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By Email

Mr Justin Wickes,
Director, Investigations 2
Anti-Dumping Commission
GPO Box 2013
Canberra ACT 2601

Dear Mr Wickes,

RE: Review No. 551 – Dumping Margin Calculation – Non-Injurious Price

I refer to the dumping margin preliminarily determined by the Anti-Dumping Commission (**Commission**) in the Statement of Essential Facts for Review 551 and APRIL's submission dated 15 April 2021 requesting a recalculation of that margin due to numerous factual and legal errors.

The Commission was requested to confirm to my client by 20 April 2021 that it would be undertaking the correction of those errors and recalculation of the dumping margin. No confirmation has been received.

Obviously, if those errors are not corrected and the dumping margin not recalculated, then such margin calculated by the Commission for APRIL's exports remains factually and legally incorrect and therefore cannot be relied upon for any purpose.

In addition, as determined by the Commission in the Statement of Essential Facts:

- (i) the volume of APRIL's exports during the review period was negligible for reasons beyond its control; and
- (ii) the export prices of such exports by APRIL were higher than those of other participants in the Australian A4 Copy Paper market, including those of the Australian industry.

It follows that such exports could not have caused any injury to the Australian industry, let alone material injury, through the effects of 'dumping'.

This is supported by the **attached** consolidated Financial Statements filed by Paper Australia Pty Ltd (**Australian Paper**) with the Australian Securities and Investments Commission (**ASIC**) for the 2018

and 2019 financial years as required by the *Corporations Act 2001 (Clth)*.¹ Those Financial Statements and those for prior financial years are in the possession of the Federal Government through the agency of ASIC and are publicly available from ASIC. Hence, they are and have been available to all 'interested parties', including the Commission.

Those Financial Statements show:

- (a) for the 2018 financial year, a profit of AU\$838,000 before tax on sales revenues of AU\$779.9 million and a total loss of AU\$17.4 million; and
- (b) for the financial year 2019, a loss of AU\$16.5 million before tax on sales revenues of AU\$785.5 million and a total loss of AU\$7.7 million.

Given the existence of anti-dumping measures in both those financial years, the economic performance of Australian Paper, specifically, the losses in both financial years cannot be attributed to allegedly 'dumped' import competition. Further, as is evident from the Statement of Essential Facts, there is no evidence of (i) any dumping by APRIL's exports, (ii) any injury incurred by Australian Paper, the sole producer of A4 Copy Paper in Australia, that was caused by allegedly 'dumped' import competition, or (iii) the existing anti-dumping measures being ineffective. In the absence of evidence to the contrary, these measures must be presumed to be effective.

According to Australian Paper's Directors' Report in the 2019 Financial Statements:

- improved sales revenue in the 2019 financial year was due to "*increased domestic volume*";
- manufacturing costs in the 2019 financial year were higher due to extended shut-downs and increased energy costs;
- once restructuring costs have been absorbed, profitability in the 2020 financial year will improve; and
- underlying business conditions in the 2019 financial year were supported by a stable USD/AUD exchange rate.

No mention was made of Australian Paper's business having been adversely affected by 'dumped' imports or by any imports. The position was not dissimilar for the 2018 financial year as reported by the Directors.

Importantly, in both Financial Statements, non-manufacturing personnel costs and logistics and distribution costs amounted to approximately 10% of Australian Paper's sales revenues. No doubt these costs were incurred primarily in supporting Australian Paper's distribution channels in the Australian A4 Copy Paper market and in maintaining its approximately 85% market share as determined by the Commission in Investigation 463. When the non-manufacturing personnel costs and logistics and distribution costs are added to Australian Paper's cost of sales, the combined costs clearly exceeded its sales revenues and eliminated gross profits in both the 2018 and the 2019

¹ Strangely, despite being publicly available from ASIC, Australian Paper's Financial Statements do not appear on the public file for Investigations Nos. 341 or 463: see **attached** company search from ASIC. One must query why this was the case, particularly as Australian Paper's audited Financial Statements filed with ASIC were relevant to both investigations.

financial years. This had nothing to do with import competition or prices in the Australian A4 Copy Paper, which have been ascertained by the Commission to be higher than in other countries – just costs.

Also, of interest was Australian Paper's reported acquisition of Orora's Fibre Businesses for AU\$1.72 billion in April 2020. It is evident that Australian Paper's economic performance was not so 'materially' impaired by allegedly dumped exports from Indonesia, China, Brazil and Thailand as to preclude it from financing the acquisition of Orora's Fibre Businesses for AU\$1.72 billion.

In light of the foregoing, it is apparent that if the measures applicable to APRIL's exports are not revoked, as it is submitted they must be in compliance with Article 11.1 of the WTO Anti-Dumping Agreement, then the non-injurious price for APRIL's exports must be set at zero. As there is no injury being caused or that is capable of being caused by the negligible volume of APRIL's exports, the price at which it exports A4 Copy Paper to Australia from Indonesia is immaterial. Hence, the non-injurious price for APRIL's exports must be zero as there is no injury to be prevented from being caused by such exports. This 'variable factor' must be altered to reflect this fact if the anti-dumping measures are not revoked as they should be.

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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