kraft paperboard, than Visy must accept that Australian production of microflute is substantially greater than that claimed by Visy.

**Table 9 - Submissions received with regard to Australian producers of microflute**

The Commission contacted Opal to ascertain if it is an Australian producer of like goods, confirming it also manufactures microflute.

As the Commission does not consider microflute to be a like good to the goods under consideration, it does not consider Opal represents an Australian industry producing like goods.

In answering the question: *"In addition to microflute, do you consider there to be other products which closely resemble kraft paperboard?"* Dr Vanderhoek states at paragraphs 6.21 and 7.1(c) of his report that there is no other fibrous product that closely resembles kraft paperboard manufactured in Australia. In the absence of any evidence to the contrary, the Commission is satisfied there is no Australian industry for like goods.

### **4.3 Preliminary finding**

The Commissioner is not satisfied that there is an Australian industry producing like goods with respect to kraft paperboard, the goods under consideration.

## **5 DUMPING INVESTIGATION**

### **5.1 Preliminary finding**

In addition to the preliminary findings in relation to like goods (Chapter 3) and Australian industry (Chapter 4), the Commission carried out dumping assessments during the course of the investigation. The dumping findings are relevant in that they provide an additional ground for termination.

The Commission found that the goods exported to Australia from the USA by:

- GPIL were at dumped prices;
- WestRock were not at dumped prices;
- uncooperative and all other exporters were at dumped prices; and
- the volume of dumped goods from the USA was not negligible.

The preliminary dumping margins are summarised in table 11.

Exporter	Dumping margin
WestRock Company	-0.5%
Graphic Packaging International, LLC	49.2%
Uncooperative and all other exporters	66.6%

**Table 10 - Dumping margins**

The Commission's calculations of export process, normal values and dumping margins are confidential.

As WestRock has not exported any goods at dumped prices during the investigation period, the Commissioner proposes to terminate this investigation in relation to exports by WestRock, under section 269TDA(1)(b)(i).

### **5.2 Introduction to legislative framework**

In any report to the Minister under section 269TEA(1), the Commissioner must recommend whether the Minister ought to be satisfied as to the grounds for publishing a dumping duty notice under section 269TG.

One of the matters the Minister must be satisfied of in order to publish a dumping duty notice is that the goods have been dumped.

Dumping occurs when a product from one country is exported to another country at a price less than its normal value. The export price and normal value of goods are determined under sections 269TAB and 269TAC respectively. Further details of the export price and normal value calculations for each exporter are set out in this chapter.

Dumping margins are determined under section 269TACB. For all dumping margins calculated, the Commission compared the weighted average of export prices over the whole investigation period with the weighted average of corresponding normal values over the whole of that period, in accordance with section 269TACB(2)(a).

### **5.3 Cooperative exporters**

Section 269T(1) provides that, in relation to a dumping investigation, an exporter is a 'cooperative exporter' where the exporter's exports were examined as part of the investigation and the exporter was not an 'uncooperative exporter'. At the commencement of the investigation, the Commission contacted known exporters of the goods and each identified supplier of the goods within the relevant tariff subheadings as identified in the ABF import database, and invited them to complete an exporter questionnaire. The Commission received completed exporter questionnaires from two exporters, GPIL and WestRock.

The Commission undertook offsite verification of the data submitted by GPIL and WestRock, and considers both exporters to be cooperative exporters.

### **5.4 Uncooperative exporters**

Section 269T(1) provides that, in relation to a dumping investigation, an exporter is an 'uncooperative exporter', where the Commissioner is satisfied that an exporter did not give the Commissioner information that the Commissioner considered to be relevant to the investigation within a period the Commissioner considered to be reasonable, or where the Commissioner is satisfied that an exporter significantly impeded the investigation.

The Commission receive two responses to its exporter questionnaires. These exporter questionnaire responses were complete and enabled the Commission to conduct verification activities.

The Commission considers those exporters that did not provide a response to the exporter questionnaire to be uncooperative. For uncooperative and all other exporters, the Commissioner will use section 269TAB(3) and section 269TAC(6) to calculate dumping margins for those exporters, having regard to all relevant information and as required by section 269TACAB(1).

### **5.5 Dumping assessment – GPIL**

#### **5.5.1 Verification**

The Commission conducted a remote verification of the information disclosed by GPIL in its REQ, concluding in October 2020.

The Commission is satisfied that it is the producer of the goods and like goods.

A report containing the findings of the verification is available on the EPR.<sup>87</sup>

#### **5.5.2 Export price**

The Commission is satisfied that:

- invoices identified the seller of the goods as GPIL;
- packing lists identified GPIL as the supplier;

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<sup>87</sup> EPR item No. 29 on the EPR.

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- bills of lading identified the shipper/exporter as GPIL;
- certificates of origin identified GPIL as the supplier of the goods that were produced entirely in the USA;
- GPIL is the manufacturer of the goods exported to Australia from the USA;
- GPIL negotiates the price with Australian customers and is aware of the Australian destination; and
- GPIL arranged transport for the goods to its Australian customers.

On this basis, the Commission is satisfied that, for all Australian export sales during the investigation period, GPIL was the exporter of the goods.

In respect of GPIL's export sales to its related and unrelated customers in Australia during the investigation period, the Commission found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than its price; or
- the price appeared to be influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller; or
- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise received a benefit for, or in respect of, the whole or any part of the price.

The Commission, therefore, considers all export sales made by GPIL to its Australian customers during the investigation period were arms length transactions.

The export price for GPIL has been established at the free on board (FOB) level under section 269TAB(1)(a), as the price paid by the importer to the exporter less transport and other costs arising after exportation.

### 5.5.3 Normal value

As outlined in the verification report for GPIL, there were sufficient volumes of domestic sales of like goods that were sold in arms length transactions and at prices that were in the ordinary course of trade (OCOT). The Commissioner is therefore satisfied that the prices paid in respect of those domestic sales of like goods were suitable for assessing the normal value under section 269TAC(1).

### 5.5.4 Adjustments to normal value

To ensure the comparability of normal values to export prices, the Commission made adjustments, in line with section 269TAC(8), as follows:

Adjustment Type	Deduction/addition
Level of trade	Only domestic sales to converters were used in calculating normal value
Domestic credit terms	<b>Deduct</b> an amount for domestic credit
Domestic inland freight	<b>Deduct</b> an amount for domestic inland freight
Royalties applying to exports	<b>Deduct</b> an amount for royalties related to exports

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Domestic direct selling expenses	<b>Deduct</b> an amount for domestic direct selling expenses
Export inland freight	<b>Add</b> an amount for export inland freight
Export credit terms	<b>Add</b> an amount for export credit terms

**Table 11 - Adjustments to GPIL's normal value**

### 5.5.5 Dumping margin

The Commission has calculated a preliminary dumping margin for GPIL as **49.2 per cent**.

## 5.6 Dumping assessment – WestRock

The Commission conducted a remote verification of the information disclosed by WestRock in its REQ, concluding in January 2021.

Although the goods and like goods are produced by a related entity, the Commission is satisfied that it is the exporter of the goods.

A report containing the findings of the verification is available on the EPR.<sup>88</sup>

### 5.6.1 Export price

The Commission considers WestRock to be the exporter of the goods to Australia during the investigation period.

The goods are manufactured and sold by wholly owned subsidiaries of WestRock. The Manual<sup>89</sup> 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. Typically, the manufacturer of the goods who knowingly exported the goods will be the exporter.

However, in this instance, WestRock directed the production of the goods and the export sale of the goods and generally controls the WestRock Group business, and is therefore considered to be the principal in the transaction.

In relation to WestRock's exports to Australia, the Commissioner is satisfied that the goods have been exported to Australia otherwise than by the importer, however were purchased in an arms length transaction by the importer through a related third party.

The Manual sets out that when an intermediary is involved, the export price, for the purposes of calculating the dumping margin, will be the price received by that exporter when selling to the intermediary, even if the intermediary is in the same country as the exporter.<sup>90</sup> The verification team found no sales of the goods between the exporter and the intermediary were made during the investigation, however due to the accounting

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<sup>88</sup> EPR item No. 30.

<sup>89</sup> p 29.

<sup>90</sup> p 30.

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practices of WestRock, the verification team consider that the price received by the exporter is the price paid to the intermediary, WestRock MWV, LLC (WestRock MWV).

The export price for WestRock has been established as the price paid or payable by the importer to WestRock MWV for the goods exported to Australia, determined at FOB terms during the investigation period in accordance with section 269TAB(1)(c).

### 5.6.2 Normal value

As outlined in the verification report for WestRock, there were sufficient volumes of domestic sales of like goods that were sold in arms length transactions and at prices that were in the OCOT. The Commissioner is therefore satisfied that the prices paid in respect of those domestic sales of like goods were suitable for assessing the normal value under section 269TAC(1).

### 5.6.3 Adjustments to normal value

To ensure the comparability of normal values to export prices, the Commission made adjustments, in line with section 269TAC(8), as follows:

Adjustment Type	Deduction/addition
Domestic credit terms	<b>Deduct</b> an amount for domestic credit
Domestic inland freight	<b>Deduct</b> an amount for domestic inland freight
Export freight forwarding and access/export chassis charges	<b>Add</b> an amount for export freight forwarding and access/export chassis charges
Export inland freight	<b>Add</b> an amount for export inland freight
Export credit terms	<b>Add</b> an amount for export credit terms

**Table 12 - Adjustments to WestRock's normal value**

### 5.6.4 Dumping margin

The Commission has calculated a preliminary dumping margin for WestRock as **negative 0.5 per cent**.

## 5.7 Dumping assessment – uncooperative and all other exporters

### 5.7.1 Export price

Export prices for ‘uncooperative and all other’ exporters from the USA were determined having regard to all relevant information under section 269TAB(3), as prescribed in section 269TACAB(1). Specifically, the export price has been established in accordance with section 269TAB(3), using the lowest weighted average export price for the whole investigation period from the cooperating exporters, less transport and other costs arising after exportation.

### 5.7.2 Normal value

Having regard to all relevant information, the normal value for ‘uncooperative and all other’ exporters from the USA has been established in accordance with 269TAC(6), using the highest weighted average normal value for the whole investigation period from the

cooperating exporters, excluding any favourable downward adjustments made to that figure.

### **5.7.3 Dumping margin**

The dumping margin for ‘uncooperative and all other’ exporters from the USA was established in accordance with section 269TACB(2)(a), by comparing the weighted average export price established under section 269TAB(3) with the weighted average normal value established under section 269TAC(6).

The Commission has calculated a preliminary dumping margin for ‘uncooperative and all other’ exporters from the USA as **66.6 per cent**.

## **5.8 Volume of dumped imports**

Pursuant to section 269TDA(3), the Commissioner must terminate the investigation, in so far as it relates to a country, if satisfied that the total volume of goods that are dumped is a negligible volume. Section 269TDA(4) defines a negligible volume as less than three per cent of the total volume of goods imported into Australia over the investigation period.

Using ABF import database and having regard to the information collected and verified from the importers and exporters, the Commission determined the volume of imports in the Australian market.

Based on this information, the Commission is satisfied that, when expressed as a percentage of the total Australian import volume of the goods, the volume of dumped goods from the USA was greater than three per cent of the total import volume and is therefore not negligible. Accordingly, the Commissioner does not propose to terminate this investigation under section 269TDA(3).

## **5.9 Level of dumping**

Section 269TDA(1)(b) provides that the Commissioner must terminate a dumping investigation, in so far as it relates to an exporter of the goods:

- if satisfied that there has been no dumping by the exporter of any of those goods;<sup>91</sup>  
or
- there has been dumping by the exporter of some or all of those goods, but the dumping margin for the exporter is less than two per cent.<sup>92</sup>

The Commissioner considers that WestRock has not exported any goods at dumped prices during the investigation period. Accordingly, the Commissioner proposes to terminate this investigation in relation to exports by WestRock from the USA, under section 269TDA(1)(b)(i).

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<sup>91</sup> Section 269TDA(1)(b)(i).

<sup>92</sup> Section 269TDA(1)(b)(ii).

## **6 PROPOSAL TO TERMINATE INVESTIGATION**

### **6.1 Proposal to terminate**

Based on the findings in this SEF, and subject to submissions received in response, the Commissioner proposes to terminate the investigation in relation to:

- WestRock, on the basis that there has been no dumping by this exporter of the goods subject of the application, in accordance with section 269TDA(1); and
- the USA, in accordance with section 269TDA(13), on the basis that there has been no injury to an Australian industry producing like goods.

**7 APPENDICES AND ATTACHMENTS**

<b>Non-confidential Attachment 1</b>	List of submissions received
<b>Confidential Attachment 1</b>	GPIL export price
<b>Confidential Attachment 2</b>	GPIL cost to make and sell
<b>Confidential Attachment 3</b>	GPIL domestic sales and normal value
<b>Confidential Attachment 4</b>	GPIL dumping margin
<b>Confidential Attachment 5</b>	WestRock export price
<b>Confidential Attachment 6</b>	WestRock cost to make and sell
<b>Confidential Attachment 7</b>	WestRock domestic sales and normal value
<b>Confidential Attachment 8</b>	WestRock dumping margin
<b>Confidential Attachment 9</b>	Uncooperative and all other rate

**PUBLIC RECORD**

**NON-CONFIDENTIAL ATTACHMENT 1: SUBMISSIONS RECEIVED**

<b>EPR<sup>93</sup> #</b>	<b>Entity</b>	<b>Subject</b>	<b>Date published</b>
5	GPIL	Injury and like goods	14 May 2020
7	GPIL	Like goods assessment	4 June 2020
8	WestRock	The goods under consideration	9 June 2020
9	Visy	Response to submissions by GPIL	22 June 2020
15	GPIL	Expert evidence - Supplementary Report	27 July 2020
16	GPIL	Response to Visy Submission, and comment on Expert Report	27 July 2020
17	GPIL	Addendum to GPIL's submission - - EPR item No. 16	28 July 2020
18	Visy	Like goods	7 September 2020
20	WestRock	Response to ADC Issues paper on Like Goods	23 September 2020
21	GPIL	Response to ADC Issues paper on Like Goods	23 September 2020
22	GPIL	2 <sup>nd</sup> Submission from GPIL on ADC Issues paper on Like Goods	26 October 2020
23	Visy	Response to ADC Issues paper on Like Goods	28 October 2020
24	Visy	Statement from Mr A Mitropoulos	28 October 2020
25	GPIL	Submission regarding Visy Glama's response to the ADC Issues Paper	11 November 2020
27	Visy	Response to GPIL's submission - EPR item No. 25	26 November 2020
31	Visy	Response to report by Dr Vanderhoek	15 January 2021
32	GPIL	Response to report by Dr Vanderhoek	5 February 2021
33	GPIL	Mr Klass response to report by Dr Vanderhoek	5 February 2021

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<sup>93</sup> Both Visy Glama and GPIL made further submissions, EPR item Nos. 34, 35 and 36. These submissions have not been considered in making this SEF, as to do so would impact the Commissioner's ability to publish the SEF on or before 5 March 2021. These submissions will be considered following the SEF along with any other submission received by 25 March 2021.