



Australian Government
Department of Industry, Science,
Energy and Resources

Anti-Dumping
Commission

CUSTOMS ACT 1901 - PART XVB

CONSIDERATION REPORT NO. 551

Consideration of an application for
a review of variable factors in relation to
the anti-dumping measures applying to

A4 copy paper

exported to Australia from
the Federative Republic of Brazil,
the People's Republic of China,
the Republic of Indonesia (except by PT. Indah Kiat
Pulp & Paper Tbk, PT. Pabrik Kertas Tjiwi Kimia Tbk and
PT. Pindo Deli Pulp & Paper Mills) and
the Kingdom of Thailand

16 April 2020

TABLE OF CONTENTS

TABLE OF CONTENTS2

ABBREVIATIONS3

1 SUMMARY AND RECOMMENDATIONS4

1.1 Background4

1.2 Legislative background4

1.3 Findings and conclusions4

1.4 Recommendation5

2 BACKGROUND6

2.1 Current anti-dumping measures6

2.1.1 Summary of measures6

2.2 The current application7

2.3 The goods subject to the anti-dumping measures8

2.3.1 Tariff classification8

3 CONSIDERATION OF THE APPLICATION9

3.1 Legislative background9

3.2 Assessment of the application – compliance with section 269ZB9

3.3 Grounds for asserting that variable factors have changed10

3.3.1 Applicant’s claims regarding export price10

3.3.2 Applicant’s claims regarding normal value10

3.3.3 Applicant’s claims regarding subsidies received11

3.3.4 Applicant’s claims regarding non-injurious price11

3.3.5 Commission’s assessment11

3.3.6 Conclusion - section 269ZC(2)(b)13

3.4 Conclusions and recommendations13

4 ATTACHMENTS14

PUBLIC RECORD

ABBREVIATIONS

Abbreviation	Full title
ABF	Australian Border Force
the Act	the <i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
ADRP	Anti-Dumping Review Panel
Australian Paper	Paper Australia Pty Ltd, the applicant
Brazil	the Federative Republic of Brazil
China	the People's Republic of China
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
the goods	A4 copy paper
Indonesia	the Republic of Indonesia
the Minister	The Minister for Industry, Science and Technology
NIP	non-injurious price
REP 341	<i>Anti-Dumping Commission Report No. 341</i>
the subject countries	collectively, Brazil, China, Indonesia and Thailand
Thailand	the Kingdom of Thailand
USP	unsuppressed selling price

1 SUMMARY AND RECOMMENDATIONS

1.1 Background

This report outlines the consideration by the Anti-Dumping Commission (the Commission) of an application lodged by Paper Australia Pty Ltd (Australian Paper, or the applicant). Australian Paper's application requests a review of the anti-dumping measures applying to certain A4 copy paper (the goods) exported to Australia from the Federative Republic of Brazil (Brazil), the People's Republic of China (China), the Republic of Indonesia (Indonesia) (except by PT. Indah Kiat Pulp & Paper Tbk, PT. Pabrik Kertas Tjiwi Kimia Tbk and PT. Pindo Deli Pulp & Paper Mills) and the Kingdom of Thailand (Thailand) (collectively, the subject countries).

The anti-dumping measures are in the form of a dumping duty notice in respect of the goods exported from the subject countries and a countervailing duty notice in respect of the goods exported from China only. The dumping duty notice applies to all exporters of A4 copy paper from the subject countries except PT. Pabrik Kertas Tjiwi Kimia Tbk, whereas the countervailing duty notice applies to all exporters of A4 copy paper from China except Asia Symbol (Guangdong) Paper Co., Ltd and Greenpoint Global Trading (Macao Commercial Offshore) Ltd (collectively Asia Symbol); and UPM (China) Co., Ltd and UPM Asia Pacific Pte Ltd (collectively UPM).

Australian Paper considers it appropriate to review the anti-dumping measures on the basis that one or more of the variable factors relevant to the anti-dumping measures have changed.¹ The variable factors that have allegedly changed are the export price, normal value and non-injurious price (NIP).

1.2 Legislative background

Division 5 of Part XVB of the *Customs Act 1901* (the Act)² sets out, among other things, the procedures to be followed by the Commissioner of the Anti-Dumping Commission (the Commissioner) in assessing applications for a review of anti-dumping measures.

Division 5 empowers the Commissioner to reject or not reject such applications. If the Commissioner does not reject an application, he is required to publish a notice indicating that he is proposing to review the anti-dumping measures covered by the application.

1.3 Findings and conclusions

The Commission is satisfied that, in relation to Australian Paper's application for a review of variable factors:

- the application complies with sections 269ZB(1) and (2); and
- there appear to be reasonable grounds for asserting that the variable factors relevant to the taking of the anti-dumping measures have changed.

¹ Section 269ZA(1)(b)(i) of the *Customs Act 1901*.

² All legislative references are to the *Customs Act 1901*, unless otherwise stated.

1.4 Recommendation

The Commission recommends that the Commissioner not reject the application, for the reasons outlined in chapter 3 of this report.

2 BACKGROUND

2.1 Current anti-dumping measures

The anti-dumping measures, in the form of a dumping duty notice and a countervailing duty notice, were initially imposed on 19 April 2017 by the relevant Minister after consideration of *Anti-Dumping Commission Report No. 341* (REP 341).³ The dumping duty notice applies to all exporters of A4 copy paper from the subject countries except PT. Pabrik Kertas Tjiwi Kimia Tbk, whereas the countervailing duty notice applies to all exporters of A4 copy paper from China except Asia Symbol and UPM.

Following a review by the Anti-Dumping Review Panel (ADRP) of certain findings in REP 341, on 9 March 2018, the then Minister revoked the reviewable decision in so far as it relates to Asia Symbol Paper (Guangdong) Co., Ltd, PT. Indah Kiat Pulp & Paper Tbk, and PT. Pindo Deli Pulp & Paper Mills and substituted new decisions as recommended by the ADRP.⁴ As a result, the normal values (and dumping margins) were revised for each of the three exporters.

The ADRP recommenced the review following orders from the Federal Court that the decision made by the relevant Minister following recommendations by the ADRP in relation to UPM Asia Pacific Pte Ltd be set aside and the matter be remitted to the ADRP. Following the ADRP's reconsideration, on 12 March 2019, the Minister revoked the reviewable decision in so far as it relates to UPM Asia Pacific Pte Ltd and substituted new decisions as recommended by the ADRP. As a result, the export price (and dumping margin) was revised for exports of A4 copy paper from China by UPM Asia Pacific Pte Ltd.

On 12 March 2020, the Commissioner initiated a review of the anti-dumping measures applying to A4 copy paper exported to Australia from Indonesia by PT. Indah Kiat Pulp & Paper Tbk and PT. Pindo Deli Pulp & Paper Mills (Review 547).⁵ This review was initiated at the request of the Minister for Industry, Science and Technology (the Minister) pursuant to section 269ZA(3).

There have been no previous reviews of the anti-dumping measures since the imposition of the measures on 19 April 2017.

2.1.1 Summary of measures

The following table summarises the dumping and subsidy margins and the forms of measures applying to exports of A4 copy paper to Australia from the subject countries.

³ Anti-Dumping Notice (ADN) Nos. [2017/39](#) and [2017/40](#) refer. [REP 341](#) is available on the Commission's website.

⁴ [Notice](#) in accordance with section 269ZZM(4) refers.

⁵ ADN No. [2020/028](#) refers.

PUBLIC RECORD

Exporter	Dumping margin	Form of dumping measures ⁶	Subsidy margin ⁷
Brazil			
International Paper Do Brasil Ltda	2.9%	combination	n/a
Uncooperative and all other exporters	2.9%	combination	n/a
China			
Asia Symbol (Guangdong) Paper Co., Ltd	3.0%	combination	n/a
UPM Asia Pacific Pte Ltd	4.0%	combination	n/a
Uncooperative and all other exporters	34.4%	combination	7.0%
Indonesia			
PT. Indah Kiat Pulp & Paper Tbk	30.0%	combination	n/a
PT. Pindo Deli Pulp & Paper Mills	33.0%	combination	n/a
PT. Riau Andalan Kertas	12.6%	combination	n/a
Uncooperative and all other exporters	45.1%	combination	n/a
Thailand			
Double A (1991) Public Company Ltd	13.4%	combination	n/a
Phoenix Pulp & Paper Co., Ltd	18.1%	combination	n/a
Uncooperative and all other exporters	23.2%	combination	n/a

Table 1: Current measures applying to A4 copy paper from the subject countries

2.2 The current application

On 27 March 2020, the Commission received an application from Australian Paper for a review of the anti-dumping measures (in the form of a dumping duty notice and a countervailing duty notice) applying to the goods exported to Australia from the subject countries. Australian Paper claims there has been a change in one or more of the variable factors.

The application is not prevented by section 269ZA(2), which requires that an application for review of anti-dumping measures must not be made earlier than 12 months after the publication of a dumping duty and/or countervailing duty notice or a notice declaring the outcome of the last review of the dumping duty and/or countervailing duty notice.⁸

Pursuant to section 269ZC(1), the Commissioner must examine the application and, within 20 days, decide whether to reject the application. As such, a decision to reject the application must be made no later than **16 April 2020**. If the Commissioner is not satisfied, having regard to the application and to any other information that he considers relevant, of one or more of the matters referred to in section 269ZC(2), the Commissioner must reject the application.

⁶ The forms of measures are established under sections 8(5) and 10(3B) of the *Customs Tariff (Anti-Dumping) Act 1975* and section 5 of the *Customs Tariff (Anti-Dumping) Regulation 2013*.

⁷ The amount of interim countervailing duty payable is calculated using the *ad valorem* duty method.

⁸ The relevant notices were not altered since the publication of the notices in 2017.

2.3 The goods subject to the anti-dumping measures

The goods subject to the anti-dumping measures are:

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

The applicant at the time of the original investigation supplied the following additional information to clarify the scope of the goods description:

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

2.3.1 Tariff classification

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

Tariff Subheading	Statistical Code	Description
4802		UNCOATED PAPER AND PAPERBOARD, OF A KIND USED FOR WRITING, PRINTING OR OTHER GRAPHIC PURPOSES, AND NON PERFORATED PUNCH-CARDS AND PUNCH TAPE PAPER, IN ROLLS OR RECTANGULAR (INCLUDING SQUARE) SHEETS, OF ANY SIZE, OTHER THAN PAPER OF 4801 OR 4803; HAND-MADE PAPER AND PAPERBOARD:
4802.56		Weighing 40 g/m ² or more but not more than 150 g/m ² , in sheets with one side not exceeding 435 mm and the other side not exceeding 297 mm, in the unfolded state:
4802.56.10		<i>Printing and writing paper, 297 mm x 210 mm (A4 paper): Weighing 40 g/m² or more but less than 90 g/m²:</i>
	03	<i>White</i>
	09	<i>Weighing 90 g/m² or more but not more than 150 g/m²</i>

Table 2: General tariff classification for the goods

These tariff classifications and statistical codes may include goods that are both subject and not subject to the anti-dumping measures. The listing of these tariff classifications and statistical codes is for reference only and do not form part of the goods description.

3 CONSIDERATION OF THE APPLICATION

3.1 Legislative background

Section 269ZB(1) requires that an application be in writing, be in a form approved by the Commissioner for the purposes of this section, contain such information as the form requires, be signed in the manner indicated by the form and be lodged in a manner approved under section 269SMS.

Without otherwise limiting the matters that can be required by the form, section 269ZB(2) provides that an application must include:

- a description of the kind of goods to which the anti-dumping measures the subject of the application relate; and
- a description of the anti-dumping measures the subject of the application; and
- if the application is based on a change in variable factors, a statement of the opinion of the applicant concerning:
 - the variable factors relevant to the taking of the anti-dumping measures that have changed; and
 - the amount by which each such factor has changed; and
 - the information that establishes that amount; and
- if the application is based on circumstances that in the applicant's view indicate that anti-dumping measures are no longer warranted, evidence (in accordance with the form) of the circumstances.

Section 269ZC(2) specifies the matters which must be considered in making a decision whether to reject an application. These matters are:

- that the application complies with section 269ZB; and
- that there appear to be reasonable grounds for asserting either, or both, of the following:
 - that the variable factors relevant to the taking of anti-dumping measures have changed;
 - that the anti-dumping measures are no longer warranted.

3.2 Assessment of the application – compliance with section 269ZB

When considering the requirements of sections 269ZB(1) and (2), the Commission notes that the application submitted:

- is in writing;
- is in the approved form (*Form B602 – Application for a review of measures*), and contains such information as the form requires. This includes evidence in support of the amount by which the variable factors have changed since last ascertained, information on the causes of the change to the variable factors and an opinion of whether these causes are likely to persist;⁹
- is signed in the manner required by the form;

⁹ Section 3.3 of this report refers.

PUBLIC RECORD

- was lodged in a manner approved under section 269SMS, being by email to the Commission's nominated email address (as nominated in the Commissioner's instrument made under section 269SMS);
- provides a description of the kind of goods to which the anti-dumping measures the subject of the application relates; and
- provides a description of the anti-dumping measures the subject of the application; and
- includes a statement of the opinion of Australian Paper concerning the variable factors relevant to the taking of the anti-dumping measures that have changed, the amount by which each factor has changed, and the information that establishes that amount.

The Commission is satisfied that the application complies with sections 269ZB(1) and 269ZB(2).

3.3 Grounds for asserting that variable factors have changed

As defined in section 269T(4E), in relation to a review of a dumping duty notice, the variable factors are the export price, normal value and NIP. In relation to a countervailing duty notice the variable factors are the export price, amount of countervailable subsidy received in respect of the goods, and NIP.

3.3.1 Applicant's claims regarding export price

Australian Paper claims that the prices of the goods exported to Australia from Brazil, China, Indonesia and Thailand have increased following the imposition of measures in April 2017.¹⁰ Australian Paper indicates that this increase is consistent with increasing raw material (pulp) prices and energy costs.

3.3.2 Applicant's claims regarding normal value

Australian Paper claims that increased prices for raw material (pulp) and energy costs have led to increased prices for A4 copy paper. Australian Paper provided data¹¹ pertaining to global average pulp prices from 2015 to 2019 (including forecast pulp prices for 2020 and 2021) which shows an increase in the global average pulp prices since 2015 (the original investigation period). Consequently, Australian Paper submits that any substantial change in costs in the domestic market of an exporter would directly influence the domestic prices (and therefore normal value) of that exporter.

Further, based on data from various market surveys and reputable publishers of industry information,¹² Australian Paper claims that domestic prices for A4 copy paper sold in Brazil, China and Indonesia have all increased since 2015; however, domestic prices for A4 copy paper sold in Thailand have remained steady since 2015.

Based on these changes, Australian Paper claims that there are reasonable grounds to assert that the ascertained normal value for the goods has changed.

¹⁰ Table 2 in Australian Paper's application refers.

¹¹ Chart 6 in Australian Paper's application refers. Confidential Attachment 7 to Australian Paper's application also refers.

¹² Confidential Attachments 2, 3, 4 and 5 to Australian Paper's application refer.

PUBLIC RECORD

3.3.3 Applicant's claims regarding subsidies received

Australian Paper did not make any claims in its application in relation to whether the amount of countervailable subsidy received has changed, nor did it provide any evidence to demonstrate that the countervailable subsidy amount has changed.

3.3.4 Applicant's claims regarding non-injurious price

Australian Paper has indicated in its application that it considers that there has been a change in the NIP. Australian Paper claimed that the unsuppressed selling price (USP), upon which the NIP is based, is no longer contemporary. Australian Paper provided its costs of production and prices pertaining to like goods sold in Australia as evidence that its cost of production and prices have changed since the period used to establish the NIP.

3.3.5 Commission's assessment

The Commission has considered Australian Paper's claims with respect to each of the relevant variable factors.

Export price

The Commission has compared the information provided by Australian Paper to relevant consignments of the goods as reported in the Australian Border Force (ABF) import database. The Commission identified similar trends between the information provided by Australian Paper and the ABF import database, and identified an increase in export prices since 2017 (**Confidential Attachment 1** refers). The Commission therefore is satisfied that there appear to be reasonable grounds for asserting that the export price has changed.

Normal value

The Commission considers that the information and data relied upon by Australian Paper to demonstrate that pulp prices have increased has been obtained from a reputable publisher of industry information. The Commission also notes that it has previously found that pulp costs represent a large proportion of the cost to make for A4 copy paper, and that these costs are generally an indicator of ultimate prices in the market. The Commission therefore is satisfied that there appear to be reasonable grounds for asserting that the normal value has changed.

Amount of countervailable subsidy received

This variable factor is relevant to the countervailing duty notice applying to exporters from China. The Commission found in REP 341 that the following subsidy programs are countervailable in respect of exports of A4 copy paper from China.

No.	Program	Type
1	Policy Loans to the Paper Industry	Preferential lending
6	VAT rebates relating to raw materials	Preferential tax policy
7	Preferential Income Tax Program for High or New Technology Enterprises	Preferential tax policy
8	Preferential Income Tax Program for Comprehensive Utilisation Entitling Enterprise	Preferential tax policy
9	Tax Allowance for Special Equipment for Water and Energy-Saving Purchased by Enterprises	Preferential tax policy

PUBLIC RECORD

No.	Program	Type
10	VAT and Import Tariff Exemptions for Imported Equipment	Preferential tax policy
11	VAT Rebates on Foreign Invested Enterprise Purchases of Chinese Made Equipment	Preferential tax policy
12	Subsidies for Energy Efficiency and Environmental Protection	Financial grant
13	Support Fund for Environmental Protection Project - Rizaho City	Financial grant
14	Support Fund for Environmental Protection Input	Financial grant
15	Support Fund for Environmental Protection Project	Financial grant
16	City Bonus for Export Activity from Finance Bureau	Financial grant
17	Award for eco civilization of year	Financial grant
18	Subsidy of water balance testing support	Financial grant
19	Award for pollution sources facility maintenance	Financial grant
20	Subsidy for flue-gas desulfurization (FGD) project	Financial grant
21	Subsidy of water usage	Financial grant
22	Safety production award	Financial grant
23	Award of clean run	Financial grant
24	Subsidy for workstation of graduate student	Financial grant
25	Award for high tech product award	Financial grant
26	Subsidy for patent application support from Changshu Economic Development Zone (CEDZ)	Financial grant
27	Subsidy for patent application support Changshu Municipal Department of Science and Technology	Financial grant
28	Subsidy of MNCs function center	Financial grant
29	Training subsidy on new employee training for PM3	Financial grant
30	Individual tax refund for about 20 management level people	Financial grant
31	Innovation ability development fund to R&D center	Financial grant
32	Subsidy income of energy management system	Financial grant
33	Import interest subsidy	Financial grant
34	Bonus for the third award of Jiangmen City Technology received from Jiangmen Technology Bureau	Financial grant
35	Special fund for energy saving	Financial grant
36	Special support fund of Safety Production Association (Jiangmen City)	Financial grant
37	Fund for encouraging the development of foreign trade	Financial grant
38	Subsidy of environmental protection	Financial grant

Table 3: Countervailable subsidies (China)

Notwithstanding the absence of evidence concerning the amount of countervailable subsidy received, Australian Paper has provided evidence to suggest that at least one of the variable factors (the export price) relevant to the determination of duty payable on the goods subject to the countervailing duty notice has changed.

Non-injurious price

In REP 341, the Commission firstly calculated an USP using Australian Paper's weighted average selling prices of like goods sold in Australia in the period 1 July 2012 to 30 June 2013, given that these sales were determined to be unaffected by dumping. The NIP was then calculated in respect of exports from each country by deducting relevant post-exportation costs and amounts for importer selling expenses and profit from the USP.

Whilst a NIP was calculated in relation to exports of the goods to Australia from Brazil, China and Thailand, it is not the operative measure. Further, in relation to exports from Indonesia, because the normal value was determined in accordance with section 269TAC(2)(a)(ii) (which is one of the circumstances in which the Minister is not required to have regard to the desirability of fixing a lesser amount of duty (as per the *Customs Tariff (Anti-Dumping) Act 1975*)), the Minister did not have regard to the lesser duty rule and therefore the NIP is not the operative measure in respect of the goods exported to Australia from Indonesia.

As stated above, in its application, Australian Paper has claimed a change in the USP and therefore the NIP. The data presented in Australian Paper's *Confidential Appendix A6.1* indicates that its prices (and costs) have changed since the period during which the USP was established. Based on this, the Commission is satisfied that there appear to be reasonable grounds for asserting that the NIP has changed.

3.3.6 Conclusion - section 269ZC(2)(b)

Based on the Commission's analysis outlined in section 3.3 of this report, the Commission considers that there appear to be reasonable grounds for asserting, under section 269ZC(2)(b)(i), that the variable factors relevant to the taking of anti-dumping measures have changed.

Therefore, the Commission recommends that the Commissioner not reject the application pursuant to section 269ZC(1).

3.4 Conclusions and recommendations

The Commission has considered Australian Paper's application in accordance with sections 269ZB and 269ZC. The Commission is satisfied, on the basis of the information provided in the application and other relevant information listed in section 3.3 of this report, that:

- Australian Paper has submitted an application that complies with section 269ZB; and
- there appear to be reasonable grounds for asserting that the variable factors relevant to the taking of the anti-dumping measures with respect to exports of the goods from the subject countries have changed.

The Commission recommends that the Commissioner:

- **not reject** the application for a review of variable factors and initiate a review into the current anti-dumping measures applying to exports of the goods to Australia from the subject countries (except from Indonesia by PT. Indah Kiat Pulp & Paper Tbk, PT. Pabrik Kertas Tjiwi Kimia Tbk and PT. Pindo Deli Pulp & Paper Mills); and
- **examine** the period from 1 January 2019 to 31 December 2019 for the purpose of reviewing the variable factors.

4 ATTACHMENTS

Confidential Attachment 1	Export price analysis
----------------------------------	-----------------------