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

Investigation into A4 Copy Paper exported from Brazil

Dear Director,

This submission is made on behalf of Jackaroo Paper Pty Ltd ("Jackaroo") to the current review of measures into A4 copy paper exported from Brazil. The submission presents Jackaroo's view on the appropriate method for establishing the non-injurious price ("NIP") relevant to exports from Brazil during the review period.

Application of the lesser duty rule

Jackaroo notes that the circumstances which would allow the Minister to not give consideration to the lesser duty rule, do not apply in the case of exports from Brazil. That is:

- there are no claims or investigation into whether a particular market situation exists in Brazil;
- the Australian industry does not consist of at least 2 small-medium enterprises; and
- there is no countervailing duty notice applying to exports from Brazil.

As such, consistent with the Commission's recommendation to apply the lesser duty rule during the original investigation, it is expected that the Commission will recommend the application of the lesser duty rule, in so far as it relates to exports from Brazil.

Method for calculating the non-injurious price (NIP)

It is noted and accepted that the Commission will generally derive the NIP from an unsuppressed selling price (USP), which reflects a selling price that the Australian industry could reasonable be expected to achieve in a market unaffected by dumping.

The Commission's preferred method for establishing the USP is the industry's actual selling prices in a period unaffected by dumping, or alternatively, a constructed selling price based on the industry's cost to make and sell plus a reasonable profit. If neither of these options

are considered appropriate, the Commission will have regard to non-dumped and non-subsidised imports in the Australian market.

It is also noted that the Commission's policy is to '*... generally not depart from the approach taken in the original investigation or a previous review, unless there has been a change in circumstances that either makes the earlier USP approach unreasonable, or less preferred amongst the other available options.*'

Proposed USP for Review 551

In submitting part D of its importer questionnaire response, Jackaroo has presented the Commission with information demonstrating that Australian Paper (AP) is effectively the monopoly supplier in the Australian market, being the sole local producer and also one of the larger importers of A4 copy paper. This is supported by the Australian import data at **Confidential Exhibit A**, which shows that imports from South Africa accounted for approximately █% of total imports during the 2019 review period.

In addition, it is understood that imports from Malaysia are also related to AP's sales in the Australian market, as the import volume reflects the importation of paper reams which were cut from jumbo reels by a Malaysian converter. It's understood that the jumbo reels were provided by AP due to production capacity issues at its local operation in Australia. Imports from Malaysia accounted for approximately █% of total imports during the 2019 review period.

Of direct relevance to the consideration of an appropriate USP, Jackaroo has provided the Commission with clear evidence from AP's customers, confirming that AP was offering and urging its customers to purchase its imported A4 copy paper sourced from South Africa.

Jackaroo estimates then that AP was the dominant monopoly supplier in the Australian market during the review period, holding in excess of █% market share with combined local production and imports. This monopoly position was in large part due to its aggressive low prices, which significantly undercut imports that are subject to minimum ascertained export prices and a corresponding fixed dumping duty rate.

Therefore, it is clear that AP has embarked on a monopolistic strategy that is underpinned by the import barriers created by the dumping measures. Whilst it is acknowledged that the dumping measures are intended to provide relief to local production from the injurious effects of dumping, it is worth noting that during the review period, the dumping measures have exceeded their intended purpose, and provided protection to AP's own imports from countries not subject to measures.

The extent of the protection afforded to AP's imports, is evidenced from the quoted delivered duty paid (DDP) prices for its South African imports which were well below the prevailing market prices for imports from countries subject to measures, and also well under AP's own price for locally produced paper. By way of example, AP's South African imports undercut Jackaroo's equivalent DDP prices for imports from Brazil by █% in June quarter 2019 and █% in December quarter 2019. Jackaroo anticipates that AP's prices for

its South African imports would have also substantially undercut other import sources from both subject and non-subject countries.

The low prices offered by AP and the dominant market share held during the review period, provide a strong indication of the lack of injurious effects from subject imports from Brazil. This is confirmed by consistent statements made by AP during previous dumping inquiries that the Australian market for cut sheet paper has dynamics that can be characterised as *'a high volume commodity market with little readily discernible differentiation other than price.'*¹ This was also confirmed by the Commission's findings in the original investigation *'... that, due to the degree of price sensitivity in the market, price competition is a major condition of competition between the imported goods and between the imported goods and the domestically produced goods.'*²

The diverging trend in AP and Jackaroo's sales volumes and market share clearly demonstrates and supports a conclusion that AP's selling prices have not been affected by dumped imports. As highlighted in the table below, Jackaroo's imports have remained insignificant over the past 10 years, never exceeding █% of the total Australian market or █% of total imports.

[CONFIDENTIAL TABLE REDACTED]

By contrast, it is noted that AP's sales volumes and market share have increased sharply since 2015. This is confirmed by the charts below included in the Commission's Statement of Essential Facts Report No. 547.

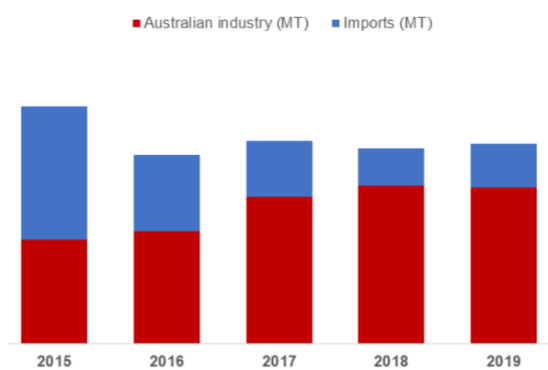


Figure 5: Australian market sources (metric tonnes)

¹ EPR 362, Record no. 001, Page 18.

² EPR 341, Record 221, page 93.

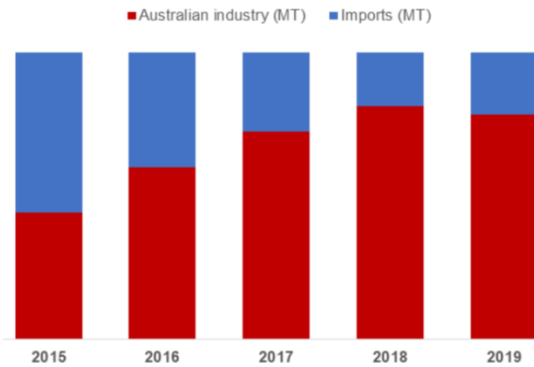


Figure 6: Australian market share (%)

It is accepted then that price is the key driver of sales, and noting the healthy increase in AP’s local and imported sales volumes and market share, it is must be concluded that imports from Brazil were not injurious. It must also be accepted that imports by AP are neither dumped nor injurious.

First, dumping is clearly defined in the *Customs Act 1901* (the Act), and the absence of a dumping application against imports from South Africa by AP, must be taken as confirmation that AP does not consider those imports to be dumped. Second, imports by the Australian industry cannot be considered injurious as it’s illogical to consider that industry’s sales of imports can cause injury to sales of its own local production.

Therefore, the Commission has sufficient information relating to sales made by AP during the review period, which would allow for the USP to be established during the review period. Jackaroo contends the following information would be reasonable for establishing the USP and corresponding NIP relevant to subject imports from Brazil.

a) AP’s DDP selling prices of A4 copy paper imports from South Africa in 2019

As noted earlier, these imports must be considered non-dumped and non-injurious. The lesser duty rule is intended to allow the subject goods to be imported and sold into the Australian market at a price that would not cause injury to the Australian industry. If AP is able and willing to sell its imports into the market at price levels considered non-injurious, then it stands to reason that Jackaroo ought able to sell at those same price levels without causing injury to AP.

b) AP’s DDP selling prices of private label/generic A4 copy paper in 2019

Jackaroo reiterates its view that AP’s sales of like goods during the 2019 review period were unaffected by dumped imports as AP’s selling prices of South African imports substantially undercut Jackaroo’s equivalent prices, and were known to be the lowest offers in the market at that time. It is appropriate then to conclude that AP’s selling prices of its own production are suitable for establishing the USP for the review period, albeit that AP’s import prices are considered the most pertinent and comparable.

In doing so, it is imperative that the Commission use comparable like products sold by AP to ensure that the non-injurious price and normal values can be properly compared. For this

reason, Jackaroo submits that the Commission should exclude the selling prices of AP's branded products, as these are not comparable. This is consistent with the price undercutting and causal link analysis undertaken by the Commission in the original investigation, which was based on the recycled content and product categories specified in section 5.3 of Final Report 341, which identified three broad categories of A4 copy paper sold in the Australian market:

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

Sales information submitted in Jackaroo's importer questionnaire confirms that it sold imports of private label and generic labelled brands with no recycled content. Therefore, selling prices of AP's "Reflex" branded products and all recycled paper products must be excluded from the calculation of the USP.

Conclusion

Jackaroo contends that reliable information demonstrates that AP was a prominent importer of the goods from South Africa. The Commission is urged to request and confirm AP's sales of imported goods, and in particular the selling prices to Australian customers. If confirmed, Jackaroo submits that those selling prices must be treated as non-injurious and are appropriate for calculating non-injurious prices for imports from Brazil.

An alternative to basing the USP solely on AP's South African imports is to rely on AP's actual net selling prices of non-recycled private and generic labelled brands sold during the 2019 review period.

Yours sincerely

John Bracic