

Non-Confidential Summary

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By Email

Ms Jasna Halilovic
Assistant Director, Investigations 2
Anti-Dumping Commission
Melbourne VIC 3000

Dear Jasna,

RE: Review 551 – Exports of A4 Copy Paper from the Republic of Indonesia – Dumping Margin Calculations for APRIL

I refer to your request of 16 April 2021 for a non-confidential summary of APRIL's comments on the Anti-Dumping Commission's (**Commission**) calculations of the dumping margin applicable to APRIL's exports of A4 Copy Paper to Australia (**GUC**).

As requested, below is the non-confidential summary of those comments that comply with section 269ZJ of the *Customs Act 1901*.

Non-confidential summary of APRIL's comments on the Commission's dumping margin calculations for APRIL's exports of the GUC to Australia: -

The Commission's calculations of the dumping margin applicable to APRIL's exports of the GUC are factually and legally incorrect for the following reasons:

- (a) RAK is not the 'exporter' of the GUC to Australia. AFEM is. The reasons for this are set out in APRIL's response to the Statement of Essential Facts in Review 551, a copy of which is on the public file. See also prior submissions at **Attachment 1**. Accordingly, to the extent that the Commission's dumping margin calculations are based on RAK being the 'exporter', they are incorrect and require rectification.
- (b) The 'export price' of the GUC is not the price paid by AFEM to RAK. The 'export price' of the GUC is the price paid to AFEM by AFEM's Australian customers. The reasons for this are set out in APRIL's response to the Statement of Essential Facts in Review 551, a copy of which is on the public file. Accordingly, to the extent that the Commission's dumping margin calculations are based on the 'export price' of the GUC being the price paid by AFEM to RAK, they are incorrect and require rectification.

- (c) If the 'actual export price', that is, the price paid by AFEM's Australian customer(s) replaces the Commission's erroneous 'export price' used in the Commission's dumping margin calculation, the result is that the dumping margin changes from a positive margin of +14.7% to a negative margin of **-10.3%**;
- (d) To the extent that the Commission's dumping margin calculations are based on a comparison of the Commission's incorrect 'export price' with the normal value, that normal value has been incorrectly determined. This is because it has not been adjusted in the manner required by section 269TAC(8)(c) of the *Customs Act 1901*. The scope and manner in which the relevant prices are modified differently by their respective terms and conditions of trade are confidential to RAK and AFEM, the disclosure of which would adversely affect their respective businesses. If the Commission wrongly continues with the errors regarding 'exporter' and 'export price' in the dumping margin calculation pointed out at paragraphs (a) and (b) above, then the dumping margin calculation requires rectification in this regard. Information concerning the nature and extent to which the prices are differently modified has not been requested by the Commission nor provided by APRIL because APRIL was unaware that the Commission would wrongly base its dumping margin calculation on an incorrect 'export price'. As noted above, the Commission's calculation of the dumping margin requires rectification to be based on the correct 'export price'. Alternatively, in the absence of a correction to the export price used in the Commission's dumping margin calculation, if the normal value is adjusted as required under section 269TAC(8)(c) of the *Customs Act 1901*, the outcome would be the same as if the 'actual export price' is substituted for the Commission's erroneous 'export price'. The dumping margin will be a negative dumping margin.
- (e) If the Commission rectifies its calculations to reflect that the 'export price' is the price paid by the Australian customer(s) to AFEM, no recalculation of the normal value is required pursuant to section 269TAC(8)(c) of the *Customs Act 1901* as there is no evidence or reason that the sales or the 'prices' in such sales would be modified differently by the terms and circumstances of the sales to which they relate nor is there any commercial reason for them to be modified differently.
- (f) The Commission's inclusion of a 'commission' in the normal value is erroneous and inconsistent with the Commission's statement in the Statement of Essential Facts that such an amount was not required to be included in the normal value calculation. This requires rectification.
- (g) The Commission's proposed recommendations regarding the calculation of interim dumping duty are inconsistent with its own findings in the Statement of Essential Facts, are inconsistent with Australia's obligations under the *WTO Agreement on the Implementation of Article VI of GATT 1994 (WTO Anti-Dumping Agreement)*, lack the precision required in the imposition of a valid tax and are administratively unworkable. The reasons for this are set out in APRIL's response to the Statement of Essential Facts in Review 551, a copy of which is on the public file.
- (h) APRIL has requested the Commission to rectify these errors in its calculations of the dumping margin for APRIL's exports of the GUC and provide revised calculations for its

review. It has requested the Commission to confirm that this will be undertaken by Tuesday, 20 April 2021.

Please contact me if you have any queries or concerns or require clarification on any of the foregoing.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Andrew Percival', with a large, stylized initial 'A' at the start.

Andrew Percival

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Attachment 1
Prior Submissions

[551 - 037 - submission - exporter - april far east malaysia sdn bhd pt riau andalan - findings in the report.pdf \(industry.gov.au\)](#)

[551 - 038 - submission - exporter - april far east malaysia sdn.bhd and pt riau andalan kertas - further submission concerning the verification report for april 0.pdf \(industry.gov.au\)](#)