

14 April 2020

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

Email: investigations2@adcommission.gov.au

Dear Sir/Madam

Statement of Essential Facts ('SEF') No. 551 – 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.

I. Executive Summary

Paper Australia Pty Ltd (hereafter referred to as "Opal Australian Paper", or "OAP") wishes to address items raised in SEF No. 551 and make recommendations for the Anti-Dumping Commission's ("the Commission") further consideration where applicable.

Opal Australian Paper broadly agrees with the Commission's proposed recommendation to the Minister that the dumping duty notice in respect of the goods exported to Australia from Brazil, China, Indonesia and Thailand have effect as if different variable factors had been ascertained. However, OAP notes that proposed recommendations relating to Model Control Codes, Chinese and Indonesian exporter's export price and normal value methodology and exporters adjustments require reconsideration.

II. Model Control Codes

Opal Australian Paper respectfully disagrees with the Commission's assessment in the SEF that secondary characteristics (including brightness, whiteness, and paper weight or 'gsm') of A4 copy paper in the Australian market, give rise to "*distinguishable and material differences in price*". This is not the experience of Opal Australian Paper in its long history of manufacturing and selling copy paper in the Australian market, and importantly, this is not in alignment with the Commission's findings in Investigations 341 and 463.

Opal Australian Paper contends that there is little discernible physical difference in the like goods which give rise to distinguishable or material differences in price. The exception to this is that although recycled content of the like goods gives rise to an increased cost to make the like goods, due to the required de-inking of recovered Uncoated Woodfree papers (UCWF), this does not translate to any corresponding impact on selling price in the Australian market place. Furthermore, Opal Australian Paper considers that there are only three somewhat relevant categories of recycled content that the Commission should consider in its analysis being; 0-20% recycled, 21-79% recycled, and 80-100% recycled, i.e. 'low' recycled and 'virgin' grades, 'moderate' or 50% recycled content grades, and 'high' recycled content grades respectively.

The Australian market is overwhelmingly dominated by the sale of 80gsm A4 copy paper, with relatively small volumes of other basis weight papers being sold domestically (believed to less than 3 per cent). As such Opal Australian Paper only produces like goods which are 80gsm and imports a small volume

of supplementary copy paper weights given that domestic demand does not justify production. Opal Australian Paper notes that some exporters to Australia do offer grades lower than 80gsm however these are believed to be sold into the market as a mere price-pointing exercise to justify price undercutting, reduce the duty payable per tonne on importation, or avoid the dumping duties altogether through circumvention as was found to be the case in Anti-Circumvention Inquiry No. 552 i.e. slight modification of goods.

Investigation No. 341 Findings related to Physical Characteristics of Like Goods

The Commission considered whether the Australian industry manufactures like goods to the imported goods in Investigation No. 341. The Commission stated in Report No. 341:

“The Commission considers that other characteristics of the goods, such as packaging, certification, grams per square metre, brightness, recycled content and ‘type of’ whiteness are secondary characteristics which do not affect the essential physical likeness of domestically produced A4 copy paper to imported A4 copy paper”.

Given the highly competitive nature of the domestic market, where brand recognition is the only material differentiator on pricing, even a significant physical factors like recycled content does not affect pricing, let alone secondary factors like brightness, whiteness, and gsm which end users and even industry personnel cannot discern a difference. It is therefore beyond reason for the Commission to find a distinguishable and material difference in the prices of such goods i.e. the Commission has incorrectly determined that contentious correlation on prices and secondary indistinguishable physical differences somehow constitutes causation.

Opal Australian Paper submits that there have been no changes to the goods or, in the production of the goods manufactured by the Australian industry, in the period subsequent to the commencement of Investigation No. 341 and the following Investigation 463, and that the secondary characteristics of the goods do not result in a “*distinguishable and material difference in price*” and hence no adjustment(s) to normal value is required, nor are MCC in excess of the 3 categories proposed by Opal Australian Paper appropriate.

III. Variable Factors – Export Price and Normal Value

(i) Exports from China (UPM AP)

a. Export Price

OAP notes that UPM AP (exporter) arranges for its associated company UPM China to “toll” manufacture the goods exported to Australia. OAP further observes that the Commission was “*satisfied that the goods have been exported to Australia otherwise than by the importer and were purchased in ‘arms-length transactions’ by the importer from the exporter (UPM AP)*” (emphasis added).

The UPM Asia Pacific Pte Ltd/ UPM (China) Co., Ltd verification report states at Section 7.3 that the Commission “found no evidence” that the goods exported to Australia were not arms-length sales. OAP submits that as the exporter, manufacturer and Australian importer are all related entities, that the Commission should have undertaken a comparison of costs and export prices for the manufactured goods with the other cooperative Chinese manufacturer and exporter, Greenpoint. This would have appeared reasonable as Greenpoint similarly undertakes a tolling arrangement with an affiliated company (in this instance Asia Symbol Guangdong) in somewhat similar circumstances to the arrangements undertaken by UPM AP and its affiliated companies.

This analysis would enable the Commission to more reliably conclude as to whether the sales between the affiliated UPM companies are at arms-length.

b. Normal Value and Adjustments

Opal Australian Paper concurs with the Commission's determination that a full adjustment of UPM's SG&A expenses is not warranted as this would include broader expenses than the more specific direct selling costs and expenses relating to the activities of the UPM regional sales offices in China.

(ii) Exports from Indonesia (RAK)

a. Export Price

Opal Australian Paper agrees with the Commission's proposed recommendation that the Minister should not determine that there is insufficient or unreliable information to ascertain the export price due to a low volume of exports of goods to Australia by RAK. According to TradeData International data supplied to the Commission by Opal Australian Paper in Review 547¹ and as reflected in the Commission's analysis RAK exports to Australia in 2019 were lower than they were in prior periods including the 2015 Investigation 341 period. However, whilst the Commission correctly recognises that RAK lost supply to its two major Australian customers following the investigation period, it neglects to account for the fact that the dumping margins imposed on RAK exports to Australia of 12.6 per cent will have influenced the Australian resellers' decision(s) to either:

- (i) Continue sourcing dumped goods at an increased cost which incorporated the dumping margin (this did not occur); or
- (ii) Shift purchases to supply from the Australian producer (this did not occur); or
- (iii) Sell their copy paper import/resell businesses to a competitor (this occurred in the case of one of RAK's major customers, who then sourced alternate supply); or
- (iv) Sell their copy paper resale businesses to the Australian producer (this was the case with BJ Ball's 'Edward Dunlop Office Products' business which was integrated into the Australian Paper business).

Therefore whilst it is fair to state that the loss of these two major customers decreased RAK's exports to Australian, this must be considered in the context of the effective disincentive that the dumping measures had on the Australian importers decision to source dumped goods from RAK Indonesia up until the end of 2019.

Opal Australian Paper has examined export statistics subsequent to the review investigation period that confirms a significant increase in exports from RAK Indonesia in 2020 of approximately 399 per cent, representing 6 per cent of the total imports for the year. Opal Australian Paper acknowledges that the 2020 year is outside of the Commission's review period for this variable factors review, however it provides clarity and a strong indication to the Commission that RAK has increased its exports of A4 copy paper to Australia and continues to trade at a level which is sufficient to ascertain export prices. Additionally it highlights that the export volumes are material and continue to exceed negligible levels, and that the current measures are no longer effective in removing injury from the Australian industry especially given that the Commission has calculated an increase in the dumping margin since the original investigation.

b. Normal Value and Adjustments

OAP concurs with the Commission's finding that a particular market situation for A4 copy paper exists in Indonesia. Further, OAP supports the Commission's finding that RAK's transfer price for pulp from its related pulp supplier was not reliable and could not be reconciled to a market price as identified in the 'executive summary' report provided to the Commission by RAK.

The Commission has therefore correctly included the competitive cost benchmark for pulp in RAK's constructed normal value.

¹ Confidential Attachment A-10.1.2_Tradedata Indo export code 48025690_V2



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OAP also notes the adjustments made to RAK's normal value. OAP queries whether the Commission has verified actual costs incurred by RAK for the following adjustments:

- domestic emptying container fee;
- domestic documentation fee; and
- export management services fee.

It is not clear to OAP whether these adjustments have been based upon actual costs or estimates suggested by RAK.

(iii) Exports from Thailand (Double A)

Section 4.7.1.2 of SEF No. 551 confirms the adjustments made to Double A of Thailand's normal value and in particular, Opal Australian Paper notes that Double A has confirmed that it pays "off invoice" rebates on its domestic sales. Off-invoice rebates are understood to be used by some Australian importers. OAP queries whether the Commission has examined off-invoice rebates provided by Australian importers on sales of imported goods on the Australian market.

IV. Conclusion and Recommendations

Opal Australian Paper commends the work of the Commission in correctly finding in SEF No. 551, that variable factors have been ascertained in respect of A4 copy paper exported to Australia from Brazil, China, Indonesia (excluding exempt exporters), and Thailand. However, Opal Australian Paper requests reconsideration of the Model Control Codes, and the contention that indistinguishable secondary characteristics give rise to distinguishable and material price differences. Additionally, OAP requests that the Commission undertake further analysis of Chinese exporter UPM and its related companies to verify that transactions are indeed arm-length, for the purpose of determining an export price.

Finally, Opal Australian Paper generally agrees with the Commission's findings in relation to its determination of export prices and normal value in respect of Indonesian exporter RAK, although clarification relating to adjustments made are recommended.

If you have any questions concerning this submission please do not hesitate to contact me on 0425 619 667.

Yours sincerely

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