



Australian Government
**Department of Industry, Science,
Energy and Resources**

**Anti-Dumping
Commission**

CUSTOMS ACT 1901 - PART XVB

ANTI-DUMPING COMMISSION REPORT

NO. 551

REVIEW OF 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**

7 June 2021

CONTENTS

CONTENTS2

ABBREVIATIONS3

1 SUMMARY AND RECOMMENDATIONS5

1.1 INTRODUCTION.....5

1.2 LEGISLATIVE PROVISIONS.....5

1.3 FINDINGS.....5

1.4 RECOMMENDATIONS.....6

2 BACKGROUND.....7

2.1 APPLICATION AND INITIATION.....7

2.2 PREVIOUS CASES7

2.3 CURRENT ANTI-DUMPING MEASURES9

2.4 CONDUCT OF THE REVIEW.....9

2.5 APRIL’S SUBMISSIONS REQUESTING ‘TERMINATION’ AND REVOCATION OF ANTI-DUMPING MEASURES 13

3 THE GOODS SUBJECT TO THE ANTI-DUMPING MEASURES.....16

3.1 THE GOODS16

3.2 MODEL CONTROL CODES17

4 VARIABLE FACTORS - EXPORT PRICE AND NORMAL VALUE.....20

4.1 FINDINGS.....20

4.2 EXPORTER COOPERATION.....20

4.3 LEGISLATIVE PROVISIONS.....22

4.4 VARIABLE FACTORS – EXPORTS FROM BRAZIL23

4.5 VARIABLE FACTORS – EXPORTS FROM CHINA.....26

4.6 VARIABLE FACTORS – EXPORTS FROM INDONESIA.....32

4.7 VARIABLE FACTORS – EXPORTS FROM THAILAND56

5 VARIABLE FACTORS - COUNTERAVAILABLE SUBSIDY.....60

5.1 FINDINGS.....60

5.2 ASSESSMENT OF COUNTERAVAILABLE SUBSIDY60

5.3 SUBSIDY MARGIN.....62

6 VARIABLE FACTORS - NON-INJURIOUS PRICE.....63

6.1 FINDING.....63

6.2 NON-INJURIOUS PRICE.....63

6.3 LESSER DUTY RULE64

6.4 ASSESSMENT OF THE NIP.....64

7 PROPOSED FORM OF MEASURES AND RATES OF DUTY70

7.1 FORM OF MEASURES70

7.2 FORM OF MEASURES AND RATES OF DUTY.....70

8 FINDINGS AND RECOMMENDATIONS.....74

8.1 FINDINGS.....74

8.2 RECOMMENDATIONS.....74

9 APPENDICES AND ATTACHMENTS.....78

APPENDIX A - PARTICULAR MARKET SITUATION IN INDONESIA79

APPENDIX B - COMPETITIVE MARKET COST BENCHMARK90

PUBLIC RECORD

ABBREVIATIONS

Abbreviation	Full title
ABF	Australian Border Force
the Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
ADRP	Anti-Dumping Review Panel
AFEM	APRIL Far East (Malaysia) Sdn Bhd
Anti-Dumping Agreement	Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994
APRIL	collectively, AFEM and RAK
Asia Symbol Guangdong	Asia Symbol (Guangdong) Paper Co., Ltd
Australian Paper	Paper Australia Pty Ltd, the applicant
BJ Ball	BJ Ball Pty Ltd
Brazil	the Federative Republic of Brazil
China	the People's Republic of China
the Commission	Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
CTM	cost to make
CTMS	cost to make and sell
the Customs Direction	<i>Customs (Extensions of Time and Non-cooperation) Direction 2015</i>
Double A	Double A (1991) Public Co., Ltd
Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975</i>
EPR	electronic public record
GAAP	Generally Accepted Accounting Principles
GOC	Government of China
GOI	Government of Indonesia
Greenpoint	Greenpoint Global Trading (Macao Commercial Offshore) Ltd
the Guidelines	<i>Guidelines on the Application of the Forms of Dumping Duty</i>
FOB	Free on Board
FOT	Free on Truck
gsm or g/m ²	grams per square metre
ICD	interim countervailing duty
IDD	interim dumping duty
Indah Kiat	PT Indah Kiat Pulp & Paper Tbk
Indonesia	the Republic of Indonesia
International Paper	collectively, IP Brasil and IPEX
IP Brasil	International Paper do Brasil Ltda
IPEX	International Paper Exportadora Ltda

PUBLIC RECORD

Jackaroo	Jackaroo Pty Ltd
MCC	model control code
the Minister	Minister for Industry, Science and Technology
NIP	non-injurious price
OCOT	ordinary course of trade
Officeworks	Officeworks Limited
Pindo Deli	PT Pindo Deli Pulp & Paper Mills
PPPC	Phoenix Pulp and Paper Public Co., Ltd
RAK	PT Riau Andalan Kertas
the Regulation	<i>Customs (International Obligations) Regulation 2015</i>
REP 341	<i>Anti-Dumping Commission Report No. 341</i>
REP 547	<i>Anti-Dumping Commission Report No. 547</i>
REP 552	<i>Anti-Dumping Commission Report No. 552</i>
RISI	Fastmarkets RISI
SEF	statement of essential facts
SG&A	selling, general and administration expenses
Thailand	the Kingdom of Thailand
Tjiwi Kimia	PT Pabrik Kertas Tjiwi Kimia Tbk
UPM	collectively, UPM AP, UPM China and UPM-Kymmene Pty Ltd
UPM AP	UPM Asia Pacific Pte Ltd
UPM China	UPM (China) Co., Ltd
USP	unsuppressed selling price
WTO	World Trade Organization

1 SUMMARY AND RECOMMENDATIONS

1.1 Introduction

This report sets out the material findings of fact on which the Commissioner of the Anti-Dumping Commission (the Commissioner) bases his recommendations to the Minister for Industry, Science and Technology (the Minister) in relation to a review of the anti-dumping measures applying to 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 (Indah Kiat), PT Pabrik Kertas Tjiwi Kimia Tbk (Tjiwi Kimia) and PT Pindo Deli Pulp & Paper Mills (Pindo Deli)) and the Kingdom of Thailand (Thailand) (collectively, the subject countries).

The anti-dumping measures are in the form of a dumping duty notice applying to the goods exported from Brazil, China, Indonesia and Thailand, and a countervailing duty notice applying to the goods exported from China only. The dumping duty notice applies to all exporters of A4 copy paper from the subject countries except Indah Kiat, Pindo Deli and Tjiwi Kimia, whereas the countervailing duty notice applies to all exporters of A4 copy paper from China except Asia Symbol (Guangdong) Paper Co., Ltd (Asia Symbol Guangdong), Greenpoint Global Trading (Macao Commercial Offshore) Ltd (Greenpoint), UPM (China) Co., Ltd (UPM China) and UPM Asia Pacific Pte Ltd (UPM AP).

This review follows an application made by Paper Australia Pty Ltd (Australian Paper, or the applicant) claiming that the variable factors relevant to the taking of the anti-dumping measures have changed. The variable factors relevant to this review are the export price, normal value, non-injurious price (NIP) and the amount of countervailable subsidy received.

1.2 Legislative provisions

Division 5 of Part XVB of the *Customs Act 1901* (the Act)¹ sets out, among other things, the procedures to be followed by the Commissioner when undertaking a review of anti-dumping measures.

1.3 Findings

In respect of A4 copy paper exported to Australia from Brazil, China, Indonesia and Thailand, the Commissioner found that:

- the export price of the goods exported during the review period is different to the export price last ascertained by the Minister for the purpose of the dumping and countervailing duty notices;
- the normal value of the goods exported during the review period is different to the normal value last ascertained by the Minister for the purpose of the dumping duty notice;

¹ All legislative references in this report are to the *Customs Act 1901*, unless otherwise specified.

PUBLIC RECORD

- the NIP of the goods exported to Australia during the review period is different to the NIP last ascertained by the Minister for the purpose of the dumping and countervailing duty notices;
- the NIP is lower than the normal value of goods exported to Australia from Brazil, China (except by UPM AP), Indonesia (except by PT Riau Andalan Kertas (RAK)) and Thailand; and
- the amount of countervailable subsidy received in respect of the goods exported to Australia in the review period is different to the countervailable subsidy last ascertained by the Minister for the purpose of the countervailing duty notice.

1.4 Recommendations

The Commissioner recommends 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. The Commissioner also recommends to the Minister that the countervailing duty notice in respect of the goods exported to Australia from China by non-cooperative and all other exporters have effect as if different variable factors had been ascertained.

As the NIP is below the normal value of goods exported from Brazil, China (except by UPM AP), Indonesia (except by RAK) and Thailand, the Minister must have regard to the 'lesser duty rule' in accordance with section 8(5B) of the *Customs Tariff (Anti-Dumping) Act 1975* (Dumping Duty Act). The Commissioner recommends that the lesser duty rule be applied by setting the fixed rate of interim dumping duty (IDD) such that the sum of the ascertained export price and the IDD payable on the goods the subject of the dumping duty notice does not exceed the NIP.

Further, as the NIP is below the normal value of goods exported by uncooperative and all other exporters from China, the Minister must have regard to the lesser duty rule in accordance with sections 8(5BA) and 10(3D) of the Dumping Duty Act. The Commissioner recommends that the lesser duty rule be applied to these exporters by setting the fixed rate of IDD such that the sum of the ascertained export price, the IDD and the interim countervailing duty (ICD) payable on the goods does not exceed the NIP.

The resulting changes to the duty payable in respect of A4 copy paper exported by each exporter subject to the anti-dumping measures are summarised in the following table.

PUBLIC RECORD

Country	Exporter	Dumping margin	Subsidy margin	Current combined fixed rate of interim duty	Proposed combined fixed rate of interim duty
Brazil	International Paper Exportadora Ltda	25.7%	n/a	2.9%	8.1%
	Uncooperative and all other exporters	29.2%	n/a	2.9%	8.1%
China	Greenpoint Global Trading (Macao Commercial Offshore) Ltd	15.1%	n/a	3.0%	10.0%
	UPM Asia Pacific Pte Ltd	3.2%	n/a	4.0%	3.2%
	Uncooperative and all other exporters	19.8%	7.0%	41.4%	10.0%
Indonesia	PT Riau Andalan Kertas	14.7%	n/a	12.6%	14.7%
	Uncooperative and all other exporters	25.7%	n/a	45.1%	19.2%
Thailand	Double A (1991) Public Co., Ltd	30.8%	n/a	13.4%	0.9%
	Uncooperative and all other exporters	43.3%	n/a	23.2%	0.9%

Table 1: Margins and rates of interim duty

2 BACKGROUND

2.1 Application and initiation

On 27 March 2020, the Commission received an application from Australian Paper requesting a review of the anti-dumping measures applying to A4 copy paper exported to Australia from China, Brazil, Indonesia (except by Indah Kiat, Pindo Deli and Tjiwi Kimia) and Thailand.²

On 16 April 2020, following consideration of Australian Paper's application, the Commissioner decided not to reject the application and published a notice³ announcing the initiation of the review. Particulars of the reasons for the decision to initiate this review are outlined in *Anti-Dumping Commission Consideration Report No. 551*, which is available on the public record.⁴

2.2 Previous cases

2.2.1 Original investigation – Investigation 341

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 following consideration of *Anti-Dumping Commission Report No. 341* (REP 341).⁵

The dumping duty notice applied to all exporters of A4 copy paper from the subject countries except Tjiwi Kimia, whereas the countervailing duty notice applied to all exporters of A4 copy paper from China except Asia Symbol Guangdong, Greenpoint, UPM China and UPM AP.

Following a review by the Anti-Dumping Review Panel (ADRP) of certain findings in REP 341,⁶ on 9 March 2018, the then Minister revoked the reviewable decision in so far as it relates to Asia Symbol Paper (Guangdong) Co., Ltd, Indah Kiat and Pindo Deli, and substituted new decisions as recommended by the ADRP. 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 AP be set aside and the matter be remitted to the ADRP. Following the ADRP's reconsideration,⁷ on 12 March 2019, the Minister for Industry, Science and Technology revoked the reviewable decision in so far as it relates to UPM AP and

² Electronic public record (EPR) 551, item no. 1.

³ Anti-Dumping Notice (ADN) No. 2020/039, EPR 551, item no. 3.

⁴ EPR 551, item no. 2.

⁵ ADN Nos. 2017/39 and 2017/40 refer. REP 341 is available on the Commission's website.

⁶ ADRP Report No. 55.

⁷ ADRP Report No. 55A.

PUBLIC RECORD

substituted a new decision as recommended by the ADRP.⁸ As a result, the export price (and dumping margin) was revised for exports of A4 copy paper from China by UPM AP.

2.2.2 WTO Dispute DS529 and Review 547

Following a request by Indonesia, the World Trade Organization (WTO) Dispute Settlement Body established a panel on 27 April 2018 to hear Indonesia's complaint regarding the measures imposed in relation to Indah Kiat and Pindo Deli following Investigation 341.

The final report of the WTO Panel in DS529 was published on 4 December 2019, and was adopted by the WTO DSB on 27 January 2020. The Panel found the measures imposed in relation to Indah Kiat and Pindo Deli were inconsistent with some provisions of the Anti-Dumping Agreement, and recommended that Australia bring its measures into conformity with its obligations under the Anti-Dumping Agreement. A copy of the dispute panel's final report is available on the WTO's website.⁹

On 12 March 2020, following a request by the Minister, the Commissioner initiated a review of the anti-dumping measures applying to A4 copy paper exported to Australia from Indonesia by Indah Kiat and Pindo Deli.¹⁰

Following consideration of REP 547,¹¹ the Minister revoked the dumping duty notice applying to goods exported to Australia from Indonesia by Indah Kiat and Pindo Deli.¹²

2.2.3 Anti-circumvention Inquiry 552

On 28 April 2020, the Commissioner initiated an inquiry into alleged circumvention activity involving a slight modification of goods exported to Australia from China.¹³ This inquiry was initiated following an application made by Australian Paper.

Following consideration of *Anti-Dumping Commission Report No. 552* (REP 552), the Minister accepted the Commissioner's recommendations to alter the dumping duty notice and countervailing duty notice applying to A4 copy paper exported from China to include goods in the nominal weight range of 67 to 69 gsm, with effect on and after 28 April 2020. Further details concerning the alterations to the notices as they apply to the goods exported from China are outlined in ADN No. 2021/024.¹⁴

⁸ Notice under section 269ZZM(4), available on the ADRP's website.

⁹ See https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds529_e.htm.

¹⁰ ADN No. 2020/028.

¹¹ EPR 547, item no. 24.

¹² ADN No. 2020/090, published 14 September 2020.

¹³ ADN No. 2020/045.

¹⁴ EPR 552, item no. 15.

2.3 Current anti-dumping measures

The following table summarises the rates of IDD and ICD, including the form of measures, applying to exports of A4 copy paper from the subject countries.

Exporter	Fixed rate of IDD	IDD method ¹⁵	Rate of ICD	ICD method ¹⁶
Brazil				
International Paper Do Brasil Ltda	2.9%	Combination of fixed and variable	n/a	n/a
Uncooperative and all other exporters	2.9%	Combination of fixed and variable	n/a	n/a
China				
Asia Symbol (Guangdong) Paper Co., Ltd	3.0%	Combination of fixed and variable	n/a	n/a
UPM (China) Co., Ltd	4.0%	Combination of fixed and variable	n/a	n/a
Uncooperative and all other exporters	34.4%	Combination of fixed and variable	7.0%	Proportion of export price
Indonesia				
PT Riau Andalan Kertas	12.6%	Combination of fixed and variable	n/a	n/a
Uncooperative and all other exporters	45.1%	Combination of fixed and variable	n/a	n/a
Thailand				
Double A (1991) Public Co., Ltd	13.4%	Combination of fixed and variable	n/a	n/a
Phoenix Pulp and Paper Co., Ltd	18.1%	Combination of fixed and variable	n/a	n/a
Uncooperative and all other exporters	23.2%	Combination of fixed and variable	n/a	n/a

Table 2: Current measures applying to A4 copy paper exported from the subject countries

2.4 Conduct of the review

2.4.1 Review period

In ADN No. 2020/039, the Commissioner notified interested parties that the review period is 1 January 2019 to 31 December 2019.

¹⁵ In accordance with section 5(2) of the *Customs Tariff (Anti-Dumping) Regulation 2013*.

¹⁶ In accordance with section 10(3B)(a) of the Dumping Duty Act.

The Commission sought and obtained information and data pertaining to this period in order to assess whether the variable factors relevant to the determination of duty payable have changed.

2.4.2 Questionnaires and verification

2.4.2.1 Australian industry

Australian Paper provided a response to the Australian industry questionnaire, and provided data relating to its Australian sales, export sales and costs for the review period. A public version of this response is available on the public record.¹⁷

In Review 547, Australian Paper's sales and cost data for the period 1 January 2019 to 31 December 2019 (which is the same data that was provided for the purposes of Review 551) was verified for accuracy, relevance and completeness. Further details of this verification are contained in Chapter 6 of REP 547.¹⁸

The Commission has used this verified data for the purposes of establishing an unsuppressed selling price (USP) in this review.

2.4.2.2 Exporters

Following the initiation of this review, the Commission placed the exporter questionnaire, including associated spreadsheets, on the Commission's website for exporters to complete.

The Commission also contacted the entities listed in Table 1 in this report, and invited these entities to respond to the exporter questionnaire.

The Commission received responses¹⁹ to the exporter questionnaire from the following entities:

- APRIL International Enterprise Pte Ltd, APRIL Far East (Malaysia) Sdn Bhd (AFEM) and RAK;
- Asia Symbol Guangdong and Greenpoint (collectively, Asia Symbol);
- Double A (1991) Public Co., Ltd (Double A);
- International Paper do Brasil Ltda (IP Brasil) and International Paper Exportadora Ltda (IPEX) (collectively, International Paper); and
- UPM AP, UPM China and UPM-Kymmene Pty Ltd (collectively, UPM).

Public versions of these questionnaire responses are available on the EPR.

¹⁷ EPR 551, item no. 4.

¹⁸ EPR 547, item no. 24.

¹⁹ Where multiple entities are identified, a single response was provided for all related entities involved in the production and sale of the goods exported to Australia, or like goods sold in the domestic market in the country of export.

PUBLIC RECORD

The Commission also received an incomplete response to the questionnaire from Phoenix Pulp and Paper Public Co., Ltd (PPPC). PPPC's status as an 'uncooperative exporter' is further discussed in Chapter 4 of this report.

The above entities' responses to the exporter questionnaire were considered complete and capable of verification, with the exception of PPPC's response to the questionnaire. As the Commissioner temporarily suspended onsite exporter verification activities from 20 March 2020,²⁰ the verification of all cooperating exporters was undertaken remotely.

2.4.2.3 Importers

The Commission identified several importers of the goods exported from the subject countries in the review period. The Commission invited these importers to participate in this review by completing an importer questionnaire. The Commission also placed a copy of the importer questionnaire including, associated spreadsheets, on the Commission's website for completion by importers that were not contacted directly.

The Commission received complete responses to the importer questionnaire from Jackaroo Pty Ltd (Jackaroo) and Officeworks Limited (Officeworks) that were suitable for verification. The Commission also received responses to Part A and Part D of the importer questionnaire from a number of entities, however these entities were either not required to provide further information or did not provide information to the other parts of the questionnaire when requested to do so.

The Commission verified Jackaroo's and Officeworks' information and data relevant to their imports of the goods in the review period. Copies of the verification reports are available on the public record.²¹

2.4.2.4 Government of China

On 16 April 2020, the Commission wrote to the Government of China (GOC) notifying it of the initiation of this review.

The Commission also invited the GOC to complete a questionnaire seeking information relevant to any subsidies that are available or might be received in respect of the goods exported to Australia from China in the review period. The Commission has not received a response to this questionnaire from the GOC.

2.4.2.5 Government of Indonesia

On 16 April 2020, the Commission wrote to the Government of Indonesia (GOI) notifying it of the initiation of this review.

Given that both Review 547 and Review 551 cover the same review period, in order to avoid imposing additional requirements on the GOI to provide further information for the purposes of this review, the Commission proposed in its written correspondence to have

²⁰ ADN No. 2020/029.

²¹ EPR 551, items no. 26 and 31 respectively.

PUBLIC RECORD

regard to the information provided by the GOI in response to the questionnaire forwarded in relation to Review 547. The GOI did not raise an objection with the Commission to this proposal. A response to this questionnaire was provided by the GOI on 27 April 2020 and a public version of this response is available on the public record for Review 547.²²

2.4.3 Statement of Essential Facts

On 26 March 2021, the Commissioner placed on the public record a statement of the facts (SEF)²³ on which the Commissioner proposed to base his recommendations to the Minister. The SEF informed interested parties of the facts established as of the date the SEF was placed on the public record and allowed them to make submissions in response.

Following its publication on the public record, interested parties had 20 days to respond to the SEF. Responses to the SEF were to be provided to the Commissioner by no later than 15 April 2021. The Commissioner had regard to submissions received in response to the SEF in preparing this report and recommendations to the Minister.

2.4.4 Submissions received from interested parties

The Commission received the following submissions during the course of the review. Non-confidential versions of these submissions are available on EPR 551.

Interested party	Date published on EPR	EPR document no.
Australian Paper	28 July 2020	13
Jackaroo	28 July 2020	14
Jackaroo	11 August 2020	16
Australian Paper	13 August 2020	17
Australian Paper	28 August 2020	18
Jackaroo	4 September 2020	19
APRIL	15 September 2020	21
Australian Paper	28 September 2020	22
Jackaroo	26 October 2020	23
Officeworks	29 October 2020	24
APRIL	18 December 2020	28
IP Brasil	21 December 2020	29
APRIL	18 March 2021	37
APRIL	23 March 2021	38
APRIL	26 March 2021	39
APRIL	7 April 2021	41
Australian Paper	16 April 2021	42

²² EPR 547, item no. 11.

²³ EPR 551, item no. 40.

PUBLIC RECORD

Interested party	Date published on EPR	EPR document no.
PPPC	16 April 2021	43
UPM	16 April 2021	44
APRIL	16 April 2021	45
Jackaroo	16 April 2021	46
APRIL	20 April 2021	47
APRIL	27 April 2021	48
APRIL	11 May 2021	49
Australian Paper	25 May 2021	53
Jackaroo	2 June 2021	54

Table 3: Submissions received from interested parties

All submissions received prior to 17 May 2021 have been considered by the Commissioner in preparing his findings outlined in this report.

The Commission received a submission²⁴ from Australian Paper on 24 May 2021, and a submission²⁵ from Jackaroo on 2 June 2021. The Commissioner has reviewed these submissions however, in deciding on the recommendation to be made to the Minister in this report, the Commissioner did not have regard to these submissions because to do so would have, in the Commissioner's opinion, prevented the timely preparation of this report.²⁶

2.5 APRIL's submissions requesting 'termination' and revocation of anti-dumping measures

In its submission of 24 March 2021, APRIL states that a review of the variable factors 'will include not just whether the variable factors in question have in fact changed, but also what impact such change has or should have on the continuation of the anti-dumping measures'.²⁷ APRIL submits that this requires an assessment of whether the measures were effective when imposed, and whether the measures have remained effective.

APRIL cites Article 5.8 of the Anti-Dumping Agreement,²⁸ and argues that if it is determined in Review 551 that 'the volume of exports by a particular exporter or exporters is 'negligible' or that the injury being caused by such exports is 'negligible' or does not

²⁴ EPR 551, item no. 53.

²⁵ EPR 551, item no. 54.

²⁶ Section 269ZDA(4).

²⁷ EPR 551, item no. 39, p. 2.

²⁸ Article 5.8 of the Anti-Dumping Agreement states that '[a]n application under paragraph 1 shall be rejected and an investigation shall be terminated promptly as soon as the authorities concerned are satisfied that there is not sufficient evidence of either dumping or of injury to justify proceeding with the case'.

PUBLIC RECORD

exist, the measures must be immediately revoked, consistently with Australia's international legal obligations under Article 5.8 of the WTO Anti-Dumping Agreement'.²⁹

In its submission of 6 April 2021, APRIL refers to the Commission's finding relating to APRIL's prices in the Australian market, and submits that its exports were at export prices that did not undercut, but were higher than the prices of other participants in the Australian market, including the Australian industry's prices.³⁰ APRIL claims that its exports at such export prices 'could not cause injury to anyone including the Australian industry'.³¹ APRIL submits that consequently, the measures applying to its exports of the goods to Australia from Indonesia must be revoked 'consistent with Australia's international legal obligations under the *WTO Agreement on the Implementation of Article VI of GATT 1994*'.³²

APRIL reiterates similar arguments in other submissions made during the course of this review.³³

The Commission considers that the matters raised by APRIL, as outlined above, are beyond the scope of this review of measures initiated and conducted in accordance with Division 5 of Part XVB of the Act.³⁴

In its submission of 24 March 2021,³⁵ APRIL appears to conflate 'revocation' with 'termination' and the relevant considerations in respect of each. Unlike for investigations conducted in accordance with Division 2 of Part XVB of the Act, there are no 'termination' provisions in respect of a review of measures conducted in accordance with Division 5. Therefore, the Commissioner cannot 'terminate' a review of measures, or 'terminate' the measures, as suggested by APRIL.

While it is possible, under Division 5, to extend a review of measures to consider additional matters such as whether the measures should be revoked, there are strict timeframes in which a review may be extended under the Act. Those timeframes have passed for this review. As such, the Commissioner no longer has power under the Act to extend this review to include consideration of revocation of the measures as they affect APRIL.

Specifically, the Commissioner no longer has power to request an extension of this review under section 269ZC(4)(b) because the Commissioner has published an initiation notice³⁶

²⁹ Ibid, p.3.

³⁰ EPR 551, item no. 41.

³¹ Ibid, p. 2.

³² Ibid, p. 2.

³³ EPR 551, items no. 45, 47 and 48.

³⁴ On 16 April 2020, the Commissioner initiated the review and published ADN No. 2020/039 which indicated that the review would examine whether the variable factors relevant to the taking of the measures have changed. See EPR 551, item no. 3.

³⁵ EPR 551, item no. 39.

³⁶ ADN No. 2020/039.

PUBLIC RECORD

under section 269ZC(4)(a). Also, the Commissioner no longer has power to recommend an extension of this review under section 269ZCC(5) because the statutory time period for making such a recommendation has passed (i.e. 40 days after publication of the initiation notice). Further, the Minister did not request that the Commissioner extend the review to include revocation under section 269ZCC(6)(c) within the statutory time period for making such a request (i.e. within 60 days of the publication of the initiation notice). Accordingly, no revocation review notice was published and due to the operation of section 269ZDA(1A)(a), the Commissioner has no power to consider or to recommend to the Minister to revoke the measures as they apply to APRIL's exports of the goods to Australia.

3 THE GOODS SUBJECT TO THE ANTI-DUMPING MEASURES

3.1 The goods

The goods subject to the anti-dumping measures are described as:

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).³⁷

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.

3.1.1 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 4: 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.

³⁷ On 19 March 2021, following consideration of REP 552, the Minister altered the dumping duty notice and countervailing duty notice applying to A4 copy paper exported from China to include goods in the nominal weight range of 67 to 69 gsm. This alteration to the goods description applies to imports of the goods from China entered for home consumption on or after 28 April 2020. As stated in section 2.4.1 of this report, the Commission is examining goods exported during the review period 1 January 2019 to 31 December 2019 in order to assess whether the variable factors relevant to the determination of duty payable have changed. The alteration to the notices following REP 552 does therefore not affect the goods description for the purposes of this report.

3.2 Model control codes

When determining normal value under section 269TAC(1) based on sales of like goods³⁸ in the exporter’s domestic market, the Commission obtains information relevant to all sales of these goods. In cases where different models of the like goods exist, it is necessary to select the models sold in the exporter’s domestic market that are most directly comparable to the particular models exported to Australia. This allows for a proper comparison between the normal value and export price of the goods for the purposes of working out the dumping margin.

The Commission generally undertakes model matching using a model control code (MCC) structure to identify key characteristics that will be used to match models of the goods exported to Australia and like goods sold domestically in the country of export.

As outlined in ADN No. 2020/039,³⁹ the Commission proposed the following MCC structure at initiation of this review.

Category	Sub-category	Identifier	Sales Data	Cost data
Weight (grams per square metre (gsm))	70 gsm	70	Mandatory	Mandatory
	> 71 gsm to 80 gsm	80		
	> 81 gsm to 85 gsm	85		
	> 85 gsm to 90 gsm	90		
	> 91 gsm to 100 gsm	100		
Recycled content	100%	R100	Mandatory	Mandatory
	50% to 99%	R50		
	30% to 49%	R30		
	1% to 29%	R10		
	0%	N		

Table 5: MCC structure

In the exporter questionnaire, the Commission requested the following information relating to the physical characteristics of all products sold (either domestically or exported to Australia) in the review period, which was provided by all cooperating exporters in this review:

- thickness;
- density;
- brightness;
- whiteness;
- weight in gsm; and
- recycled content.

This information, in addition to other information provided by exporters during the course of verification, was used to assess the appropriateness of the proposed MCCs for the

³⁸ Section 269T(1) of the Act specifies that like goods are goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration.

³⁹ EPR 551, item no. 3.

purpose of model matching when comparing export prices and normal values in the exporter's particular circumstances.

3.2.1 Submissions concerning the proposed MCC structure

In its response to the Australian industry questionnaire,⁴⁰ Australian Paper claimed that there is minimal difference in the selling price of A4 copy paper in the Australian market based on the recycled content, and proposed three MCC categories based on the recycled content which differ to the Commission's proposed categories relating to the recycled content of copy paper. In proposing these three categories, Australian Paper stated that it considers it unreasonable for the Commission to consider specificity beyond these three categories.

Australian Paper also claimed that the grammage, or the gsm, of the copy paper has not historically driven price differentiation. Australian Paper claims that, in its experience, the gsm is not a consideration that influences the purchasing decision of the consumer and is immaterial in regards to both the cost to produce and the selling price of the paper, given that all copy paper sold within the 70 to 100gsm range competes directly in the same market.

In its submission of 31 July 2020,⁴¹ Australian Paper submits that the whiteness of the paper does not significantly impact pricing in the Australian market. In its submission received on 15 April 2021, Australian Paper 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".⁴² Australian Paper claims that this is not 'in alignment with the Commission's findings in Investigations 341 and 463', and maintains that physical characteristics such as recycled content, brightness, whiteness and gsm do not affect pricing.

In its submission of 20 October 2020,⁴³ Officeworks states that characteristics such as weight, whiteness and recycled content are important, and implied that these characteristics affect price.

In response to Australian Paper's submission received on 15 April 2021, the Commission did not undertake model matching based on the brightness of the paper, nor was brightness included as a category in the proposed MCCs.

Australian Paper's claim that the Commission's assessment and approach to model matching in SEF 551 is not in alignment with findings in Investigation 341 and 463 is misleading. In both investigations, the Commission took into consideration a number of physical characteristics, including the weight (in gsm) and recycled content of the paper,

⁴⁰ EPR 551, item no. 4 on EPR 551.

⁴¹ EPR 551, item no. 17.

⁴² EPR 551, item no. 42, p. 1.

⁴³ EPR 551, item no. 24.

PUBLIC RECORD

in order to match models as closely as possible.⁴⁴ Contrary to Australian Paper's claim, the approach taken in Review 551 to model matching is consistent with the approach taken in both Investigations 341 and 463.

Further, Australian Paper's reference to the Commission's findings in Investigation 341 in relation to whether the Australian industry manufactures goods that are like to the imported goods, is misguided. The finding in Investigation 341 that Australian Paper refers to on page 2 of its submission relates to an assessment of whether the Australian industry produces goods that are like to the imported goods—it does not relate to model matching, nor does it relate to assessments of relative pricing which inform model matching.

In undertaking model matching between the exported goods and like goods sold on the domestic market in the country of export, the Commission had regard to each cooperating exporter's verified information in determining the physical characteristics that give rise to distinguishable and material differences in price. The Commission reviewed actual pricing and price lists and found that generally the differences in the grammage or weight of the paper lead to distinguishable and material differences in price. The Commission also found that, for certain exporters, the differences in the whiteness of the paper led to distinguishable and material differences in price whereby the whiteness of the paper attracts a price premium.

In order to ensure a proper comparison between the normal value and export price of the goods for the purpose of calculating the dumping margin, the characteristics taken into consideration in model matching in respect of each exporter were informed by the circumstances and evidence pertaining to each exporter. For particular exporters, modifications to the MCC structure have been made based on the specific facts and evidence pertaining to these exporters. The approach to model matching for each exporter is outlined in the respective verification report available on the public record.

⁴⁴ In Investigation 341, in matching exported goods to like goods sold on the domestic market in the country of export, the Commission had regard to the available evidence and applied the criteria that was most appropriate to the circumstances of each exporter. For International Paper, sales or models were matched on the basis of gsm, whiteness and package size (refer p. 37 of REP 341). For UPM, models were matched based on gsm and whiteness, and the matched models were identical in all respects (refer p. 42 of REP 341). For Asia Symbol, models were matched based on gsm (refer p. 43 of REP 341). For Double A, model matching was undertaken based on the same model where possible, or based on the gsm where there were no identical models (p. 65 of REP 341).

In Investigation 463, there were only three cooperating exporters. The Commission matched models for one cooperating exporter (Hankuk Paper Mfg. Co. Ltd) based on gsm and whiteness of the paper (p. 35 of REP 463 refers). Also, for Mondi SCP a.s., model matching was undertaken based on characteristics including the whiteness of the paper (p. 4 of the verification report for Mondi SCP a.s. refers).

4 VARIABLE FACTORS - EXPORT PRICE AND NORMAL VALUE

4.1 Findings

The Commission found that the variable factors, being the export price and normal value, relevant to the determination of dumping duty payable under the Dumping Duty Act changed in respect of the goods exported to Australia from Brazil, China, Indonesia and Thailand.

The revised variable factors result in different dumping margins. The dumping margins⁴⁵ are set out in the table below.

Country	Exporter	Dumping margin
Brazil	IPEX	25.7%
	Uncooperative and all other exporters	29.2%
China	Greenpoint	15.1%
	UPM AP	3.2%
	Uncooperative and all other exporters	19.8%
Indonesia	RAK	14.7%
	Uncooperative and all other exporters	25.7%
Thailand	Double A	30.8%
	Uncooperative and all other exporters	43.3%

Table 6: Dumping margins

4.2 Exporter cooperation

4.2.1 Cooperative exporters

In accordance with section 269T(1), a ‘cooperative exporter’, in relation to a review under Division 5 relating to the publication of a dumping duty notice, is an exporter where the exporter’s exports were examined as part of the review and the exporter was not an uncooperative exporter in relation to the review.

The Commission received complete responses to the exporter questionnaire and undertook verification of the following exporters’ information and data:

- Double A;
- Greenpoint;
- IPEX;
- RAK; and
- UPM AP.

⁴⁵ Calculated in accordance with section 269TACB.

Therefore, the Commission considers that the above exporters are cooperative exporters in this review.

4.2.2 Uncooperative exporters

Section 269T(1) provides that an exporter is an ‘uncooperative exporter’ where the Commissioner is satisfied that an exporter did not give the Commissioner information that the Commissioner considered to be relevant to the review within a period the Commissioner considered to be reasonable, or where the Commissioner is satisfied that an exporter significantly impeded the review.

The *Customs (Extensions of Time and Non-cooperation) Direction 2015* (the Customs Direction) states at section 8 that the Commissioner must determine an exporter to be an uncooperative exporter on the basis that no relevant information was provided in a reasonable period, or if that exporter fails to provide a response or fails to request a longer period to do so within the legislated period.

The Commissioner considered the Customs Direction and determined that all exporters which did not provide a response to the exporter questionnaire are uncooperative exporters for the purposes of this review.

With regard to PPC’s incomplete response to the exporter questionnaire, the Commission identified the following deficiencies and notified PPC of these deficiencies:

- PPC has not responded to the questions at Sections A to G of the exporter questionnaire;
- PPC has not provided a signed exporter’s declaration; and
- PPC has not provided a non-confidential version of the questionnaire response.

The Commissioner considered that the deficiencies were extensive and that a longer period to provide a response to these deficiencies would significantly impede the proper conduct of this review in a timely and efficient manner. PPC had in excess of 100 days from the date of initiation of this review to provide a response to the exporter questionnaire, and was granted multiple extensions of time (in excess of 60 days) to provide a complete response. On this basis, for the purposes of this review, the Commissioner determined that PPC is an uncooperative exporter pursuant to section 269T(1). Accordingly, PPC is subject to the uncooperative exporter rate, as determined in section 4.7.2 of this report.

4.2.2.1 PPC’s submission concerning its uncooperative exporter status

In its submission of 14 April 2021, PPC requested reconsideration of its ‘preliminary dumping margin and... the preliminary fixed rate of ICD and IDD’.⁴⁶ PPC stated that it was fully cooperative by submitting a completed spreadsheet, and that its ‘deep data’ is useful for the review.

While PPC has provided certain data pertaining to its sales and costs, it has not provided a complete response to the exporter questionnaire. The questionnaire requests

⁴⁶ EPR 551, item no. 43.

PUBLIC RECORD

specific information concerning company details, related party transactions, expenses incurred in selling the goods domestically and for export, and cost allocation. PPPC did not provide this information. Further, PPPC did not provide financial statements and supporting documents as requested in the questionnaire.

The information sought in Parts A to G of the questionnaire is important in order to contextualise the data provided by PPPC, and to assess the reliability of PPPC's data. Further, this information would have assisted the Commission in assessing whether PPPC's sales transactions were made at arms length, and whether any adjustments need to be made in order to ensure a proper comparison between the export price and normal value. Accordingly, the Commissioner considers that the data provided by PPPC in the spreadsheets is unreliable for the purpose of sections 269TAB and 269TAC and therefore should be disregarded.

As noted in section 4.2.2 of this report, the Commissioner was satisfied that PPPC did not give the Commissioner information the Commissioner considered to be relevant to the review within a period the Commissioner considered reasonable. PPPC is therefore an uncooperative exporter under section 269T. As a result, and in accordance with section 269TACAB, the Commission has relied on all relevant information in calculating the variable factors for uncooperative Thai exporters, including PPPC, in accordance with sections 269TAB(3) and 269TAC(6) and as set out in section 4.7.2 of this report.

In respect of PPPC's request for the Commission to review the fixed rate of ICD, the Commission notes that PPPC is not subject to the countervailing duty notice. PPPC is only subject to the dumping duty notice, and therefore only IDD is payable on the goods exported to Australia from Thailand by PPPC.

4.3 Legislative provisions

The export price and normal value of goods are determined under sections 269TAB and 269TAC, respectively.

Section 269TAB(1)(a) provides that, subject to certain conditions, the export price of goods exported to Australia is the price paid or payable for the goods by the importer, other than any part of that price that represents a charge in respect of the transport of the goods or any other matter arising after exportation. Where the conditions in section 269TAB(1)(a) are not met, such as when the export transactions are not arms length and the goods have not been purchased by the importer from the exporter, the export price is determined under section 269TAB(1)(b) or section 269TAB(1)(c).

If an export price of goods exported to Australia is being ascertained for the purposes of a review under Division 5 in relation to an exporter of those goods, the price may be determined by the Minister in accordance with section 269TAB(2B) if the Minister determines that there is insufficient or unreliable information to ascertain the price due to an absence or low volume of exports by that exporter.

Section 269TAB(3) provides that, where the export price cannot be established under the preceding sections, the export price is determined having regard to all relevant information.

PUBLIC RECORD

Section 269TAC(1) provides that the normal value of any goods exported to Australia is the price paid or payable for like goods sold in the ordinary course of trade (OCOT) for home consumption in the country of export in sales that are arms length transactions by the exporter or, if like goods are not so sold by the exporter, by other sellers of like goods. However, section 269TAC(1) cannot be used to calculate the normal value of the goods if one of the circumstances in sections 269TAC(2)(a) or (b) is present. Where one or more of these circumstances are present, the normal value of the goods is to be calculated under either section 269TAC(2)(c) or (d).

Section 269TAC(2)(c) provides for the normal value to be a constructed amount, being the sum of the cost of production or manufacture of the goods in the country of export, and, on the assumption that the goods had been sold for home consumption in the OCOT in the country of export instead of being exported, the selling, general and administrative costs (SG&A) and the profit on that sale.

If the Minister directs that it applies, section 269TAC(2)(d) provides that the normal value is the price of like goods sold in the OCOT in arms length transactions from the country of export to an appropriate third country.

Section 269TAC(6) provides that, where the normal value cannot be established under sections 269TAC(1), 269TAC(2)(c) or 269TAC(2)(d), the normal value is determined having regard to all relevant information.

Dumping margins are determined under section 269TACB. To calculate the dumping margins for the purposes of this review, the Commission compared the weighted average of export prices over the whole of the review period with the weighted average of corresponding normal values over the whole of that period, in accordance with section 269TACB(2)(a).

4.4 Variable factors – Exports from Brazil

4.4.1 IPEX

The Commission conducted a remote verification of IPEX's and IP Brasil's joint response to the exporter questionnaire. The Commission is satisfied that the information provided by IPEX and IP Brasil is accurate and reliable for the purpose of ascertaining the variable factors applicable to its exports of the goods to Australia in the review period. A report setting out the Commission's findings from the verification is available on the public record.⁴⁷

Based on verified information, the Commission considers IPEX to be the exporter⁴⁸ of the goods exported to Australia from Brazil in the review period, given that IPEX:

⁴⁷ EPR 551, item no. 32.

⁴⁸ The Commission generally identifies the exporter as a principal in the transaction, located in the country of export from where the goods were shipped, that gave up responsibility by knowingly placing the goods in the hands of a carrier, courier, forwarding company, or its own vehicle for delivery to Australia; or a principal in the transaction, located in the country of export, that owns, or previously owned, the goods but need not be the owner at the time the goods were shipped.

PUBLIC RECORD

- arranged via a tolling agreement for IP Brasil to manufacture the goods IPEX exported to Australia;
- is identified as the supplier on the commercial invoice issued to the importer;
- is identified as the consignor on the bill of lading;
- paid for the inland transport to the port of export;
- arranged and paid for the port handling charges at the port of export; and
- arranged and paid for the ocean freight and marine insurance.

The Commission considers that IPEX's Australian customers were the beneficial owners of the goods at the time of importation, and therefore the importers of those goods, as they:⁴⁹

- are identified as the customer on the commercial invoice;
- are identified as the consignee on the bill of lading;
- are declared as the importer on the importation declaration to the Australian Border Force (ABF);
- paid for all importation charges once the goods arrive in Australia; and
- arranged delivery from the port at which the goods arrived in Australia.

4.4.1.1 Export price

The Commission is 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 (IPEX).

Therefore, the export price in respect of the goods exported by IPEX has been determined under section 269TAB(1)(a), as the price paid by the importer less transport and other costs arising after exportation.

4.4.1.2 Normal value

Given that like goods are not sold by IPEX for home consumption in the domestic market in Brazil, the Commission considers that IP Brasil is an appropriate seller of like goods for the purpose of section 269TAC(1). This is because IP Brasil manufactured the goods exported by IPEX to Australia in the review period, and also manufactured and sold like goods on the domestic market in Brazil that closely resemble the goods exported to Australia by IPEX.

The Commission is satisfied that there are sufficient volumes of sales of like goods sold in the OCOT for home consumption in the country of export in arms length transactions by IP Brasil. As such, the Commission has determined the normal value under section 269TAC(1).

To ensure the normal value is comparable to the export price, the Commission made adjustments in accordance with section 269TAC(8), as follows:

⁴⁹ Section 269T(1) defines an 'importer' as the beneficial owner of the goods at the time of their arrival within the limits of the port or airport in Australia at which they have landed.

PUBLIC RECORD

Adjustment Type	Deduction/addition
Domestic credit terms	Deduct an amount for domestic credit
Domestic inland transport	Deduct an amount for domestic inland transport
Domestic handling & other	Deduct an amount for domestic handling & other
Domestic logistical expense	Deduct an amount for domestic logistical expense
Domestic royalty fee	Deduct an amount for domestic royalty fee
Export royalty fee	Add an amount for export royalty fee
Export inland transport	Add an amount for export inland transport
Export port charges	Add an amount for port charges
Export credit terms	Add an amount for export credit

Table 7: Adjustments to IPEX's normal value

4.4.1.3 Dumping margin

The Commission has calculated a dumping margin for IPEX of **25.7 per cent**.

The calculation of the dumping margin for IPEX is at **Confidential Attachment 1**.

4.4.2 Uncooperative exporters – Brazil

As outlined in section 4.2.2 of this report, the Commission considers that all exporters which did not provide a response to the exporter questionnaire are uncooperative exporters for the purposes of this review.

Section 269TACAB(1) sets out the provisions for working out export prices and normal values for uncooperative exporters.

The Commission determined an export price for uncooperative exporters from Brazil pursuant to section 269TAB(3), having regard to all relevant information. Given that IPEX is the only cooperating exporter of the goods exported to Australia from Brazil in the review period, the Commission had regard to IPEX's weighted average export price in determining the export price for uncooperative exporters from Brazil.

The Commission determined the normal value for uncooperative exporters from Brazil pursuant to section 269TAC(6), having regard to all relevant information. Specifically, the Commission had regard to IPEX's weighted average normal value exclusive of favourable adjustments in determining the normal value for uncooperative exporters from Brazil.

The dumping margin for uncooperative exporters from Brazil was determined by comparing the quarterly weighted average export prices with the quarterly weighted average of corresponding normal values over the whole of the review period in accordance with section 269TACB(2)(a).

The dumping margin for uncooperative exporters from Brazil is **29.2 per cent**.

The calculation of the dumping margin for uncooperative and all other exporters from Brazil is at **Confidential Attachment 2**.

4.5 Variable factors – Exports from China

4.5.1 Greenpoint

The Commission conducted a remote verification of Asia Symbol Guangdong's and Greenpoint's joint response to the exporter questionnaire. The Commission is satisfied that the information provided by Asia Symbol Guangdong and Greenpoint is accurate and reliable for the purpose of ascertaining the variable factors applicable to its exports of the goods to Australia in the review period. A report setting out the Commission's findings from the verification is available on the public record.⁵⁰

Based on verified information, the Commission considers Greenpoint to be the exporter of the goods exported to Australia from China in the review period, given that Greenpoint:

- arranged via a tolling agreement for Asia Symbol Guangdong to manufacture the goods exported to Australia, and Greenpoint owns the finished goods exported to Australia;⁵¹
- is identified as the supplier on the commercial invoices issued to the importers;
- is identified as the consignor on the bill of lading;
- reimbursed Asia Symbol Guangdong for the cost of inland transport to the port of export;
- reimbursed Asia Symbol Guangdong for the cost of port handling at the port of export; and
- arranged and paid for the ocean freight and marine insurance.

The Commission considers that Greenpoint's Australian customers were the beneficial owners of the goods at the time of importation, and therefore the importers of those goods, as they:

- are identified as the customer on the commercial invoice;
- are identified as the consignee on the bill of lading;
- are declared as the importer on the importation declaration to the ABF;
- paid for all importation charges once the goods arrive in Australia; and
- arranged delivery from the port in which the goods arrived in Australia.

4.5.1.1 Export price

The Commission is 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 (Greenpoint).

Therefore, the export price in respect of the goods exported to Australia by Greenpoint has been determined under section 269TAB(1)(a), as the price paid by the importer less transport and other costs arising after exportation.

⁵⁰ EPR 551, item no. 30.

⁵¹ As stated in the Dumping and Subsidy Manual, the exporter must have been the owner of the goods at one time (p. 29). As Asia Symbol Guangdong never owned the goods exported to Australia, it was not the principal in the export transaction.

4.5.1.2 Normal value

Given that like goods are not sold by Greenpoint for home consumption in the domestic market in China, the Commission considers that Asia Symbol Guangdong is an appropriate seller of like goods for the purpose of section 269TAC(1). This is because Asia Symbol Guangdong manufactured the goods exported by Greenpoint to Australia in the review period, and also manufactured and sold like goods on the domestic market in China that closely resembled the goods exported to Australia.

The Commission is satisfied that there are sufficient volumes of sales of like goods sold in the OCOT for home consumption in the country of export in arms length transactions by Asia Symbol Guangdong. As such, the Commission has determined the normal value under section 269TAC(1).

To ensure the normal value is comparable to the export price, the Commission made adjustments in accordance with section 269TAC(8), as follows:

Adjustment Type	Deduction/addition
Domestic credit terms	Deduct an amount for domestic credit
Domestic inland transport	Deduct an amount for domestic inland transport
Export inland transport	Add an amount for export inland transport
Export port charges	Add an amount for port charges
Export credit terms	Add an amount for export credit
Non-refundable VAT	Add an amount for non-refundable VAT

Table 8: Adjustments to Greenpoint’s normal value

The normal value was determined using sales at the same level of trade as the export sales to Australia in the review period in order to ensure that the prices were comparable.

4.5.1.3 Dumping margin

The Commission has calculated a dumping margin for Greenpoint of **15.1 per cent**.

The calculation of the dumping margin for Greenpoint is at **Confidential Attachment 3**.

4.5.2 UPM AP

The Commission conducted a remote verification of UPM AP’s, UPM China’s and UPM-Kymmene’s joint response to the exporter questionnaire. The Commission is satisfied that the information provided by these three related entities is accurate and reliable for the purpose of ascertaining the variable factors applicable to its exports of the goods to Australia in the review period. A report setting out the Commission’s findings from the verification is available on the public record.⁵²

⁵² EPR 551, item no. 27.

PUBLIC RECORD

Based on verified information, the Commission considers UPM AP to be the exporter of the goods exported to Australia from China in the review period, given that UPM AP:

- arranged via a tolling agreement for UPM China to manufacture the goods exported to Australia, and UPM AP owns the raw materials and finished goods exported to Australia;⁵³
- is identified as the supplier in the supply agreement with the importer;
- is identified as the seller and principal on commercial invoices issued to the importer; and
- received payment from the Australian customer or importer.

The Commission considers that UPM AP's Australian customer was the beneficial owner of the goods at the time of importation, and therefore the importer of those goods, as it:

- is identified as the customer or buyer on the commercial invoice;
- is identified as the consignee on the bill of lading;
- is declared as the importer on the importation declaration to the ABF;
- paid for all post-free on board (FOB) and importation charges once the goods arrive in Australia; and
- arranged delivery from the port in which the goods arrived in Australia.

4.5.2.1 Export price

The Commission is 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).

Therefore, the export price in respect of the goods exported to Australia by UPM AP has been determined under section 269TAB(1)(a), as the price paid by the importer.

Australian Paper's submission in response to SEF – Arms length transactions

In its submission received on 15 April 2021, Australian Paper refers to section 7.3 of UPM AP's verification report and submits that as the 'exporter, manufacturer and Australian importer are all related entities, the Commission should have undertaken a comparison of costs and export prices for the manufactured goods with the other cooperative Chinese manufacturer and exporter'.⁵⁴ Australian Paper claims that this analysis would enable the Commission to 'more reliably conclude as to whether the sales between the affiliated UPM companies are at arms-length'.⁵⁵

⁵³ As stated in the Dumping and Subsidy Manual, the exporter must have been the owner of the goods at one time (p. 29). As UPM China never owned the goods exported to Australia, it was not the principal in the export transaction.

⁵⁴ EPR 551, item no. 42, p. 2.

⁵⁵ Ibid.

PUBLIC RECORD

Section 7.3 of UPM AP's verification report⁵⁶ concerns the verification team's consideration of whether the sales between UPM AP (the exporter) and its Australian customer (the importer) were made at arms length.

The Commission assessed whether the transactions between UPM AP and its Australian customer (the importer, which is not related to UPM, as claimed by Australian Paper) were made at arms length in the review period. This assessment is necessary because it has implications for the determination of export price under section 269TAB(1).

The Commission verified both UPM AP's and the importer's records and found no evidence that these parties are either related, or that the transactions between these entities were not made at arms length. Australian Paper did not provide any information to demonstrate that the transactions between UPM AP and the importer (an unrelated party) were not made at arms length.

Further, UPM China does not sell the goods to UPM AP. No sales transactions pertaining to the goods between UPM AP and UPM China occurred—UPM AP only engaged UPM China to manufacture the goods exported to Australia, and paid UPM China a fee for this service. This arrangement is similar to the arrangement of other exporters that have a tolling arrangement for the exported goods.

The Commission remains satisfied that the goods exported by UPM AP have been exported to Australia otherwise than by the importer and were purchased in arms length transactions by the importer (a party unrelated to UPM) from the exporter (UPM AP).

4.5.2.2 Normal value

Given that like goods are not sold by UPM AP for home consumption in the domestic market in China, the Commission considers that UPM China is an appropriate seller of like goods for the purpose of section 269TAC(1). This is because UPM China manufactured the goods exported by UPM AP to Australia in the review period, and also manufactured and sold like goods on the domestic market in China that were identical to the goods exported to Australia.

The Commission is satisfied that there are sufficient volumes of sales of like goods sold in the OCOT for home consumption in the country of export in arms length transactions by UPM China. As such, the Commission has determined the normal value under section 269TAC(1).

To ensure the normal value is comparable to the export price, the Commission made adjustments in accordance with section 269TAC(8), as follows:

Adjustment Type	Deduction/addition
Domestic credit terms	Deduct an amount for domestic credit
Domestic inland transport	Deduct an amount for domestic inland transport
Domestic handling and other	Deduct an amount for domestic handling and other

⁵⁶ EPR 551, item no. 27.

PUBLIC RECORD

Adjustment Type	Deduction/addition
Domestic packaging	Deduct an amount for domestic packaging
Domestic selling expenses	Deduct an amount for domestic selling expenses
Export packaging	Add an amount for export packaging
Export inland transport	Add an amount for export inland transport
Export port and other handling charges	Add an amount for port and other handling charges
Export sales commissions	Add an amount for export sales commissions
Export credit terms	Add an amount for export credit terms
Non-refundable VAT	Add an amount for non-refundable VAT

Table 9: Adjustments to UPM AP's normal value

UPM's submission in response to SEF – Adjustment for UPM China's SG&A expenses

In its submission of 15 April 2021, UPM submits that a downward adjustment to the normal value for the full amount of UPM's domestic SG&A expenses (specifically, UPM China's SG&A expenses) should be made.

UPM observes that the Commission rejected this claim for adjustment in the verification report, on the basis that UPM's SG&A expenses are indirect and general expenses, and that there was no evidence that such expenses affected prices and price comparability. UPM asserts that the Commission is ignoring the 'legal text in s.269TAC(8) in favour of terms selected from Article 2.4 [of the Anti-Dumping Agreement]'⁵⁷ in rejecting its claim for adjustment.

UPM states that section 269TAC(8) requires an adjustment when the domestic price and export price are modified in different ways by the circumstances of the sales to which they relate, and there is no basis for asserting that some expenses form part of the circumstances of a sale and others do not. UPM further states that the Commission routinely makes adjustments to normal value in respect of a range of domestic and export costs without giving any consideration as to whether the cost differences affect the price comparison.

UPM states that failure by the Commission to adjust the normal value for its domestic SG&A expenses could never be fair as 'most cases that come before the Commission entail on the one hand domestic sales that involve a multitude of customers, thousands of sales and a substantial and costly sales, marketing and administration infrastructure and, on the other hand, export sales involving a limited number of transactions and customers and relatively minimal SG&A expenses attributable to the exporter'⁵⁸. UPM argues that 'as a result of the domestic sales infrastructure referred to above', its domestic SG&A costs exceed its export SG&A costs.

⁵⁷ EPR 551, item no. 44, p. 3.

⁵⁸ Ibid, pp. 3-4.

Firstly, with regard to UPM's claim that the Commission routinely makes adjustments to normal value in respect of a range of domestic and export costs without giving consideration as to whether the cost differences affect price comparison, the Commission considers that there is a difference between making adjustments for *direct* expenses and terms (such as transport, shipping etc. incurred in selling the goods) and *indirect* expenses. Direct expenses, and the terms of the sale, are generally taken into consideration in price setting by an exporter and therefore can be said to modify prices in different ways, whereas indirect expenses are general in nature and cannot be attributed to any particular sales. These indirect and general expenses can be allocated across all sales equally, and therefore should not modify prices in different ways.

Secondly, the Commission has already made an adjustment to UPM's normal value for the direct selling expenses (i.e. the terms and circumstances) that were identified and attributed by UPM to particular selling activities (including marketing and other related selling expenses of the sales offices in the respective markets, which UPM refers to as the 'sales infrastructure' in its submission) in the Chinese and Australian markets. Therefore, the remaining SG&A expenses that UPM is seeking adjustment for are its domestic general and administration expenses.

The Commission found that UPM China's general and administration expenses are indirect and general in nature. These expenses cannot be linked to any specific goods (the goods or like goods, or goods that are not the goods the subject of Review 551), sales (export or domestic⁵⁹) or arrangements, including the tolling arrangement between UPM AP and UPM China in which UPM China produces the goods exported to other countries by UPM AP. In this tolling arrangement, UPM China makes all the preparations to export the goods from China (i.e., arranges transportation, shipping, etc.). It is reasonable that UPM China expends general and administration resources not just in support of its domestic sales in China, but also in order to service the tolling arrangement with UPM AP in respect of the exported goods. UPM has not provided any information to suggest otherwise.

Because UPM China's general and administration expenses cannot be attributed to any particular sales or goods, and can equally relate to both export and domestic sales, the Commission is not satisfied that these expenses modify prices in different ways, in accordance with section 269TAC(8). Therefore, the Commission maintains that an adjustment to the normal value for UPM China's full SG&A expenses is not appropriate nor required.

4.5.2.3 Dumping margin

The Commission has calculated a dumping margin for UPM AP of **3.2 per cent**.

⁵⁹ UPM China produces a significant volume of uncoated cutsize paper for export to many different countries, therefore, it is not correct for UPM to state that export sales involve a limited number of transactions. UPM China incurs general and administration expenses in respect to these exported goods, regardless that these goods were manufactured in accordance with a tolling arrangement with another party for export to another country.

PUBLIC RECORD

The calculation of the dumping margin for UPM AP is at **Confidential Attachment 4**.

4.5.3 Uncooperative exporters – China

As outlined in section 4.2.2 of this report, the Commission considers that all exporters which did not provide a response to the exporter questionnaire are uncooperative exporters for the purposes of this review.

Section 269TACAB(1) sets out the provisions for working out export prices and normal values for uncooperative exporters.

The Commission determined an export price for uncooperative exporters from China pursuant to section 269TAB(3), having regard to all relevant information. Specifically, the Commission used the lowest export price of those established for cooperating exporters of the goods exported to Australia from China in the review period.

The Commission determined the normal value for uncooperative exporters from China pursuant to section 269TAC(6), having regard to all relevant information. Specifically, the Commission used the highest normal value of those established for cooperating exporters of the goods exported to Australia from China in the review period, exclusive of favourable adjustments.

The dumping margin for uncooperative exporters from China was determined by comparing the quarterly weighted average export prices with the quarterly weighted average of corresponding normal values over the whole of the review period in accordance with section 269TACB(2)(a).

The dumping margin for uncooperative exporters from China is **19.8 per cent**.

The calculation of the dumping margin for uncooperative and all other exporters from China is at **Confidential Attachment 5**.

4.6 Variable factors – Exports from Indonesia

4.6.1 RAK

The Commission conducted a remote verification of APRIL's⁶⁰ response to the exporter questionnaire. A report setting out the findings from the verification is available on the public record.⁶¹

In respect of the goods exported to Australia from Indonesia by APRIL in the review period, the Commission found that:

- RAK manufactured the goods exported to Australia, and is located in the country of export (Indonesia);

⁶⁰ APRIL refers collectively to AFEM and RAK.

⁶¹ EPR 551, item no. 36.

PUBLIC RECORD

- RAK sold the finished goods to AFEM (an entity incorporated and based in Malaysia), which on-sold the goods to the Australian importer;⁶²
- RAK was aware that AFEM on-sells the goods to Australia. The Australian customer's name and location, as well as the final port destination, is listed in the sales documents, including commercial invoices, raised by RAK for AFEM. In addition, revenue amounts are separated by export and local markets within RAK's audited financial statements for 2019;
- RAK was responsible for delivering the goods to the port of export in Indonesia at FOB terms, and was responsible for all port handling charges;
- RAK is identified as the consignor of the goods on the relevant country of origin certificates; and
- AFEM did not take physical possession of the goods, and did not possess its own inventory of the goods for distribution and export.

Having regard to all the circumstances of the exportation, the Commission considers RAK to be the exporter of the goods exported to Australia from Indonesia in the review period, given that RAK is the manufacturer of those goods and knowingly manufactured and sent those goods for export to Australia.

Further, the Commission considers the Australian customers identified in APRIL's response to the questionnaire to be the beneficial owners of the goods at the time of importation, and therefore the importers of those goods, as they:

- are identified as the customer or buyer on the commercial invoice;
- are identified as the consignee on the bill of lading;
- are declared as the importer on the importation declaration to the ABF;
- paid for all importation charges once the goods arrived in Australia; and
- arranged delivery from the port in which the goods arrived in Australia.

4.6.1.1 Export price

The Commission found that the volume of goods exported by RAK to Australia in the review period was significantly lower than the volume of goods it had exported in the original investigation period (2015) and the following periods. Further, the volume of goods exported by RAK to Australia in the review period was significantly lower than the volume⁶³ of goods exported by other cooperating exporters in the same period. Therefore, in respect of APRIL's exports of the goods to Australia in the review period, the Commission considered, in accordance with section 269TAB(2A)(b), whether there is insufficient or unreliable information to ascertain the export price.

Section 269TAB(2A)(b)(i) - Previous volumes of exports

⁶² The invoice raised by AFEM for the goods sold to the Australian customer was raised on the same date as the invoice raised by RAK for the goods to AFEM.

⁶³ The absolute volume, and the relative volume when considered as a proportion of the volume exported in the original investigation period (2015).

The Commission found that RAK has continued to export the goods to Australia since the original investigation period (calendar year 2015).

Figure 1 shows that RAK's export volume peaked in calendar year 2016 and consistently decreased from 2016 to 2019. With respect to RAK's exports of the goods to Australia in the review period, the volume of goods exported in this period represents an insignificant proportion of the volume exported in 2015 and 2016.

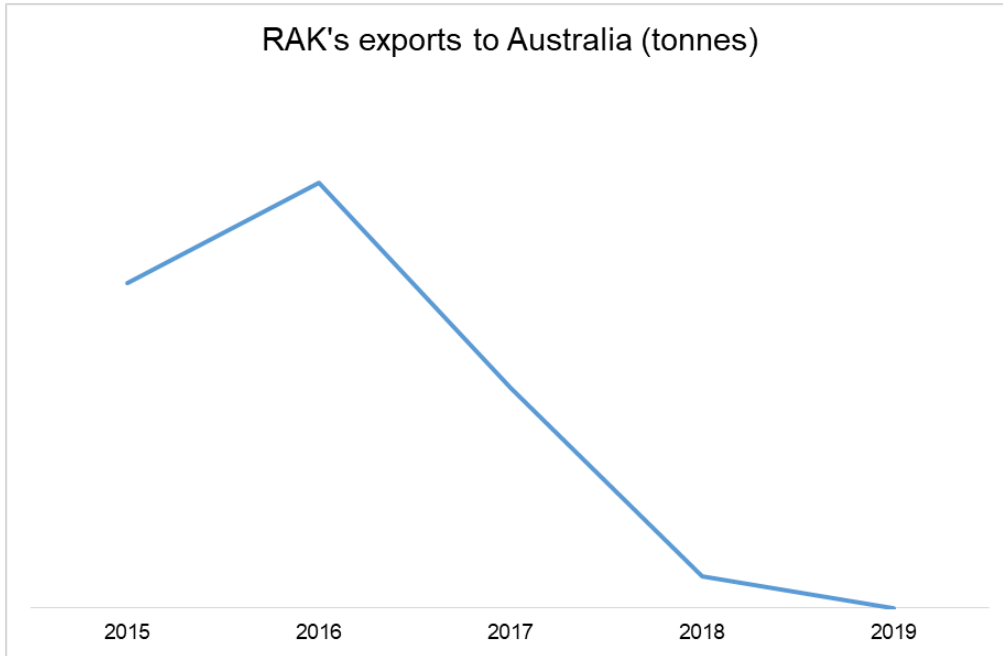


Figure 1: RAK's exports of the goods to Australia from 2015 to 2019

The Commission found that the volume of goods exported to Australia by RAK in 2017 decreased considerably relative to its export volumes in 2016.

The Commission also found that RAK's export volume decreased in 2018.

The analysis of RAK's volume of exports to Australia is at **Confidential Attachment 6**.

Section 269TAB(2A)(b)(ii) - Patterns of trade for like goods

The Commission found that the total volume of A4 copy paper exported to Australia from all exporters and countries decreased since 2015 (albeit volumes increased slightly in 2019, the total volume of exports is still lower than what it was in 2015), which is consistent with the observation that demand for A4 copy paper in Australia has decreased over time due to end users shifting to digital alternatives.⁶⁴

However, the Commission observes that the degree to which RAK's export volume decreased in the review period is significantly greater than the decrease in the volume of goods exported to Australia generally. Therefore, the decrease in demand in the

⁶⁴ REP 547, section 5.3.6.

PUBLIC RECORD

Australian A4 copy paper market does not appear to fully explain the substantially lower volume of goods exported by RAK in the review period.

Section 269TAB(2A)(b)(iii) - Factors affecting patterns of trade

The Explanatory Memorandum to the *Customs Amendment (Anti-Dumping Measures) Bill 2017* identifies factors that may affect patterns of trade for like goods that are not within the control of the exporter. Such factors may include supply disruptions or natural events (such as flood, drought or fire) that affect production.

The Commission did not identify any information that would suggest that there were factors such as supply disruptions or natural events which adversely affected RAK's patterns of trade for like goods. In relation to RAK's production of like goods, RAK's production capacity and production volume increased in 2019 (relative to 2015 capacity and volume). Similarly, RAK's sales volume of like goods in Indonesia, including export volume of the goods to third countries, did not change significantly between 2015 and 2019.

In its submission concerning the Commission's request for information relating to RAK's exports to third countries, APRIL claims that 'the circumstances that would warrant recourse to Sections 269TAB(2A) and (2B) of the [Act] were explained in the *Explanatory Memorandum* that accompanied the *Customs Amendment (Anti-Dumping) Bill 2017*, and that 'those circumstances do not exist in the circumstances of APRIL's exports'.⁶⁵

APRIL submitted that the volume of its exports to Australia in the review period is partly attributable to the acquisition of its customer's (BJ Ball Pty Ltd (BJ Ball)) copy paper and stationary products distribution business (Edwards Dunlop Office Products) by Australian Paper.

The Commission is aware that the Edwards Dunlop Office Products division of BJ Ball was acquired by Australian Paper in mid-2016.⁶⁶ The remainder of the BJ Ball business was acquired by Japan Pulp & Paper Group and merged with another company (K.W. Doggett & Co Pty Ltd) to become Ball & Doggett Pty Ltd in mid-2017.⁶⁷

⁶⁵ EPR 551, item no. 28, p. 1.

⁶⁶ *Anti-Dumping Commission Report No. 463*, p. 26.

⁶⁷ *Ibid.*

PUBLIC RECORD

The Commission found that in 2015 and 2016, the majority of RAK's exports of the goods were sold to BJ Ball (**Confidential Attachment 6**). The Commission found that RAK ceased exporting to this customer post-2016.

The Commission also found that in 2017 and 2018, the majority of RAK's export volume was sold to one particular customer (**Confidential Attachment 6**). The Commission is aware that this customer was also subject to an acquisition which was finalised in early 2018. The Commission found that following this acquisition, RAK also ceased exporting the goods to this particular customer.

The Commission found that once the exports of the goods sold to these two main customers are disaggregated from the total volume of goods exported by APRIL from 2015 to 2019, the remaining volume of the goods sold by RAK to other customers from 2015 to 2019 is relatively stable and minimal (refer Figure 2).

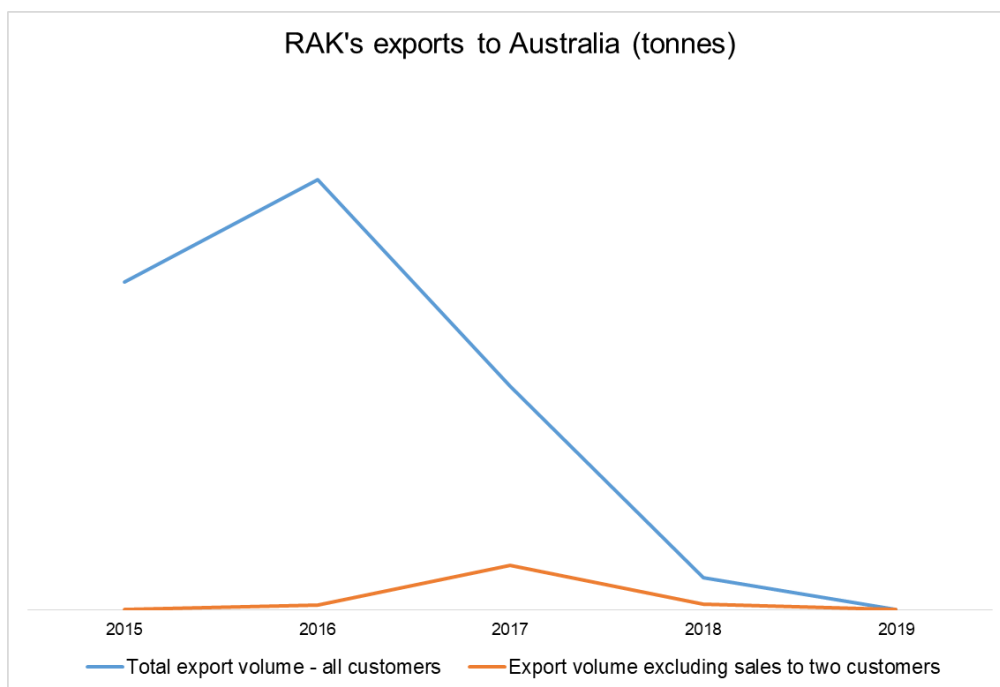


Figure 2: RAK's exports of the goods to Australia from 2015 to 2019

The Commission considers that the acquisition of RAK's two main customers, which purchased the greatest proportion of its export volume to Australia from 2015 to 2018, is a factor that affected RAK's exports of the goods to Australia in the review period. The Commission considers that this factor is not within the control of RAK.

The Commission's consideration - section 269TAB(2A)

PUBLIC RECORD

In accordance with section 269TAB(2A)(b)(iii), the Commission considers that the acquisition of RAK's main customers is a factor that is not within the control of RAK. The Commission further considers that these acquisitions affected the supply and pattern of trade in the Australian market for like goods, given that these two customers merged operations with other entities that either had alternative sources of supply, or that subsequent to the acquisition, sourced A4 copy paper from suppliers other than RAK. Consequently, this affected RAK's supply and export of the goods to Australia, and resulted in the low volume of goods observed in the review period.

The Commission therefore considers 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.

Australian Paper's submission concerning the determination of RAK's export price

In its submission received on 15 April 2021, Australian Paper agreed with the Commissioner'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 goods exported to Australia by RAK.⁶⁸ However, Australian Paper noted that while it is fair to state that the loss of RAK's two major customers has led to a decrease in RAK's export volume to Australia, this observation must be considered in the context of the disincentive that dumping measures had on the importer's decision to source goods from RAK.

Australian Paper noted that exports from RAK increased significantly in 2020, albeit it recognises that this period is outside of the review period.

Australian Paper has not put forward its view in terms of the relevant provision under which it considers the Minister should determine the export price, and it appears to agree and then disagree with the Commissioner's proposed recommendation that the Minister should not determine that there is insufficient or unreliable information to ascertain the export price, in accordance with section 269TAB(2A).

The Commission observes that RAK's two major customers continued to source goods from RAK up to the date these customers were acquired, despite anti-dumping measures applying to RAK's exports. This undermines Australian Paper's claim that anti-dumping measures were a disincentive to source goods from RAK and that this led to the low volumes observed in 2019. Therefore, the Commission maintains that the acquisition of RAK's two major customers affected RAK's supply and export of the goods to Australia in the review period.

Determination of RAK's export price

In respect of the goods exported by RAK to Australia in the review period, the Commission considers that the goods were exported to Australia other than by the importer, however, the goods were not purchased by the importer from the exporter, given that RAK sold the goods to AFEM (an entity based in Malaysia), which

⁶⁸ EPR 551, item no. 42.

PUBLIC RECORD

subsequently sold the goods to the importer in Australia. Therefore, the Commission considers that the export price cannot be determined under section 269TAB(1)(a) or 269TAB(1)(b).

Having regard to all the circumstances of the exportation in the review period, the Commission determined the export price using the price between RAK and AFEM, in accordance with section 269TAB(1)(c).

4.6.1.2 APRIL's submissions concerning determination of exporter and export price

In its submission of 16 March 2021, APRIL states the following:

it is unclear how the price AFEM pays to RAK for its purchases of A4 Copy Paper from RAK is relevant to a review under Division 5 of Part XVB of the *Customs Act 1901* of 'anti-dumping measures as they affect exporters' or to the price at which exports of A4 Copy Paper by APRIL from Indonesia enter the commerce of Australia for the purposes of Article VI.1 of GATT 1994 and Article 2.1 of the WTO Anti-Dumping Agreement.⁶⁹

In its submissions of 22 March 2021, 15 April 2021 and 19 April 2021, APRIL claims that RAK is not the exporter of the goods to Australia.⁷⁰ APRIL claims that AFEM is the exporter.

APRIL claims that the exporter is the entity that "causes" the goods to be removed from the country of export,⁷¹ and therefore AFEM, rather than RAK, is the exporter. APRIL claims that RAK had no control or involvement in the exportation of the goods from Indonesia, and that AFEM was acting in its own right, as principal, independently of RAK, in engaging with customers in Australia. APRIL claims that AFEM was not acting on behalf of RAK, whether as agent or in any other similar capacity.

APRIL argues that regardless which entity is the 'exporter', the determination of the export price as the price between RAK and AFEM is not the price at which 'the goods entered the commerce of Australia, which is the relevant price for the purpose of Article 2.1 of the WTO Anti-Dumping Agreement'.⁷² Consequently, APRIL argues, the Commission's findings that the price paid by AFEM to RAK is the export price of the goods is factually and legally incorrect.

The Commission notes that section 269TAB sets out the criteria for determining the export price of any goods exported to Australia. In order to determine the export price of the goods in accordance with sections 269TAB(1)(a) or (b), the sale must be between the importer and exporter and the goods must have been exported otherwise than by the importer. Where either (or both) of these criteria are not met, section 269TAB(1)(c) permits the export price to be determined having regard to all the circumstances of the exportation.

⁶⁹ EPR 551, item no. 37, p. 2.

⁷⁰ EPR 551, item nos. 38, 45 and 47.

⁷¹ EPR 551, item no. 45, p. 3.

⁷² *Ibid*, p. 4.

PUBLIC RECORD

Therefore, in order to determine the export price of the goods exported to Australia in accordance with section 269TAB, the Commission must examine the parties involved in the export transaction and identify the 'exporter' and 'importer'. The Commission also identifies those parties whose essential role is that of an intermediary or vendor only in the transaction.

The Commission observes that while 'importer' is defined in section 269T(1) of the Act, the term 'exporter' is not, nor is it defined in the Anti-Dumping Agreement. The Commission will generally identify the exporter as:

- a principal in the transaction located in the country of export from where the goods were shipped and who knowingly placed the goods in the hands of a carrier, courier, forwarding company, or their own vehicle for delivery to Australia; or
- a principal will be a person in the country of export who owns, or who has previously owned, the goods but need not be the owner at the time the goods were shipped.⁷³

The exporter will generally be found in the country where the goods commenced their journey to Australia but situations may arise where goods pass in transit through another country. In this case the Commission will normally consider the exporter to be located in the country of manufacture, being the person or entity responsible for sending the goods to Australia. Typically the manufacturer, as a principal, and who knowingly sent the goods for export to any destination, will be the exporter, and the export price will be the price received by that exporter. The export price is generally assessed as the FOB price received by the exporter at the seaport in the country of export or, in the case of air transport, at the airport in the country of export.

It is common for traders or other intermediaries to play a role in the exportation of the goods. These parties will typically provide services such as arranging transportation (both land and ocean), arranging port services, arranging loading, conducting price negotiations, arranging contracts with producer and customer alike, conveying the customer's specifications to the producer including quality, marking and packing requirements.

As outlined in section 4.6.1 of this report, the Commission considers that RAK is the exporter of the goods, as RAK is the manufacturer of those goods and knowingly sent the goods for export to Australia from Indonesia, being the country where the goods originated and commenced their journey to Australia. This is consistent with the finding in REP 341, and is consistent with RAK being identified as the exporter on the dumping duty notice.⁷⁴

Further, the Commission considers APRIL's Australian customers to be the importers of the goods exported to Australia from Indonesia by RAK, given that the customers are the

⁷³ Dumping and Subsidy Manual, p. 29.

⁷⁴ ADN No. 2017/39. In the original investigation period, the Commission found that RAK exported the goods through a different related trader (April Fine Paper Trading Pte Ltd, based in Singapore).

PUBLIC RECORD

beneficial owners of the goods at the time of their arrival within the limits of the port in Australia at which they have landed.

The Commission does not consider AFEM (an entity based in Malaysia) to be the exporter. Instead, the Commission considers that AFEM's role in the exportation of the goods to Australia was that of a vendor, located in a country other than the country of export, that facilitated or managed the sales and marketing (via an Australian agent) of RAK's paper to Australian customers in the review period.⁷⁵

As noted in the Dumping and Subsidy Manual, the exporter and vendor are often different entities. When the goods are produced they may pass through several parties on their way to Australia, some of whom may be vendors in a third country. A vendor may arrange the sale, set prices, cover warranty, prepare Customs and other paperwork, make shipping arrangements, pay the freight etc., but still not be the exporter for the purpose of determining the export price and normal value.

Nevertheless, 'there *may* be circumstances under which an entity that carries on business as a supplier of goods to an importer and, for that purpose, contracts for a manufacturer to export its goods direct to an Australian importer, is the relevant "exporter" for the purpose of section 269TAB(1)(a) of the Act'.⁷⁶ However, the Commission is of the view this is not the situation in this case.

The Commission found that AFEM only purchased the goods from RAK as and when an order was placed with its Australian agent for RAK's paper, and AFEM was the sole supplier of RAK's paper to buyers in Australia. Further, RAK was the ultimate party that decided whether to fulfil the orders pertaining to the goods exported to Australia in the review period. AFEM's role both for the Australian importer and RAK can be said to be the marketing vehicle or instrument of RAK for the purpose of the sale of RAK's product in Australia. Notwithstanding that it was AFEM which gave the direction to RAK to ship the goods to the Australian importer, the Commission considers that it would be inappropriate to characterise AFEM as the exporter in the circumstances described above. As noted above, AFEM was no more than a facilitator of the exportation of the goods manufactured by RAK.

Further, an assessment of which entity 'caused'⁷⁷ the goods to be sent out of Indonesia is not a fundamental issue.⁷⁸ What is fundamental is identification of 'which party satisfies the requirements of truly being the exporter'⁷⁹. Based on the evidence before the Commission, AFEM does not satisfy those requirements and is therefore not 'capable of

⁷⁵ In AFEM's 2019 audited report, it is noted that AFEM is principally involved in the sales and marketing of pulp and paper and provision of management services.

⁷⁶ *Companhia Votorantim de Cellulose e Papel v Anti-Dumping Authority* (1996) 141 ALR 297 at 305 referencing *Pilkington (Australia) Ltd v Anti-Dumping Authority* (1995) 56 FCR 424 at 431-2.

⁷⁷ APRIL submits that analysis of which entity caused the removal of the goods from Indonesia is a fundamental issue. See EPR 551, item no. 45, p. 4.

⁷⁸ *Companhia Votorantim de Cellulose e Papel v Anti-Dumping Authority* (1996) 141 ALR 297 at 307.

⁷⁹ *Ibid* at 308.

PUBLIC RECORD

being regarded as the exporter⁸⁰. Based on the evidence before the Commission, RAK satisfies the requirements of truly being the exporter.

In respect of the goods exported by RAK to Australia in the review period, the Commission considers that the goods were exported to Australia other than by the importer, however, the goods were not purchased by the importer from the exporter (RAK), given that RAK sold the goods to AFEM, which subsequently sold the goods to the importer in Australia. Therefore, the Commission considers that the export price of the goods cannot be determined in accordance with section 269TAB(1)(a) or section 269TAB(1)(b).

Having regard to these circumstances, the Commission maintains that export price should be determined in accordance with section 269TAB(1)(c), using the price between RAK and AFEM. The Commission notes that this price can be compared to RAK's domestic selling prices (used in determining the normal value) without making adjustments to the normal value for AFEM's margin and expenses (including the expenses incurred by its marketing agent in Australia) in order to ensure that the export price and normal value are comparable.

In determining the export price in accordance with section 269TAB(1)(c), the Commission does not agree with APRIL's contention that the export price must be a price at which the goods entered the commerce of Australia. There is no requirement, as suggested by APRIL, for the export price to be price at which the goods entered the commerce of Australia.

It does not appear that APRIL recognises that an export price determined as the price between RAK and AFEM is much lower than an export price determined as the price between AFEM and the Australian importer. An export price determined as the price between RAK and AFEM results in a lower floor price in the combination duty method, as proposed in Chapter 7 of this report. The Commission's determination of APRIL's export price is in APRIL's favour, as it results in a lower floor price that is used in working out the variable amount of IDD that will become payable where the actual export price is below the ascertained export price (i.e. the floor price).

4.6.2 Particular market situation in Indonesia

In Investigation 341, the Commission found that there was a particular situation in the Indonesian A4 copy paper market in 2015.

In this review, the Commission assessed whether a particular market situation exists in the Indonesian A4 copy paper market in 2019 such that sales in that market are not suitable for use in determining normal value under section 269TAC(1). In assessing whether a market situation exists, the Commission has relied on all available information, including information and data provided in response to questionnaires, submissions from interested parties and findings in Investigation 341 and Review 547. Based on all relevant

⁸⁰ Ibid at 306.

information, the Commission considers that a particular market situation existed in the A4 copy paper market in Indonesia in 2019.

The Commission's assessment of the particular market situation in Indonesia is at **Appendix A**.

4.6.3 Suitability of domestic sales for purposes of section 269TAC(1)

Where a particular market situation is found, pursuant to section 269TAC(2)(a)(ii), the Commission must also consider whether, because of the situation in the Indonesian market, sales of A4 copy paper in Indonesia are not suitable for determining a price under section 269TAC(1).

In undertaking its assessment of whether sales are 'suitable' for the purposes of section 269TAC(1), the Commission has considered the relative effect of the market situation on both the domestic sales and export sales. If there is a finding that domestic sales and export sales are not equally impacted by the market situation, such a finding may render domestic sales not 'suitable' for the purposes of section 269TAC(1). The Commission considers this approach is consistent with Australia's obligations under the World Trading Organisation's (WTO) *Anti-Dumping Agreement*⁸¹ and the WTO Panel's interpretation of the obligations set out in this Agreement in *Australia – Anti-Dumping Measures on A4 Copy Paper*.⁸²

In assessing the relative effect of the particular market situation on domestic and export prices, the Commission has examined the relationship between price and cost in each market. These relationships both define and are defined by the prevailing conditions of competition in each market.

It is important that the relevant factual circumstances of each price, including its relationship with cost, is considered within the context of the relevant market: for the domestic sales price, the relevant market is the domestic market of the exporting country (Indonesia); for the export price, the relevant market is that in the country into which the goods are being sold (Australia).

In undertaking this assessment of the impact of the situation in the market, the Commission has considered the prevailing conditions of competition in the domestic and export market for A4 copy paper and the existing relationship between price and cost in order to determine whether domestic and export prices can be properly compared. These assessments are both qualitative and quantitative in nature.

⁸¹ *Agreement for the Implementation of Article VI of GATT 1994* 1868 U.N.T.S. 186.

⁸² *Australia – Anti-Dumping Measures on A4 Copy Paper*, WTO Doc. WT/DS529/4 (4 December 2019). The Commission notes the provisions in Part XVB of the Act are to be construed, as far as its language permits, consistent with Australia's obligations with Australia's international agreements, adopting a broad approach to construction: *Schaefer Waste Technology Sdn Bhd v CEO Australian Customs Service* [2006] FCA 1644, [46]–[48] (Jacobson J), cited with approval in *Minister for State for Home Affairs v Siam Polyethylene Co Ltd* (2010) 270 ALR 440, [35] (Graham and Flick JJ).

PUBLIC RECORD

To obtain further information about the markets in Indonesia and Australia, the Commission included questions relevant to the Indonesian and Australian markets in the questionnaires provided to APRIL, the GOI, Australian Paper and importers. Public versions of responses to the questionnaires can be found on the public record. The Commission also relied upon findings outlined in REP 547.

4.6.3.1 Effect of market situation on prices of like goods sold in Indonesia

The Commission found that the Indonesian market is characterised by a low level of import penetration. In 2019, import volumes of uncoated copy paper into the Indonesian domestic market comprised less than one per cent of total domestic consumption of uncoated copy paper (**Confidential Attachment 7**).

Given this, the Indonesian domestic market for copy paper is almost entirely supplied by Indonesian producers, and competition is almost exclusively between domestic producers. The Commission is aware that the Sinar Mas Group and the APRIL Group are the largest Indonesian producers of copy paper and pulp.

Based on the available information, the Commission considers that the Indonesian domestic market for A4 copy paper is competitive however, Indonesian producers have access to low cost raw material inputs (primarily logs, woodchips and pulp) due to government influence and distortions in the Indonesian forestry and pulp industries. These raw materials make up a significant proportion of the cost to produce A4 copy paper. Consequently, the domestic prices in the Indonesian A4 copy paper market are distorted and are lower than they would otherwise be without any government influence.

The Commission considers that Indonesian A4 copy paper producers benefit by having access to cheaper raw material inputs, including pulp sourced from related suppliers. Since all producers in Indonesia appear to obtain this benefit, any advantage in pricing of one competitor over another arising from the market situation is competed away, and prices of A4 copy paper in the Indonesian domestic market are driven down to competitive prices that reflect, in part, the low input cost of pulp created by the particular market situation in Indonesia. Thus, the market situation does not create a competitive pricing advantage in the domestic market, including for RAK.

To demonstrate this, the Commission assessed prices of A4 copy paper sold in the Indonesian domestic market. The Commission had regard to the following information in assessing Indonesian domestic prices:

- price survey data for uncoated A4 copy paper sold in the Indonesia market prepared by an Indonesian consulting firm, which was provided by Australian Paper in its application for this review; and
- RAK's domestic selling prices of like goods sold in 2019, and Indah Kiat and Pindo Deli's domestic selling prices of like goods in 2015 adjusted to 2019 pricing using an index based on movements in their respective cost of production.

The Commission found that the domestic prices of Indonesian sellers were closely aligned in 2019, and no producer had consistently lower prices than the others. This is consistent with the findings in REP 547 that Indonesian prices were closely aligned in

2015 also.⁸³ In Review 547, the Commission also found that Indonesian producers achieved positive but low margins on their domestic sales in 2015.⁸⁴

This demonstrates that the effect of the market situation on domestic sales prices in Indonesia does not result in any competitive advantages between producers selling in the Indonesian market, given that the reduced input costs appear to equally benefit most producers. In other words, the market situation has a neutral effect on competition between Indonesian producers in the domestic market in Indonesia.

Given that the particular market situation in Indonesia does not confer a competitive advantage to any producer in the domestic market in Indonesia, producers have fewer options to take advantage of the lower input costs and little flexibility with respect to price-setting in the domestic market in order to maximise profits.

This analysis is at **Confidential Attachment 8**.

4.6.3.2 Effect of market situation on prices of the goods exported to Australia

The Australian market for A4 copy paper is supplied by Australian Paper (an integrated pulp and paper producer) and imports sourced from various countries.

The Commission found that the Australian market for A4 copy paper is subject to a higher level of import penetration than that observed in the Indonesian domestic market for A4 copy paper. Imports of A4 copy paper into Australia (excluding Australian Paper's imports) in 2019 made up approximately 17 per cent of total domestic consumption of A4 copy paper in the Australian market. Imports from Indonesia, China, Thailand and Brazil supplied 14 per cent of the Australian market.

Information before the Commission indicates that the imported goods and the domestically produced goods are used by the same or similar customers, and that the imported goods and domestically produced goods are substitutable and directly compete in various channels and segments of the Australian A4 copy paper market. The Commission considers that A4 copy paper is a highly price sensitive product and while there are other factors that are considered during contract and tender negotiations, price is an important factor taken into consideration by purchasers, and imported and locally produced goods compete primarily on price.

The Commission found that in Australia, where no market situation or input cost decrease exists, competitive pricing prevails at a higher level than in Indonesia. Higher production costs for those producers and exporters from countries other than Indonesia producing without the benefit of a market situation generally establishes a higher prevailing market price in the Australian A4 copy paper market (and other domestic markets) than in the Indonesian market.

⁸³ REP 547, Appendix D, pp. 179-180.

⁸⁴ Ibid, p. 178.

PUBLIC RECORD

This results in prices in the Australian A4 copy paper market, including prices of goods exported to Australia from other countries, that are unaffected by the market situation in Indonesia.⁸⁵ Therefore, the relationship between price and cost is different in the Australian market to the relationship between price and cost in the Indonesian domestic market.

The Commission considers that, due to the market situation in Indonesia, Indonesian producers and exporters enjoy a cost/price advantage in the Australia market that is not available to other producers or exporters, including exporters from other countries and Australian Paper. This advantage allows Indonesian producers and exporters to engage in pricing strategies in the Australian market that lets them achieve either:

- higher profit margins than the margins attainable on the sale of the same goods on the domestic market in Indonesia; or
- increased sales volumes by significantly undercutting other participants in the Australian market; or
- a combination of higher margins and increased sales volumes by undercutting other participants in the Australian market.

To analyse the manifestation of the advantage for RAK in the Australian market in 2019, the Commission compared verified Australian A4 copy paper prices of cooperating exporters from Indonesia (being RAK or APRIL), Brazil, China and Thailand, including Australian Paper's prices, in 2019. The Commission also compared the relative profit margins achieved in the Australian market and the exporters' respective domestic markets.

The Commission found that APRIL's prices in the Australian market were higher than other cooperating exporters' prices, and APRIL was not undercutting other participants in the market. Further, APRIL's profit margin on its exports of the goods to Australia was similar to the margin achieved on its sales of the same goods in the domestic market in Indonesia. The Commission also found that APRIL's profit margin on its export sales to Australia in the review period was within the range of profit margins achieved by other exporters (i.e. it was not the highest or lowest margin in the review period).

This analysis is at **Confidential Attachments 8, 9 and 10**.

4.6.3.3 Conclusion on the relative effects of the market situation on domestic and export prices in 2019

The Commission's analysis indicates that the relationship between price and cost and the prevailing conditions of competition in Indonesia is different in comparison to the relationship between price and cost and the prevailing conditions of competition in

⁸⁵ In REP 547, the Commission did not find that Australian Paper sourced pulp from any Indonesian suppliers in 2019. In this review, the Commission also examined whether other cooperating exporters that exported the goods to Australia in the review period sourced pulp from Indonesia in 2019. The Commission found that two cooperating exporters have sourced pulp from Indonesia. However, the volume of pulp sourced from Indonesia by one exporter was insignificant, while the pulp sourced by the other exporter was consistent with the prices observed for pulp purchases from other countries in 2019. Therefore, the Commission is satisfied that these purchases of pulp by these exporters did not influence or affect their export prices of the goods to Australia.

PUBLIC RECORD

Australia. Specifically, the effect of the market situation in Indonesia is a decrease in input costs across all production that results in a lower level of competitive pricing throughout the market. This relationship defines the conditions of competition in Indonesia.

Based on the information before the Commission, on balance, the effect of the market situation on the domestic sales prices in Indonesia does not result in any competitive advantages or disadvantages between the major market players, being Indonesian producers. In other words, the particular market situation modifies the conditions of competition in a consistent manner for the major market participants.

In Australia, where no market situation or input cost decrease exists, competitive pricing prevails at a higher level. Higher production costs for those participants producing without the benefit of a market situation establishes a higher minimum threshold for competitive prices. Under these circumstances, the effect of the market situation in Indonesia on the price of A4 copy paper sold into the Australian market results in competitive advantages and disadvantages between market players.

Specifically, Indonesian exporters enjoy a cost advantage that could either manifest as an increased margin at the prevailing level of competitive pricing in the Australian market, a low export price that undercuts the prevailing level of competitive pricing, or a combination whereby the Indonesian exporter can enjoy a higher margin while still undercutting other participants in the Australian market. Fundamentally, the effect of the market situation benefits and advantages Indonesian exporters competing in the Australian market, and to the extent that benefit manifests as a low price that undercuts the prevailing level of competitive pricing in Australia, to the detriment of all other market participants in that market.

In respect to APRIL's sales in 2019 specifically, the Commission found no evidence that APRIL undercut other participants in the Australian market. Further, the Commission did not find that APRIL achieved a higher profit margin on its exports of the goods to Australia than it achieved on its sales of the same goods in the domestic market in Indonesia. The Commission also found that APRIL's profit margin on its export sales to Australia in the review period was within the range of profit margins achieved by other cooperating exporters in this review (i.e. it was not the highest or lowest margin in the review period).

This suggests that APRIL was not taking advantage of its low input costs in the Australian market in the manner described above in the review period, and the similar profit margin achieved in both markets suggests that APRIL had the same degree of price flexibility in both markets.

Therefore, in the review period, the relative effect of the market situation on APRIL's domestic and export prices was the same, noting that APRIL had the same degree of flexibility in respect of price-setting on its domestic sales in the Indonesian market and its export sales to Australia in 2019.

Accordingly, the Commission considers that, notwithstanding the particular market situation in Indonesia, a proper comparison is still permitted between APRIL's prices of like goods in the Indonesian domestic market and its export prices of the goods exported to Australia during the review period. Therefore, in respect of APRIL's sales in the review period, the Commission is not satisfied that the situation in the Indonesian market is such

that APRIL's sales in that market are not suitable for use in determining a normal value in accordance with section 269TAC(1).

4.6.3.4 APRIL's submission concerning particular market situation and suitability of domestic sales

In its submission of 15 April 2021,⁸⁶ APRIL submits that while it does not disagree with the Commission's conclusion that a proper comparison is permitted between APRIL's export prices and prices of like goods sold in the Indonesian market, it disagrees that:

- a particular market situation existed in Indonesia during the review;
- a particular market situation did not exist in Australia during the review period that resulted in 'artificially' high prices;
- Indonesian exporters enjoyed a comparative advantage in the Australian market due to the particular market situation, as opposed to artificially high prices in Australia; and
- APRIL did not take advantage of that comparative advantage in its pricing to Australia.

APRIL further submits that the Commission's findings concerning the suitability of RAK's domestic sales in Indonesia is correct, but contains 'numerous short-comings and deficiencies that do not affect the correctness of the findings'.⁸⁷

APRIL's submission does not put forward any information or evidence that invalidates the Commission's findings in respect of the market situation in Indonesia. Further, given that the normal value in respect of APRIL's exports was determined in accordance with section 269TAC(1), the market situation finding has not had an effect on the determination of APRIL's variable factors and dumping margin.

4.6.3.5 Normal value

As outlined above, the Commission is not satisfied that, due to the market situation in Indonesia, APRIL's, or RAK's specifically, domestic sales are not suitable for use in determining the normal value under section 269TAC(1). Accordingly, the Commission determined RAK's normal value in accordance with section 269TAC(1).

As noted in section 4.3 of this report, section 269TAC(1) provides that the normal value of the goods exported to Australia is the price paid or payable for like goods sold in the OCOT for home consumption in the country of export in sales that are arms length transactions.

In working out whether sales are in the OCOT, the prices of like goods sold in the domestic market are compared to the cost of such goods, in accordance with section 269TAAD. The cost of goods is worked out in accordance with section 269TAAD(4), by adding:

⁸⁶ EPR 551, item no. 45.

⁸⁷ Ibid, p. 18.

PUBLIC RECORD

- a) the amount determined by the Minister to be the cost of production or manufacture of those goods in the country of export; and
- b) the amount determined by the Minister to be the administrative, selling and general costs associated with the sale of those goods.

As required by section 269TAAD(5), the amounts determined by the Minister for the purpose of sections 269TAAD(4)(a) and (b) must be worked out in the manner as prescribed in the *Customs (International Obligations) Regulation 2015* (the Regulation).

To determine the cost of production or manufacture of like goods in the country of export, section 43(2) of the Regulation requires that if:

- an exporter or producer of the goods keeps records relating to the goods that are in accordance with generally accepted accounting principles (GAAP) in the country of export; and
- those records reasonably reflect competitive market costs associated with the production or manufacture of the goods;

the Minister must work out the cost of production or manufacture using the information set out in the exporter or producer's records.

It is the Commission's view that, where an exporter's records are otherwise in accordance with GAAP, and are reliable, but the records do not reasonably reflect competitive market costs associated with the production or manufacture of the goods, it is open for the Minister, if practicable, to adjust the records so they reasonably reflect competitive market costs associated with the production or manufacture of the goods in the country of export.⁸⁸ In making such adjustments, the Commission considers that the Minister may have regard to all relevant information.

Do RAK's records reasonably reflect competitive market costs associated with the production of like goods?

The Commission is satisfied that RAK's records relating to like goods were kept in accordance with GAAP in Indonesia in 2019.

The Commission assessed whether the records as kept by RAK reasonably reflect competitive market costs associated with the production or manufacture of like goods. Specifically, the Commission has assessed whether RAK's cost of pulp, which is a major input consumed in the manufacture of A4 copy paper, reasonably reflects competitive market costs.

In Investigation 341, the Commission found that RAK purchased its pulp from a related supplier. At that time, RAK claimed that this transfer price for the pulp was based on internationally traded pulp prices, and the Commission assessed these transfer prices and considered that the prices were consistent with the competitive benchmark prices.

⁸⁸ See *Steelforce Trading Pty Ltd Parliamentary Secretary to the Minister for Industry, Innovation and Science* [2018] FCAFC 20 [108]–[109] (Perram J).

PUBLIC RECORD

Accordingly, the Commission at that time determined that the cost of pulp recorded in RAK's records reasonably reflected a competitive market cost.⁸⁹

In this review, the Commission verified RAK's cost to produce the goods exported to Australia and like goods sold on the domestic market in 2019, and verified RAK's cost of pulp and the purchase prices of pulp consumed in the manufacture of A4 copy paper.

The Commission found that RAK purchased pulp from related suppliers during the review period, and most of the pulp was sourced from one related supplier in Indonesia. RAK initially claimed that the transfer price of the pulp sourced from this supplier is based on Indonesian pulp export prices sourced from Fastmarkets RISI (RISI), with adjustments for volume rebates, freight costs and drying costs.

To verify the transfer price between RAK and the related pulp supplier, the Commission requested that RAK provide the actual calculation of the transfer price in relation to a selected transaction in February 2019, and evidence for each value used in the calculation.

In response, RAK provided a spreadsheet that included RISI prices and adjustments for volume rebate, freight costs and drying costs in 2019. RAK stated that this information substantiated that RAK's pulp purchase price is comparable to market prices for pulp and that it is therefore a 'competitive market price'. However, the Commission found that the information did not reconcile to the selected pulp purchase transaction (that is, RAK's actual purchase prices), as the information related to a weighted average calculation for the review period. The Commission also found that the weighted average price calculated in this spreadsheet did not reconcile to RAK's weighted average pulp purchase price for the review period.

After the Commission again requested an explanation and evidence of the transfer price for the selected transaction in February 2019, RAK provided a second spreadsheet that outlined calculations that were purportedly of the pulp transfer price between RAK and its related supplier. This spreadsheet included values and amounts identified as 'market price' with adjustments for volume rebates, freight costs and drying costs. RAK advised that the 'market price' was based on Indonesian pulp export prices sourced from RISI; however, the Commission was unable to reconcile the 'market price' amount provided by RAK to the RISI information for the relevant month.

Consequently, the Commission requested that RAK clarify and explain the source of the 'market price'. RAK then claimed that the 'market price' of pulp is based on the related supplier's 'actual order-in-take price' based on orders placed by customers in the preceding month, with adjustments for volume rebates, freight costs and drying costs.

In relation to the 'market price' or the 'order-in-take price', the Commission requested that RAK describe in detail the method behind how the market price is determined, and requested evidence from RAK to substantiate how the 'market price' in February 2019 was determined. RAK however provided information related to the 'market price' in a period following the review period that was not relevant to the selected transaction nor the

⁸⁹ REP 341, p. 52.

PUBLIC RECORD

review period. Therefore, the Commission considers that the information provided by RAK does not substantiate or evidence the basis of the 'market price' in the review period.

In addition to the spreadsheet, RAK also provided an 'executive summary' prepared by an Indonesian tax consultancy. This executive summary relates to an assessment of whether sales (and prices) of pulp between RAK's related pulp supplier and this supplier's two related customers were made at arms length in 2019. The executive summary did not outline any assessment of the related supplier's pulp sales to RAK, and there is no suggestion made in this summary that RAK is a party to the sales agreement between the pulp supplier and the two related customers.

The Commission observes that in certain footnotes in the executive summary, the related supplier appears to be erroneously referred to as a different pulp producer within the APRIL Group. In addition, the executive summary provides limited explanation, justification and evidence with respect to certain pricing adjustments claimed by RAK to be relevant to the calculation of the transfer price between RAK and the related supplier, such as the volume rebates. For these reasons, the Commission does not consider the findings of the report to be reliable nor relevant for the purposes of assessing the transfer price for pulp between RAK and its related pulp supplier.

In the absence of reliable information from RAK regarding the determination of the pulp transfer price and whether these prices reflect competitive market prices and therefore costs pursuant to section 43(2)(b)(ii) of the Regulation, the Commission has undertaken a comparison of RAK's purchase prices for pulp to a competitive market cost benchmark for pulp in 2019. The Commission's consideration of an appropriate benchmark, and the adjustments made to the benchmark to ensure that it can be compared to RAK's costs, is outlined in **Appendix B** to this report.

Comparison of competitive cost benchmark and RAK's pulp purchases

The Commission compared RAK's purchase prices of pulp to the competitive market pulp prices and found that the benchmark prices were materially higher than the cost of pulp recorded in RAK's records. The Commission is therefore satisfied that while the pulp costs recorded in RAK's records may reasonably reflect the costs associated with the production or manufacture of the goods in 2019, because of the particular market situation, they do not reasonably reflect competitive market costs associated with the production or manufacture of the goods or like goods.

Consequently, the Commission considers it appropriate to use RAK's records for the cost of production, but only after an adjustment is made to the records relating to the cost of pulp in 2019. Specifically, the Commission has adjusted RAK's cost of pulp to reflect the competitive market costs. Such an adjustment ensures that RAK's records reflect competitive market costs for the production of the goods in Indonesia.

The comparison of RAK's pulp costs and the competitive market cost benchmark is at **Confidential Attachment 11**.

The Commission observes that once RAK's pulp costs are adjusted to reflect competitive market costs and these adjusted costs are used to test whether domestic sales of like goods are sold in the OCOT, it does not result in any sales (of the same MCC exported to Australia) not being in the OCOT. Essentially, there is no difference in the volume of sales

PUBLIC RECORD

being in the OCOT when the OCOT test is undertaken using the adjusted costs, and when the OCOT test is undertaken using the unadjusted costs, and it does not result in a different normal value.

Calculation of normal value

The Commission is satisfied that there are sufficient volumes of sales of like goods sold in the OCOT for home consumption in the country of export in arms length transactions by RAK. As such, the Commission has determined the normal value under section 269TAC(1).

To ensure the normal value is comparable to the export price, the Commission made adjustments in accordance with section 269TAC(8), as follows:

Adjustment Type	Deduction/addition
Domestic ocean freight	Deduct an amount for domestic ocean freight
Domestic marine insurance	Deduct an amount for domestic marine insurance
Domestic inland transport	Deduct an amount for domestic inland transport
Domestic port and handling cost	Deduct an amount for domestic port and handling costs
Domestic emptying container cost	Deduct an amount for domestic emptying container cost
Domestic documentation fee	Deduct an amount for documentation fee
Export inland transport	Add an amount for export inland transport
Export handling and port charges	Add an amount for export handling and port charges
Export management services fee	Add an amount for export management services fee
Export credit terms	Add an amount for export credit

Table 10: Adjustments to RAK's normal value

APRIL's submission concerning verification findings

In its submission of 22 March 2021,⁹⁰ APRIL submits that contrary to the Commission's finding, the term 'FOT' is not a sales term nor an Incoterm. APRIL submits that 'there is no evidence that RAK sells goods domestically on FOT terms because there is no such sales term and RAK does not do so'.⁹¹ APRIL claims that the term 'FOT' is 'used in connection with insurance'.⁹²

Contrary to APRIL's claims, the Commission found that RAK sold like goods in the Indonesian domestic market at 'FOT' terms.⁹³ In verifying RAK's domestic sales of like goods, the Commission found the following:

⁹⁰ EPR 551, item no. 38.

⁹¹ Ibid, p. 2.

⁹² Ibid.

⁹³ The domestic sales transactions with 'FOT' delivery terms comprised less than 1 per cent of the total domestic sales volume in 2019.

PUBLIC RECORD

- for certain transactions in the domestic sales listing, RAK recorded 'FOT' in the 'delivery terms' column within the domestic sales spreadsheet;
- 'FOT' was recorded under 'INCO TERM' on RAK's commercial invoice to the customer relating to those transactions in the domestic sales listing; and
- 'FOT' was recorded under 'Incoterms' in RAK's sales ledger.

The Commission notes that the International Chamber of Commerce defines 'FOT' as 'Free on Truck', however, in 1990, the term was replaced by the term 'Free Carrier'.⁹⁴

APRIL did not provide any evidence to demonstrate that FOT is 'used in connection with insurance', as it claims in its submission of 22 March 2021. Based on the information provided by RAK, the Commission considers that RAK made domestic sales at 'FOT' terms, which denotes 'Free on Truck'.

In respect of RAK's domestic sales at FOT terms, APRIL submits that the Commission has excluded some direct selling expenses to ensure sales reflected FOT terms. APRIL claims that the Commission did not explain why it excluded certain direct selling expenses in the domestic sales listing to ensure these sales reflected FOT terms. APRIL claims that these costs were incurred and reiterated that FOT is not a sales term. APRIL claims that the exclusion of these direct selling expenses 'artificially alters the sales costs' and stated that it is unclear 'how the Commission had accounted for them without artificially inflating other costs'.

As explained above, the Commission disagrees with APRIL's claim that RAK did not sell like goods in the Indonesian domestic market at FOT terms. To ensure that these sales, which were made at FOT terms, actually reflected FOT terms, the Commission revised the domestic sales listing by removing direct selling costs that occurred after the FOT point, which had been incorrectly allocated by RAK. The explanation for this revision is in section 4.1 of the exporter verification report.⁹⁵ APRIL did not provide evidence that the direct selling costs post-FOT point were incurred in relation to the sales transactions made at FOT terms. As all direct selling expenses were manually allocated to sales transactions in the domestic sales listing by RAK using weighted average unit costs sourced from its cost ledgers, the Commission disagrees that the exclusion of certain direct selling costs for the FOT transactions has had the effect of 'artificially inflating other costs'. The Commission's revision for the FOT transactions (which comprise less than one per cent of the total domestic sales volume in 2019) did not change the total direct selling costs incurred by RAK, nor the allocation of these costs to other sales transactions recoded in the domestic sales listing.

In its submission of 22 March 2021,⁹⁶ APRIL further submits that the Commission incorrectly removed container and port handling costs from particular transactions in the domestic sales listing. APRIL states that the Commission disregarded the fact that these direct selling expenses were incurred for those transactions and were properly recorded

⁹⁴ <https://iccwbo.org/resources-for-business/incoterms-rules/incoterms-rules-history/>

⁹⁵ EPR 551, item no. 36, p. 9.

⁹⁶ EPR 551, item no. 38.

PUBLIC RECORD

in accordance with Indonesian GAAP. APRIL claims that it is unclear 'how the Commission had accounted for them without artificially inflating other costs'.

During verification of APRIL's response to the exporter questionnaire, the Commission requested that APRIL provide evidence that costs relating to container and port handling were incurred for sales transactions that did *not* involve ocean freight delivery. On 4 November 2020, APRIL advised that these costs are 'only for ocean freight delivery'. Therefore, to ensure that these direct selling costs were appropriately allocated to transactions that only involved ocean freight delivery, the Commission revised the domestic sales listing by removing container and port handling costs from certain transactions that did not involve ocean freight delivery. The explanation for this revision is in section 4.1 of the exporter verification report.⁹⁷ As discussed above, the Commission disagrees that the exclusion of these direct selling costs has an effect on other costs, given that APRIL manually allocated direct selling expenses on a weighted average cost basis in the domestic sales listing. The Commission's revision did not change the total direct selling costs incurred by RAK, nor the allocation of these costs to other sales transactions in the domestic sales listing.

In relation to RAK's cost to make (CTM), APRIL submits the following:

- RAK's CTM data on both a monthly and quarterly basis was provided several times to the Commission at the Commission's request;
- RAK's CTM data is properly recorded in its accounts and recorded in accordance with Indonesian GAAP;
- variations to pulp prices during the review period had no effect on RAK's cost to make;
- RAK's CTM is identical for A4 copy paper that is for domestic sale and export sale. Any such variations, as there were, would apply equally to the cost to make of A4 copy paper sold domestically and for export, and would not preclude or affect a proper comparison as determined in relevant WTO jurisprudence.

As outlined in the exporter verification report, the CTM data provided by APRIL in the CTM spreadsheets did not represent quarterly or monthly costs as incurred by RAK in the production of the goods and like goods in that particular quarter or month of the review period. In the CTM spreadsheets, APRIL only allocated a total annual CTM, which it allocated equally across each quarter of the review period in the CTM spreadsheets, resulting in a uniform or identical unit CTM for each quarter by model or MCC.

Given there were significant variations in RAK's pulp purchase prices over the review period, and given that pulp costs represent a significant proportion of RAK's CTM, the Commission considers that the CTM data provided by APRIL was inappropriately allocated to each quarter of the review period. In order for the CTM data relating to the goods and like goods to more reasonably reflect the costs incurred in each quarter of the review period, the Commission adjusted RAK's pulp costs as recorded in RAK's CTM using the quarterly movements in RAK's pulp purchase prices. The Commission agrees with APRIL that RAK's CTM for the goods and like goods is identical, and applied the

⁹⁷ Ibid, p. 10.

PUBLIC RECORD

adjustment in the same manner to the CTM for both exported and domestically sold A4 copy paper.

In its submission of 22 March 2021, APRIL further submits that there is no evidence that the relationship between RAK and its related domestic customers influenced the price between these parties.⁹⁸ Rather, APRIL claims that the low prices for related customers were due to ‘small volumes of A4 copy paper sold in those transactions... and that paper was purchased for use internally by the purchaser’.

The Commission observes that RAK’s domestic sales to related customers represents a relatively small proportion of its total domestic sales volume during the review period.

The Commission considers that given the consistently and significantly lower prices between RAK and its related customers relative to unrelated customers, the price appears to be influenced by a commercial or other relationship between RAK and its related customers, in accordance with section 269TAA(1)(b). The Commission makes the same observation in respect of pricing between RAK and its related and unrelated customers when undertaking the comparison across similar volumes.

Therefore, the Commission’s maintains that the purchase or sale of like goods between RAK and its related customers should not be treated as arms length transactions, and should be excluded from the calculation of normal value which was determined in accordance with section 269TAC(1).

APRIL’s submission concerning dumping margin calculation

In its submission of 19 April 2021, APRIL submits that the Commission’s calculations of the dumping margin applicable to APRIL’s exports are ‘factually and legally incorrect’.⁹⁹

APRIL submits that RAK is not the exporter of the goods to Australia. APRIL further submits that the export price of the goods is not the price paid by AFEM to RAK, but is the price paid to AFEM by AFEM’s Australian customers. Accordingly, APRIL argues, the Commission’s calculations of the dumping margin are incorrect.

For the reasons outlined in section 4.6.1.2 of this report, the Commission maintains that the exporter is RAK, and that the export price of the goods exported to Australia from Indonesia by RAK should be determined in accordance with section 269TAB(1)(c), having regard to all the circumstances of the exportation.

APRIL submits 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... because it has not been adjusted in the manner required by section 269TAC(8)(c) of the [Act]’.¹⁰⁰

⁹⁸ EPR 551, item no. 38.

⁹⁹ EPR 551, item no. 47, p. 1.

¹⁰⁰ EPR 551, item no. 47, p. 2.

PUBLIC RECORD

APRIL claims that 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’, and ‘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’’.¹⁰¹

The Commission considers that APRIL’s claim for an adjustment to the normal value under section 269TAC(8)(c) is vague and is not supported by any detail nor evidence.

The Commission notes that APRIL was provided with the calculations of the dumping margin, including the calculation of the export price and normal value, on the date the SEF was published. Following this, APRIL had the opportunity to provide a detailed claim, with supporting evidence and data, for an adjustment to the normal value. As noted above, APRIL has not put forward a comprehensible claim for adjustment and therefore, the Commission cannot assess APRIL’s ambiguous claim.

Nonetheless, during the verification, the Commission requested that APRIL provide the calculation for the price between RAK and AFEM relating to a selected invoice, and evidence for each value used in the calculation. APRIL provided the calculation but did not provide evidence relating to the amounts in the calculations. Putting aside that APRIL did not provide any evidence relating to the amounts in the transfer price calculation, in assessing APRIL’s calculation of this price, the Commission did not observe any differences in the terms and circumstances of such sales that would warrant an adjustment to the normal value in order to ensure price comparability.

The Commission observes that both the export price and normal value have been determined as the price paid to RAK. There was no intermediary involved in the transactions between RAK and AFEM, and RAK and its domestic customers. Given there was no intermediary involved in the sale between RAK and AFEM, there is no basis for making an adjustment for a trader’s margin, or any other ‘terms or conditions of trade’ referred to by APRIL in its submission of 19 April 2021. Therefore, the Commission does not consider any additional adjustments to the normal value are warranted. However, the Commission considers that an adjustment to the normal value for AFEM’s margin, including its expenses, would be warranted if the export price for the goods were determined as the price between AFEM and the Australian importer. This is because AFEM’s margin and expenses would affect the price comparability between the normal value and the export price if it were determined as the price between AFEM and the Australian importer.

In its submission of 19 April 2021, APRIL further submits that ‘the Commission’s inclusion of a ‘commission’ in the normal value is erroneous’.¹⁰²

The Commission reviewed the calculation of normal value and adjustments made under section 269TAC(8). Contrary to APRIL’s claim, the Commission did not apply an

¹⁰¹ Ibid.

¹⁰² EPR 551, item no. 47, p. 2.

PUBLIC RECORD

adjustment to the normal value for AFEM's commission cost, being the amount referred to by APRIL in column BJ of worksheet '(a) Australian sales'.

Australian Paper's submission in response to SEF – Adjustments to RAK's normal value

In its submission received on 15 April 2021,¹⁰³ Australian Paper queries whether the Commission has verified 'actual costs' (as opposed to estimates) incurred by RAK in respect of the following adjustments:

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

The Commission confirms that these adjustments were based on actual costs, not estimated costs.

4.6.3.6 Dumping margin

The Commission has calculated a dumping margin for RAK of **14.7 per cent**.

The calculation of the dumping margin for RAK is at **Confidential Attachment 12**.

4.6.4 Uncooperative exporters – Indonesia

As outlined in section 4.2.2 of this report, the Commission considers that exporters which did not provide a response to the exporter questionnaire are uncooperative exporters for the purposes of this review.

Section 269TACAB(1) sets out the provisions for working out export prices and normal values for uncooperative exporters.

The Commission determined an export price for uncooperative exporters from Indonesia pursuant to section 269TAB(3), having regard to all relevant information. Given that RAK is the only cooperating exporter of the goods exported to Australia from Indonesia in the review period, the Commission has had regard to RAK's weighted average export price in determining the export price for uncooperative exporters from Indonesia.

The Commission determined the normal value for uncooperative exporters from Indonesia pursuant to section 269TAC(6), having regard to all relevant information. Specifically, the Commission had regard to RAK's weighted average normal value exclusive of favourable adjustments in determining the normal value for uncooperative exporters from Indonesia.

The dumping margin for uncooperative exporters from Indonesia was determined by comparing the quarterly weighted average export prices with the quarterly weighted average of corresponding normal values over the whole of the review period in accordance with section 269TACB(2)(a).

¹⁰³ EPR 551, item no. 42.

The dumping margin for uncooperative exporters from Indonesia is **25.7 per cent**. The calculation of the dumping margin for uncooperative and all other exporters from Indonesia is at **Confidential Attachment 13**.

4.7 Variable factors – Exports from Thailand

4.7.1 Double A

The Commission conducted a remote verification of Double A's response to the exporter questionnaire. The Commission is satisfied that the information provided by Double A is accurate and reliable for the purpose of ascertaining the variable factors applicable to its exports of the goods to Australia in the review period. A report setting out the Commission's findings from the verification is available on the public record.¹⁰⁴

Based on verified information, the Commission considers Double A to be the exporter of the goods exported to Australia from Thailand in the review period, given that Double A:

- is the manufacturer of the goods and knowingly exported the goods to Australia;
- is identified as the supplier on the commercial invoice issued to the Australian customer;
- is identified as the consignor on the bill of lading;
- arranged and paid for the inland transport to the port of export;
- arranged and paid for the port handling at the port of export; and
- arranged and paid for the ocean freight and marine insurance.

The Commission also considers Double A to be the beneficial owner of the goods at the time of importation, and therefore the importer of those goods, as it:

- is identified as the consignee on the bill of lading;
- is declared as the importer on the importation declaration to the ABF;
- paid for all importation charges once the goods arrived in Australia, including interim dumping duties; and
- arranged delivery from the port in which the goods arrived in Australia to the Australian customer.

4.7.1.1 Export price

The Commission is satisfied that Double A is the exporter of the goods. As the Commission found that Double A was also the importer of those goods, the goods have not been exported to Australia otherwise than by the importer and accordingly, the export price cannot be determined under sections 269TAB(1)(a) or (b).

Therefore, the export price for the goods exported to Australia by Double A has been determined under section 269TAB(1)(c), having regard to all circumstances of exportation. The export price has been calculated as the price paid by the Australian customer to Double A less dumping duties, transport and other costs arising after exportation.

¹⁰⁴ EPR 551, item no. 33.

4.7.1.2 Normal value

The Commission is satisfied that there are sufficient volumes of sales of like goods sold in the OCOT for home consumption in the country of export in arms length transactions by Double A. As such, the Commission has determined the normal value under section 269TAC(1).

To ensure the normal value is comparable to the export price, the Commission made adjustments in accordance with section 269TAC(8), as follows:

Adjustment Type	Deduction/addition
Domestic credit terms	Deduct an amount for domestic credit
Domestic inland transport	Deduct an amount for domestic inland transport
Domestic sales commissions	Deduct an amount for domestic commissions
Domestic off invoice rebates	Deduct an amount for domestic off invoice rebates
Domestic marketing programs	Deduct an amount for domestic marketing programs
Export inland transport	Add an amount for export inland transport
Export port charges	Add an amount for port charges
Export sales commissions	Add an amount for export commissions
Export marketing programs	Add an amount for export marketing programs
Export credit terms	Add an amount for export credit terms

Table 11: Adjustments to Double A’s normal value

Australian Paper’s submission in response to SEF 551 – Off-invoice rebates

In its submission received on 15 April 2021,¹⁰⁵ Australian Paper observes that in section 4.7.1.2 of the SEF, the Commission identifies that an adjustment has been made to Double A’s normal value for off-invoice rebates. Australian Paper claims that off-invoice rebates are used by some Australian importers, and queries ‘whether the Commission has examined off-invoice rebates provided by Australian importers on sales of imported goods on the Australian market’.¹⁰⁶

Australian Paper has not explained why the Commission should examine off-invoice rebates provided by Australian importers on their sales of imported goods in the Australian market. Double A imported the goods during the review period and is the beneficial owner and therefore importer of those goods. The Commission did not find that Double A paid any off-invoice rebates to its Australian customers in the review period.

4.7.1.3 Dumping margin

¹⁰⁵ EPR 551, item no. 42.

¹⁰⁶ Ibid.

PUBLIC RECORD

The Commission has calculated a dumping margin for Double A of **30.8 per cent**.

The calculation of the dumping margin for Double A is at **Confidential Attachment 14**.

4.7.2 Uncooperative exporters – Thailand

The Commission considers that exporters which did not provide a response to the exporter questionnaire are uncooperative exporters for the purposes of this review.

Section 269TACAB(1) sets out the provisions for working out export prices and normal values for uncooperative exporters.

The Commission determined an export price for uncooperative exporters from Thailand pursuant to section 269TAB(3), having regard to all relevant information. Given that Double A is the only cooperating exporter of the goods exported to Australia from Thailand in the review period, the Commission had regard to Double A's weighted average export price in determining the export price for uncooperative exporters from Thailand.

The Commission determined the normal value for uncooperative exporters from Thailand pursuant to section 269TAC(6), having regard to all relevant information. Specifically, the Commission had regard to Double A's weighted average normal value exclusive of favourable adjustments in determining the normal value for uncooperative exporters from Thailand.

The dumping margin for uncooperative exporters from Thailand was determined by comparing the quarterly weighted average export prices with the quarterly weighted average of corresponding normal values over the whole of the review period in accordance with section 269TACB(2)(a).

The dumping margin for uncooperative exporters from Thailand is **43.3 per cent**.

The calculation of the dumping margin for uncooperative and all other exporters from Thailand is at **Confidential Attachment 15**.

5 VARIABLE FACTORS - COUNTERAVAILABLE SUBSIDY

5.1 Findings

The Commission was not provided with any information to determine whether the amount of countervailable subsidy received in respect of the goods exported to Australia from China has changed. In the absence of evidence to the contrary, the Commission considers that it is reasonable to assume that the rate of ICD or subsidy margin as ascertained by the Minister¹⁰⁷ following consideration of REP 341 in respect of the goods exported from China in the review period has not changed. However, given that the Commission found that the export price¹⁰⁸ has changed, when the subsidy margin is applied to this export price, the amount of countervailable subsidy received has also changed.

5.2 Assessment of countervailable subsidy

In Investigation 341, the following subsidy programs were found to be countervailable in respect of the goods exported to Australia from China.

No.	Program	Subsidy 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
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

¹⁰⁷ In accordance with section 10(3B)(a) of the Dumping Duty Act.

¹⁰⁸ A variable factor relevant to the determination of duty payable on goods the subject of the countervailing duty notice.

PUBLIC RECORD

No.	Program	Subsidy type
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 12: Subsidy programs found to be countervailable in REP 341

Following consideration of REP 341, the relevant Minister published a countervailing duty notice.¹⁰⁹ The notice applies to non-cooperative and all other exporters of the goods from China, except Asia Symbol Guangdong, Greenpoint, UPM AP and UPM China.

At initiation of this review, the Commission invited the GOC (being an entity covered by section 269TAACA(2)(b)) to complete a questionnaire seeking information relevant to the amount of countervailable subsidy received in respect of the goods exported to Australia from China in the review period. The Commission has not received a response to this questionnaire from the GOC.

Further, given that the two cooperating exporters of the goods from China in this review are not subject to the countervailing duty notice, these two exporters did not provide information relevant to any subsidies that they might have received in the review period.

¹⁰⁹ ADN No. 2017/40.

PUBLIC RECORD

The Commission also did not receive any relevant information from any other entities¹¹⁰ concerned with the importation or exportation of the goods from China to Australia in the review period.

Given this, the Commission does not have any relevant information to assess whether a countervailable subsidy has been received in respect of the goods exported to Australia from China in the review period, and the amount of countervailable subsidy received in respect of those goods, given that entities covered by section 269TAACA(2) have not provided the Commissioner with relevant information to determine this.

Therefore, in accordance with section 269TAACA(1), the Commissioner considers that it is reasonable to assume, in the absence of information to the contrary, that the rate of ICD or the subsidy margin (7.0 per cent), as ascertained by the Minister¹¹¹ following consideration of REP 341, has not changed. Given that the export price¹¹² has changed in the review period however, when the rate of ICD or the subsidy margin is applied to this export price, the amount of countervailable subsidy received has also changed.

5.3 Subsidy margin

For the purpose of working out the duty payable on the goods the subject of the countervailing duty notice, the Commission considers that the rate of ICD, or the subsidy margin, as ascertained by the Minister following consideration of REP 341 has not changed. Therefore, the subsidy margin for non-cooperative exporters is 7.0 per cent.¹¹³

¹¹⁰ Entities covered by section 269TAACA(2)(a).

¹¹¹ In accordance with section 10(3B)(a) of the Dumping Duty Act.

¹¹² A variable factor relevant to the determination of duty payable on goods the subject of the countervailing duty notice.

¹¹³ The subsidy margin has been calculated as a percentage of the ascertained export price for uncooperative exporters of the goods from China.

6 VARIABLE FACTORS - NON-INJURIOUS PRICE

6.1 Finding

The Commission found that the NIP relevant to the determination of duty payable under the Dumping Duty Act changed in respect of the goods exported to Australia from Brazil, China, Indonesia and Thailand in the review period.

In respect of the goods exported to Australia by IPEX, Greenpoint and Double A, including goods exported by uncooperative and all other exporters from Brazil, China, Indonesia and Thailand, the Commission found that the NIP is less than the normal value of those goods and therefore the NIP is the operative measure. Consequently, the Minister must have regard to the desirability of specifying a lesser amount of duty in respect of goods exported by these exporters.

In respect of the goods exported to Australia from China by UPM AP, and Indonesia by RAK, the Commission found that the NIP is greater than the normal value of those goods and therefore the NIP is not the operative measure. As a result, the Minister is not required to have regard to the desirability of specifying a lesser amount of duty.

6.2 Non-injurious price

The NIP is a variable factor relevant to a review under Division 5, and is relevant to the determination of the duty payable under the Dumping Duty Act.

Under section 269TACA, the NIP of the goods exported to Australia is defined as the minimum price necessary to prevent the injury, or a recurrence of the injury, or to remove the hindrance to the Australian industry caused by the dumped or subsidised goods the subject of a dumping duty notice or a countervailing duty notice.

The Commission generally derives the NIP by first establishing a price at which the Australian industry might reasonably sell its product in a market unaffected by dumping. This price is referred to as the USP.

The Commission's preferred approach to establishing the USP is outlined in Chapter 24 of the Manual and observes the following hierarchy:

- industry selling prices at a time unaffected by dumping or subsidisation;
- constructed industry prices – industry cost to make and sell (CTMS) plus a rate for profit; or
- selling prices of un-dumped imports.

Having calculated the USP, the Commission then calculates a NIP by deducting the costs incurred in getting the goods from the export FOB point (or another point if appropriate) to a comparable level of trade in Australia. The deductions normally include overseas freight, insurance, into-store costs and amounts for importer selling expenses and profit.

The Commission's assessment of the NIP is outlined in section 6.4 of this report.

6.3 Lesser duty rule

Where the Minister is required to determine the IDD, section 8(5B) of the Dumping Duty Act applies. Where the Minister is required to determine both ICD and IDD, sections 8(5BA) and 10(3D) of the Dumping Duty Act apply.

In accordance with sections 8(5B), 8(5BA) and 10(3D) of the Dumping Duty Act, the Minister must have regard to the 'lesser duty rule' when determining the IDD and ICD payable where the NIP is less than the normal value of the goods. The lesser duty rule requires the Minister to consider the desirability of fixing a lesser amount of duty such that the sum of the ascertained export price and the IDD, and ICD where applicable, do not exceed the NIP.

However, pursuant to sections 8(5BAA), 8(5BAAA) and 10(3DA) of the Dumping Duty Act, the Minister is not required to have regard to the lesser duty rule where one or more of the following circumstances apply:¹¹⁴

- a) the normal value of the goods was not ascertained under section 269TAC(1) because of the operation of section 269TAC(2)(a)(ii);
- b) there is an Australian industry in respect of like goods that consists of at least two small-medium enterprises, whether or not that industry consists of other enterprises; and / or
- c) if a countervailing subsidy has been received in respect of the goods, the country in relation to which the subsidy has been provided has not complied with Article 25 of the *WTO Agreement on Subsidies and Countervailing* for the compliance period.

The Commission did not find that the above circumstances apply in relation to the goods exported to Australia from Brazil, China, Indonesia and Thailand. Accordingly, the Minister is required to consider imposing a lesser amount of duty where the NIP is less than the normal value of the goods.

6.4 Assessment of the NIP

6.4.1 Submissions concerning the USP and NIP

In its submissions of 31 July 2020¹¹⁵ and 27 August 2020,¹¹⁶ Australian Paper states that the USP should be established using the Australian industry's CTMS in 2019 plus an amount for profit. Australian Paper proposes that the amount for profit should reflect profit achieved in a period unaffected by dumping, and identified financial year 2012-13 as a suitable period.

¹¹⁴ Sections 8(5BAAA)(a) to (c) of the Dumping Duty Act concern the calculation of dumping duty and sections 10(3DA)(a) to (c) of the Dumping Duty Act concern the calculation of countervailing duty.

¹¹⁵ EPR 551, item no. 17.

¹¹⁶ EPR 551, item no. 18.

PUBLIC RECORD

In its submissions of 3 August 2020,¹¹⁷ 3 September 2020¹¹⁸ and 22 October 2020,¹¹⁹ Jackaroo states that the USP and therefore NIP should be established using Australian Paper's selling prices of A4 copy paper imported from South Africa in the review period, given that these imports cannot be injurious to the Australian industry.

In its submission of 15 April 2021 responding to the SEF,¹²⁰ Jackaroo disagrees with the Commission's finding that imports from South Africa were unlikely to have influenced market prices. Jackaroo submits that the Commission should conclude that export prices from Brazil were non-injurious, given that it is unlikely that these exports (in 'trivial' volumes) influence or impact the Australian industry's selling prices. In concluding this, Jackaroo argues, the Commission should set the NIP equal to the weighted average export price over the review period.

Jackaroo further submits that in constructing a USP for exports from Brazil, the Commission should exclude the following in order to ensure a 'proper price comparison'¹²¹:

- all direct expenses related to sales of the Australian industry's Reflex brand, including expenses for advertising, commissions etc.;
- all manufacturing costs associated with recycled paper;
- selling prices for recycled and/or Reflex branded products in calculating a profit amount to use in the constructed USP; and
- all direct selling expenses associated with the Australian industry's exportation of jumbo rolls and subsequent re-importation of cutsize paper.

Jackaroo submits that only by excluding the above items from the constructed USP would the NIP be able to be 'properly compared' with the corresponding normal values for exports from Brazil.¹²²

In its submission of 21 December 2020,¹²³ IP Brasil stated that if Australian Paper's imports occurred in prices substantially below that of IP Brasil's comparable exports to Australia during the review period, and the volume of these imports was greater than the import volume from Brazil, then Australian paper's selling prices of imported copy paper from South Africa must be accepted as being non-injurious and suitable for establishing the USP.

In its submission of 22 July 2020¹²⁴ concerning its imports of A4 copy paper in the review period, Australian Paper explained that it experienced a sudden increase in demand for

¹¹⁷ EPR 551, item no. 16.

¹¹⁸ EPR 551, item no. 19.

¹¹⁹ EPR 551, item no. 23.

¹²⁰ EPR 551, item no. 46.

¹²¹ Ibid, p. 3.

¹²² Ibid.

¹²³ EPR 552, item no. 29.

¹²⁴ EPR 551, item no. 13.

specific grades of paper which it had not forecast and therefore it did not have sufficient inventory at the time to supply some customers. Australian Paper explained that production needed to be ramped up and this turnaround was not as quick as the speed in which customers placed orders. Therefore, to meet demand during this period, Australian Paper imported copy paper exported from various countries, including South Africa.

In its submissions of 24 March 2021¹²⁵ and 10 May 2021¹²⁶, APRIL submits that the NIP as it relates to its exports of the goods to Australia should be 'set at zero'.

6.4.2 The Commission's assessment of USP and NIP

In determining the USP and NIP in reviews conducted in accordance with Division 5 of the Act, the Commission will 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 approach to determining the USP unreasonable, or less preferred amongst other approaches.

In the original investigation, the Commission calculated the USP using the Australian industry's selling prices of like goods sold in the period 1 July 2012 to 30 June 2013, given that the sales in this period were determined to be unaffected by dumping and subsidisation.¹²⁷ 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.

Given that the USP established in Investigation 341 is based on sales that occurred over six years ago, and given that the Commission has more contemporaneous data in this review, the Commission considers that it is not preferable to base the USP for the purposes of this review on the USP determined in Investigation 341.

The Commission considered establishing a USP by having regard to prices of like goods sold by Australian Paper following financial year 2012-13 however, the Commission considers that following this period, the Australian market was affected by dumping from numerous countries including the countries subject to the original investigation and Investigation 463. Further, the Commission found that the goods exported to Australia from the countries subject to this review were dumped in the review period, with most goods dumped at margins exceeding those found in the original investigation.

The Commission therefore considers that it is not preferable to determine the USP for 2019 based on the Australian industry's selling prices, either by indexing the selling prices in the period 1 July 2012 to 30 June 2013, or by having regard to the Australian industry's prices after this period because these prices were affected by dumping.

¹²⁵ EPR 551, item no. 39.

¹²⁶ EPR 551, item no. 48.

¹²⁷ REP 341, p. 124.

PUBLIC RECORD

The Commission also considered whether Australian Paper's selling prices of its imports of A4 copy paper are suitable for determining the USP, as suggested by Jackaroo.

The Commission reviewed Australian Paper's importations of A4 copy paper from South Africa and observed that these goods were imported over a period of three months in 2019, albeit these goods were available and sold in the Australian market for most of 2019. The Commission did not find that Australian Paper continued to import copy paper from South Africa following this three-month period in 2019. This supports Australian Paper's claim that it imported this product as an interim measure to meet an unexpected increase in demand for certain grades of A4 copy paper while it ramped up production.¹²⁸

The Commission also reviewed Australian Paper's sales of these imported products from South Africa, and found that the sales volume was significantly less than the volume it had imported, which is consistent with the fact that a significant proportion of the paper that was imported from South Africa was damaged and therefore was not in a saleable condition. The sales volume of the goods imported from South Africa comprised a relatively small proportion of Australian Paper's total volume of like goods sold in the review period.

The Commission considers that, given the temporary and makeshift nature of Australian Paper's imports of A4 copy paper from South Africa, and given that the import volume is relatively lower than the total volume imported from the countries subject to this review in 2019, it is unlikely that Australian Paper's selling prices of its imports influenced the market price in 2019 to any significant or sustained extent. Further, the Commission does not consider it preferable to base the USP on the selling prices for the product imported from South Africa because the pricing for this product reflects the fact that it is a plain wrap product. Plain wrap paper generally has a lower price point relative to private label or the manufacturer's branded products which make up the majority of sales and imports in the Australian market.¹²⁹

Therefore, the Commission does not consider it preferable to derive the USP, and therefore NIP, using the selling prices of Australian Paper's imports of plain wrap copy paper from South Africa as these prices do not reflect prices for comparable products imported from the countries subject to this review. These prices were also influenced by the makeshift nature of these importations and thus do not reflect Australian Paper's prices of its own production generally which makes up the majority of the Australian industry's sales volume. The Commission considers that a USP, and therefore NIP, derived using the selling prices of these imports would not be effective in preventing the injury, or a recurrence of the injury, caused by dumping and subsidisation.

The Commission also does not consider it preferable to set the NIP in respect of IPEX's exports from Brazil as equal to the weighted average export price in the review period, as

¹²⁸ EPR 551, item no. 13.

¹²⁹ The Commission found that all of the exports of the goods to Australia from the exporters cooperating in this review were either private label (the customer's or original equipment manufacturer's brand) or the manufacturer's own brand.

PUBLIC RECORD

suggested by Jackaroo in its submission of 15 April 2021.¹³⁰ The goods exported to Australia from Brazil by IPEX in 2019 were dumped at a significant margin. The Commission considers that setting the NIP equal to a dumped export price might not be effective in preventing the injury, or a recurrence of the injury, caused by dumping.

In response to APRIL's submissions that the NIP as it affects APRIL's exports should be 'set at zero',¹³¹ the Commission considers that APRIL's opinion that the NIP should be 'set at zero' is not a serious contention.

As set out earlier in this chapter, the NIP is the minimum price necessary to prevent the injury, or a recurrence of injury, referred to in section 269TG(1) or (2). Therefore, the NIP should be the minimum price necessary to prevent the injury or a recurrence of injury caused by dumping, which was found in Investigation 341.

If the NIP is 'set at zero', this would assume the Australian industry is giving away goods for free. In opining that the NIP should equal zero, APRIL is implying that this would be adequate to prevent the injury or recurrence of the injury caused by dumping. The Commission considers that this proposition is unreasonable. A NIP 'set at zero' may exacerbate injury to the Australian industry and provide no remedy for the injurious effects of dumping. No exporter, including APRIL, is exporting, or giving away, goods for free. Further, the levels of dumping found in this review exceed those found in Investigation 341, which found that dumping caused material injury to the Australian industry producing like goods. The Commission found that APRIL was dumping in the review period and that its export volume increased significantly following the review period. Therefore, the Commission does not consider it preferable to set the NIP of any goods, including the goods exported by APRIL, at zero as it would not be effective in preventing the injury, or a recurrence of the injury, to the Australian industry.

Given the limitations outlined above, the Commission considers that a USP reflecting a constructed selling price (consistent with the method outlined in the Dumping and Subsidy Manual) is appropriate and preferable to establishing the USP. For the purpose of determining a NIP in this review, the Commission constructed a USP using Australian Paper's weighted average CTMS of like goods sold in the review period, and applied an amount for profit that reflected the percentage mark-up achieved by Australian Paper in the period 1 July 2012 to 30 June 2013, given that this period was unaffected by dumping.

In constructing the USP, the Commission has not made the exclusions (namely, expenses relating to the Australian industry's own brand of A4 copy paper, including manufacturing costs related to recycled copy paper), as requested by Jackaroo in its submission of 15 April 2021.¹³² There is no legislative requirement to ensure a 'proper

¹³⁰ EPR 551, item no. 46.

¹³¹ EPR 551, item nos. 39 and 48.

¹³² EPR 551, item no. 46.

PUBLIC RECORD

price comparison¹³³ between the NIP and normal value, as suggested by Jackaroo in its submission.

Nevertheless, the Commission found that other manufacturers and exporters sell their own branded A4 copy paper, including recycled paper, on domestic and export markets. These goods, including the A4 copy paper manufactured by the Australian industry, compete in the Australian market. These manufacturers and exporters also incur expenses relating to marketing and advertising of the goods and like goods sold domestically. Therefore, in constructing the USP, the Commission does not consider it is preferable to exclude the expenses and costs, or make the adjustments, as identified and requested by Jackaroo in its submission of 15 April 2021.

Having established a USP, the Commission then calculated a NIP for each exporter by deducting from the USP verified costs such as importer selling expenses and profit, and post-FOB costs incurred in getting the goods to the relevant level of trade in Australia. Where relevant importation costs for a particular country during the review period are not available, the Commission has used importation costs verified for other countries during the review period.

The Commission compared the NIP with the normal values of the goods exported to Australia from Brazil, China, Indonesia and Thailand by each exporter. The Commission found that, in respect of the goods exported to Australia by IPEX, Greenpoint and Double A, and goods exported by uncooperative and all other exporters from Brazil, China, Indonesia and Thailand, the NIP is less than the normal value of the goods and therefore the NIP is the operative measure. As the NIP is below the normal values of goods exported by IPEX, Greenpoint, Double A and uncooperative exporters from all countries subject to this review, the Minister must have regard to the 'lesser duty rule' in accordance with section 8(5B) of the Dumping Duty Act. The Commission considers that the lesser duty rule be applied to these exporters by setting the fixed rate of IDD such that the sum of the ascertained export price and the rate of IDD does not exceed the NIP.

Further, as the NIP is below the normal values of the goods exported by uncooperative and all other exporters from China, the Minister must have regard to the lesser duty rule in accordance with sections 8(5BA) and 10(3D) of the Dumping Duty Act. The Commission considers that the lesser duty rule be applied to these exporters by setting the fixed rate of IDD such that the sum of the ascertained export price, the rate of IDD and the rate of ICD does not exceed the NIP.

In respect of the goods exported to Australia from China by UPM AP, and from Indonesia by RAK, the Commission found that the NIP is greater than the normal value of those goods and therefore the NIP is not the operative measure. As a result, the Minister is not required to have regard to the desirability of specifying a lesser amount of duty in accordance with section 8(5B) of the Dumping Duty Act.

The calculation of the USP and NIP is at **Confidential Attachment 16**.

¹³³ Ibid, p.3.

7 PROPOSED FORM OF MEASURES AND RATES OF DUTY

7.1 Form of measures

The methods of working out the amount of IDD duty payable on the goods the subject of the notice under section 269TG(1) or (2) are prescribed in the *Customs Tariff (Anti-Dumping) Regulation 2013* and include:

- combination of fixed and variable duty method;
- floor price duty method;
- fixed duty method; or
- *ad valorem* duty method.

In accordance with section 10(3B) of the Dumping Duty Act, the amount of ICD payable on the goods the subject of the notice under section 269TJ(1) or (2) may be calculated:

- as a proportion of the export price of the goods;
- by reference to a measure of the quantity of those particular goods; or
- by reference to a combination of a proportion of the export price of those particular goods and a measure of the quantity of those particular goods (i.e., by reference to a combination of the above two methods).

The current method for working out the IDD duty payable on the goods exported from Brazil, China, Indonesia and Thailand is the combination of fixed and variable duty method. In relation to goods exported from China by non-cooperative and all other exporters, the ICD is currently calculated as a proportion of the export price.

7.2 Form of measures and rates of duty

In considering the appropriate form of measures, the Commission has had regard to the Commission's *Guidelines on the Application of the Forms of Dumping Duty* (the Guidelines)¹³⁴ and submissions received in response to the SEF.

The Guidelines set out issues to be considered when determining the form of dumping duty. The various methods for working out the dumping duty all have the purpose of removing the injurious effects of dumping; however, certain forms of duty will better suit particular circumstances than others.

The Commission considers that the combination duty method (combination of fixed and variable duty) is appropriate where circumvention behaviour is likely (particularly because of related party dealings), where complex company structures exist between related parties, and where there has been a proven case of price manipulation in the market. Given that there are a number of related entities involved in the production and exportation of the goods to Australia, and given that there are complex company structures that exist between related parties, the Commission considers that a combination duty method may be better suited in these particular circumstances. Further, given that the NIP is the operative measure for most exporters, the fixed rate of duty

¹³⁴ The Guidelines are available on the Commission's website.

PUBLIC RECORD

would be significantly lower than the dumping margin for each country, particularly for Thailand, which could be easily circumvented by lowering the export price of the goods to avoid the effects of the duty.

Therefore, the Commission considers that the appropriate form of measures is the combination method rather than the *ad valorem* method, as it effectively imposes a floor price (equal to the ascertained export price) which would prevent exporters from lowering export prices to avoid the effects of the duty.

In its submission of 15 April 2021, UPM states that, in proposing a combination duty method in the SEF, the Commission did not consider any disadvantages of a floor price, given that costs and prices of A4 copy paper are heavily influenced by the variable market prices of key raw materials such as pulp.¹³⁵ UPM states that in these circumstances, the position of various interested parties regularly shifts from one of advantage to one of disadvantage, and in order to avoid these shifts over the next twelve months, the Commissioner should recommend that IDD be calculated using the *ad valorem* method. UPM also states that, as observed in the Guidelines, the anti-circumvention provisions already address the prevention of lowering of export prices to avoid the intended effect of duty.

While the Commission recognises that the fixed form (i.e. the floor price) of duty in the combination method may be punitive in a falling market, and can become out of date quickly, the Commission considers that the advantages of this form of measures outweigh the disadvantages in this particular case. Further, while prices for pulp have decreased in 2020 relative to 2019 (the period in which the variable factors were reviewed), pulp prices have increased in the first quarter of calendar year 2021, and are trending higher and nearly reflect average prices of pulp in 2019.

Therefore, the Commissioner maintains that the IDD payable on the goods the subject of the dumping duty notice should be an amount worked out in accordance with the combination duty method, which is consistent with the current form of measures.

The measures consist of a fixed rate of IDD (*ad valorem*, equal to the dumping margin or the lesser duty calculated by reference to the NIP), and a variable amount of IDD where the actual export price is below the ascertained export price which is a specified (confidential) amount per tonne.

The Commissioner proposes that the amount of ICD payable on the goods the subject of the countervailing duty notice be ascertained as a proportion of the export price of the goods. The following table outlines the proposed form of measures and the fixed rates of ICD and IDD.

¹³⁵ EPR 551, item no. 44.

PUBLIC RECORD

Exporter	Proposed IDD method ¹³⁶	Fixed rate of IDD	Proposed ICD method ¹³⁷	Rate of ICD
Brazil				
International Paper Exportadora Ltda	Combination of fixed and variable	8.1%	n/a	n/a
Uncooperative and all other exporters	Combination of fixed and variable	8.1%	n/a	n/a
China				
UPM Asia Pacific Pte Ltd	Combination of fixed and variable	3.2%	n/a	n/a
Greenpoint Global Trading (Macao Commercial Offshore) Ltd	Combination of fixed and variable	10.0%	n/a	n/a
Uncooperative and all other exporters	Combination of fixed and variable	3.0%	Proportion of export price	7.0%
Indonesia				
PT Riau Andalan Kertas	Combination of fixed and variable	14.7%	n/a	n/a
Uncooperative and all other exporters	Combination of fixed and variable	19.2%	n/a	n/a
Thailand				
Double A (1991) Public Company Ltd	Combination of fixed and variable	0.9%	n/a	n/a
Uncooperative and all other exporters	Combination of fixed and variable	0.9%	n/a	n/a

Table 13: Proposed form of measures and rates of interim duty

The confidential information and calculations pertaining to the variable factors and interim duty is outlined in **Confidential Attachment 17**.

7.2.1 Denomination of variable factors

In its submission of 15 April 2021, UPM requests that its variable factors be expressed in accordance with the Commission’s stated policy on page 157 of the Dumping and Subsidy Manual.¹³⁸

The Commission confirms that the ascertained export price and normal value will be expressed or denominated in the currency in which the sales are made, while the NIP will be denominated in Australian dollars.

¹³⁶ In accordance with section 5(2) of the *Customs Tariff (Anti-Dumping) Regulation 2013*.

¹³⁷ In accordance with section 10(3B)(a) of the Dumping Duty Act.

¹³⁸ EPR 551, item no. 44.

PUBLIC RECORD

Where export sales are made in more than one currency, the export price will be expressed in the currency which, when weighted using trade volume, represents the majority of the total sales to Australia.

7.2.2 APRIL's submission concerning determination of duty payable

In its submission of 15 April 2021, APRIL states that 'if AFEM is the 'exporter'... then the 'all other exporter' dumping margin of 19.2 [per cent] dumping margin arguably would apply to APRIL's exports, notwithstanding that they are the same exports being exported at the same export price by APRIL'.¹³⁹ APRIL submits that the applicable rate of duty should be the same in such circumstances.

APRIL further submits that due to the issues that stem from the 'incorrect' determination of exporter and export price, the Commission's proposed calculation of interim dumping duty is 'administratively unworkable'.¹⁴⁰

The Commission's determination of the exporter and the export price would not result in implementation or administrative issues in applying the anti-dumping measures to RAK's exports from Indonesia.

Interim duties under the combination method will be worked out as follows:

- the fixed component would be calculated as the *ad valorem* rate applied to the actual export price (i.e. the price paid by the importer) or the ascertained export price, whichever is greatest; and
- the variable component would be calculated as the amount, if any, by which the actual export price (i.e., the price between AFEM and the importer) is lower than the ascertained export price (i.e. the floor price, being the price between AFEM and RAK).

Once the Minister has ascertained the variable factors, the ABF and customs brokers will have access to the ascertained variable factors for the purpose of implementing the anti-dumping measures. The Commission observes that in the current Dumping Commodity Register for A4 copy paper,¹⁴¹ both RAK and AFEM have the same Dumping Specification Number. For the purpose of administering the measures, the Commission does not propose separate Dumping Specification Numbers for RAK and AFEM.

¹³⁹ EPR 551, item no. 45, p. 15.

¹⁴⁰ Ibid, p. 16.

¹⁴¹ The Dumping Commodity Register relevant to A4 copy paper can be accessed on the Commission's website at https://www.industry.gov.au/sites/default/files/adc/measures/dcr_-_a4_copy_paper_11.pdf.

8 FINDINGS AND RECOMMENDATIONS

8.1 Findings

In respect of A4 copy paper exported to Australia from Brazil, China, Indonesia and Thailand, the Commissioner found that:

- the export price of the goods exported during the review period is different to the export price last ascertained by the Minister for the purpose of the dumping and countervailing duty notices;
- the normal value of the goods exported during the review period is different to the normal value last ascertained by the Minister for the purpose of the dumping duty notice;
- the NIP of the goods exported to Australia during the review period is different to the NIP last ascertained by the Minister for the purpose of the dumping and countervailing duty notices; and
- the amount of countervailable subsidy received in respect of the goods exported to Australia in the review period is different to the amount of countervailable subsidy last ascertained by the Minister for the purpose of the countervailing duty notice.

8.2 Recommendations

The Commissioner recommends that the Minister **declare**:

- in accordance with section 269ZDB(1)(a)(iii), with effect from the day after the publication of the notice declaring the outcome of the review, and for the purposes of the Act and the Dumping Duty Act, the dumping duty notice in relation to exports of A4 copy paper to Australia from Brazil, China, Indonesia and Thailand, and the countervailing duty notice in relation to exports of the goods to Australia from China, are taken to have effect as if different variable factors (as set out in **Confidential Attachment 18**) had been fixed relevant to the determination of duty.

The Commissioner recommends that the Minister be **satisfied** that:

- sufficient information has not been furnished or is not available to enable the export price of A4 copy paper exported to Australia from Brazil, China, Indonesia and Thailand by uncooperative exporters to be ascertained under the sections preceding section 269TAB(3);
- sufficient information has not been furnished or is not available to enable the normal value of A4 copy paper exported to Australia from Brazil, China, Indonesia and Thailand by uncooperative exporters to be ascertained under the sections preceding section 269TAC(6); and
- acting on the basis of all available facts and making reasonable assumptions in accordance section 269TAACA(1), countervailable subsidies have been received in respect of A4 copy paper exported to Australia from China by non-cooperative entities in the review period under subsidy programs 1 and 6-38, as set out in Chapter 5 of this report.

PUBLIC RECORD

The Commissioner recommends that the Minister **determine** that:

- in accordance with section 269TAAD(4) and (5), and for the purpose of working out the cost of goods and ascertaining whether the price paid for like goods sold in the country of export in sales that are arms length transactions are taken to have been in the OCOT, that the amounts for the cost of production or manufacture of A4 copy paper sold in the country of export by Asia Symbol Guangdong, Double A, IP Brasil, RAK and UPM China, and the SG&A costs associated with the sale of those goods, as set out in **Confidential Attachments 3, 14, 1, 12 and 4** respectively;
- in accordance with section 269TAB(1)(a), the export price of A4 copy paper exported to Australia from Brazil by IPEX, and from China by Greenpoint and UPM AP, is the price paid by the importer to the exporter less transport and other costs arising after exportation, as set out in **Confidential Attachment 18**;
- in accordance with section 269TAB(1)(c), having regard to all the circumstances of the exportation, the export price of A4 copy paper exported to Australia from Indonesia by RAK, and from Thailand by Double A, is the price set out in **Confidential Attachment 18**;
- in accordance with section 269TAB(3), having regard to all relevant information, the export price of A4 copy paper exported to Australia from Brazil, China, Indonesia and Thailand by uncooperative and all other exporters is the price set out in **Confidential Attachment 18**;
- in accordance with section 269TAC(1), being satisfied that like goods are sold in the ordinary course of trade for home consumption in Brazil, China, Indonesia and Thailand in sales that are arms length transactions by Asia Symbol Guangdong, Double A, IP Brasil, RAK and UPM China, the normal value of A4 copy paper exported by IPEX, Greenpoint, UPM AP, RAK and Double A is the price paid or payable for like goods, as set out in **Confidential Attachment 18**;
- in accordance with section 269TAC(6), having regard to all relevant information, the normal value of A4 copy paper exported to Australia from Brazil, China, Indonesia and Thailand by uncooperative and all other exporters is as set out in **Confidential Attachment 18**;
- having applied section 269TACB(2)(a), and in accordance with section 269TACB(4), the goods exported to Australia from Brazil, China, Indonesia and Thailand are taken to have been dumped, and the dumping margins for all exporters in respect of those goods is the difference between the weighted average export prices of the goods over the review period and the weighted average of corresponding normal values over that period, as set out in Chapter 4 of this report;
- having had regard to sections 269TAAC(2) and (3), and in accordance with sections 269TAAC(4) and (5), that the subsidies detailed in Chapter 5 of this report are specific;

PUBLIC RECORD

- in accordance with sections 269TACD(1), (2) and 269TAACA(1), that the amount of countervailable subsidy received in respect of A4 copy paper exported to Australia from China by non-cooperative exporters is the amount set out in **Confidential Attachment 18**, acting on the basis of all available facts and assuming that the countervailable subsidy margin previously ascertained by the Minister for the purposes of the countervailing duty notice did not change, as detailed in Chapter 5 of this report; and
- in accordance with section 8(5) of the Dumping Duty Act, that the interim dumping duty payable in respect of A4 copy paper exported to Australia from Brazil, China, Indonesia and Thailand is an amount which will be worked out in accordance with the combination of fixed and variable duty method pursuant to section 5(2) and 5(3) of the *Customs Tariff (Anti-Dumping) Regulation 2013*.

The Commissioner recommends that the Minister **direct** that:

- in accordance with section 269TAC(8), as the normal value of A4 copy paper exported to Australia from Brazil by IPEX is the price paid or payable for like goods sold in Brazil, the normal value be adjusted for specified differences between like goods sold in Brazil and exported goods so that those difference would not affect price comparability of those goods, as set out in Table 7 of this report;
- in accordance with section 269TAC(8), as the normal value of A4 copy paper exported to Australia from China by Greenpoint is the price paid or payable for like goods sold in China, the normal value be adjusted for specified differences between like goods sold in China and exported goods so that those difference would not affect price comparability of those goods, as set out in Table 8 of this report;
- in accordance with section 269TAC(8), as the normal value of A4 copy paper exported to Australia from China by UPM AP is the price paid or payable for like goods sold in China, the normal value be adjusted for specified differences between like goods sold in China and exported goods so that those difference would not affect price comparability of those goods, as set out in Table 9 of this report;
- in accordance with section 269TAC(8), as the normal value of A4 copy paper exported to Australia from Indonesia by RAK is the price paid or payable for like goods sold in Indonesia, the normal value be adjusted for specified differences between like goods sold in Indonesia and exported goods so that those difference would not affect price comparability of those goods, as set out in Table 10 of this report; and
- in accordance with section 269TAC(8), as the normal value of A4 copy paper exported to Australia from Thailand by Double A is the price paid or payable for like goods sold in Thailand, the normal value be adjusted for specified differences between like goods sold in Thailand and exported goods so that those difference would not affect price comparability of those goods, as set out in Table 11 of this report.

PUBLIC RECORD

The Commissioner recommends the Minister be of the **opinion** that:

- in accordance with sections 269TAB(4) and 269TAC(7), information provided by PPPC, as outlined in section 4.2.2.1 of this report, is unreliable and accordingly disregard that information for the purpose of sections 269TAB and 269TAC.

The Commissioner recommends the Minister have **regard** to:

- in accordance with section 8(5B) of the Dumping Duty Act, in relation to A4 copy paper exported to Australia from Brazil, China and Thailand by IPEX, Greenpoint and Double A respectively, the desirability of specifying a method such that the sum of the amounts outlined in sections 8(5B)(c) and (d) do not exceed the non-injurious price;
- in accordance with section 8(5B) of the Dumping Duty Act, in relation to A4 copy paper exported to Australia from Brazil, Indonesia and Thailand by uncooperative and all other exporters, the desirability of specifying a method such that the sum of the amounts outlined in sections 8(5B)(c) and (d) do not exceed the non-injurious price;
- in accordance with section 8(5BA) of the Dumping Duty Act, in relation to A4 copy paper exported to Australia from China by uncooperative and all other exporters, the desirability of specifying a method such that the sum of the amounts outlined in sections 8(5BA)(c), (d) and (e) do not exceed the non-injurious price; and
- in accordance with section 10(3D) of the Dumping Duty Act, in relation to interim countervailing duty in respect of A4 copy paper exported to Australia from China by uncooperative and all other exporters, the desirability of fixing the amount of interim countervailing duty in respect of the goods such that the sum of the amounts outlined in section 10(3D)(a), (b) and (c) do not exceed the non-injurious price.

9 APPENDICES AND ATTACHMENTS

Appendix A	Particular market situation in Indonesia
Appendix B	Competitive market cost benchmark
Confidential Attachment 1	IPEX's dumping margin
Confidential Attachment 2	Uncooperative and all other exporters dumping margin (Brazil)
Confidential Attachment 3	Greenpoint's dumping margin
Confidential Attachment 4	UPM AP's dumping margin
Confidential Attachment 5	Uncooperative and all other exporters dumping margin (China)
Confidential Attachment 6	Analysis of RAK's volume of exports to Australia
Confidential Attachment 7	Indonesian imports of uncoated copy paper
Confidential Attachment 8	Proper comparison analysis
Confidential Attachment 9	FIS price comparison
Confidential Attachment 10	Comparison of RAK's profit margins
Confidential Attachment 11	Comparison of RAK's pulp costs and competitive market cost benchmark
Confidential Attachment 12	RAK's dumping margin
Confidential Attachment 13	Uncooperative and all other exporters dumping margin (Indonesia)
Confidential Attachment 14	Double A's dumping margin
Confidential Attachment 15	Uncooperative and all other exporters dumping margin (Thailand)
Confidential Attachment 16	USP and NIP
Confidential Attachment 17	Effective rates of interim duty
Confidential Attachment 18	Variable factors under section 269ZDB(1)(a)(iii)
Confidential Attachment 19	Assessment of RISI and Hawkins Wright data
Confidential Attachment 20	Analysis of benchmark price series

APPENDIX A - PARTICULAR MARKET SITUATION IN INDONESIA

A1 Introduction

Section 269TAC(1) provides that the normal value of any goods exported to Australia is the price paid or payable for like goods sold in the OCOT for home consumption in the country of export in arms length transactions by the exporter or, if like goods are not sold by the exporter, by other sellers of like goods.

However, section 269TAC(2)(a)(ii) provides that the normal value of the goods exported to Australia cannot be determined under section 269TAC(1) where the Minister is satisfied that '*...because the situation in the market of the country of export is such that sales in that market are not suitable for use in determining a price under subsection (1)*'.

Where such a 'market situation' exists, normal value may not be established on the basis of domestic sales. Instead, the normal value may be determined using another method in section 269TAC. Therefore, a determination as to whether there is a market situation has implications for the assessment of normal value.

In assessing whether a particular situation in the market of the country of export exists, the Commission may have regard to factors such as whether the prices in that market or costs are artificially low. Government influence on prices or input costs could be one cause of artificially low pricing. Such government influence could come from any level of government.

In assessing whether a market situation exists due to government influence, the Commission will assess whether government involvement in the domestic market has materially distorted market conditions. If market conditions have been materially distorted, then domestic prices may be artificially low or not substantially the same as they would be in a competitive market.

Prices may also be artificially low or lower than they would otherwise be due to government influence on the costs of inputs. The Commission looks at the effect of any such influence on domestic prices.

For section 269TAC(2)(a)(ii) to apply, the Commission is required to identify whether a 'market situation' exists, and if found to exist, be satisfied that the 'market situation' renders sales in that market not suitable for normal value purposes before rejecting actual selling prices.

Although it is for the Commission to establish the nature and consequence of the 'market situation', including an evaluation of whether there is an impact on domestic prices, the Commission considers that the pricing effect does not necessarily have to be quantified.

A2 Findings in Investigation 341 in respect of market situation in Indonesia

In Investigation 341, the Commission found that there was a particular market situation in the Indonesian A4 copy paper market. In summary, the Commission found that:

- programs and policies of the GOI and the export ban on logs increased the supply of logs in Indonesia and thereby lowered the price and cost of logs and hardwood pulp in Indonesia;
- the lowered price and cost of logs and hardwood pulp in Indonesia induced and allowed the main Indonesian A4 copy paper producers (Sinar Mas Group and the APRIL Group), which are integrated A4 copy paper producers with their own upstream pulp facilities, to supply more A4 copy paper at each possible price point than they otherwise would have; and
- the resultant price of A4 copy paper in Indonesia was the end result of the interactions between those selling, and those buying, A4 copy paper in Indonesia. The resultant price of A4 copy paper in Indonesia was artificially low, was materially below regional benchmarks, and reflected the lowered price and cost of logs and hardwood pulp in Indonesia that resulted from the programs and policies of the GOI.

Relevant findings in REP 341 include that:

- the two main Indonesian producers of A4 copy paper are integrated paper producers with their own upstream raw materials and input facilities¹⁴² and they account for around 90 per cent of Indonesian pulp capacity;¹⁴³
- 50 to 60 per cent of total pulp production in Indonesia is consumed in Indonesia.¹⁴⁴ The rest is exported;
- no export tariff applied to pulp and there were no export quotas for pulp¹⁴⁵ and Latin American or Brazilian based benchmarks and Indonesian export based benchmarks are broadly aligned and reflect competitive market prices;¹⁴⁶
- policies and programs of the GOI have affected the structure and development of Indonesia's forestry sector and increased the supply of timber;¹⁴⁷

¹⁴² REP 341, section A2.9.3, p. 173.

¹⁴³ REP 341, section A2.9.2.3, p. 167.

¹⁴⁴ REP 341, section A2.9.2.3, p. 167.

¹⁴⁵ REP 341, section A2.9.2.6, p. 170.

¹⁴⁶ REP 341, section A2.8.6.3, p. 165.

¹⁴⁷ REP 341, section A2.9.2.4, p. 168.

PUBLIC RECORD

- an export ban imposed by the GOI on logs distorted the domestic supply of timber¹⁴⁸ and the net impact of the export ban on Indonesian logs reduced prices;¹⁴⁹
- around 50 per cent of logs used by the Indonesian forestry sector are consumed in pulp production;¹⁵⁰
- pulp is a key raw material input into paper¹⁵¹ and typically comprises between 60 to 65 per cent of the total cost of A4 copy paper;¹⁵²
- the Indonesian pulp industry has been the largest beneficiary of the resulting increased access to timber¹⁵³ and the primary beneficiary of identified timber-related GOI policies and programs was the Indonesian pulp industry;¹⁵⁴
- the GOI has increased the availability of timber relative to demand and hence artificially lowered prices for Indonesian logs and pulp. Without these interventions, the price for timber and pulp in Indonesia would be above prices that prevailed during the original investigation period;¹⁵⁵
- the GOI's support for the forestry and pulp industry was effected through programs that supported the expansion of timber plantations and restrict timber exports. These programs resulted in distortions in the Indonesian forestry and pulp industries and ultimately the domestic price for A4 copy paper;¹⁵⁶
- Indonesian A4 copy paper producers have benefited through access to cheaper pulp including from related parties for integrated paper producers access to cheap pulp has improved the international competitiveness of Indonesian paper producers;¹⁵⁷
- without these interventions, higher input costs would be reflected in higher domestic prices for A4 copy paper;¹⁵⁸ and

¹⁴⁸ REP 341, section A2.9.2.6, p. 170.

¹⁴⁹ REP 341, section A2.9.2.6, p. 172.

¹⁵⁰ REP 341, section A2.9.2.1, p. 166.

¹⁵¹ REP 341, section A2.7.1, p. 151.

¹⁵² REP 341, section A2.7.1, footnote 211, p. 151.

¹⁵³ REP 341, section A2.9.2.4, p. 168.

¹⁵⁴ REP 341, section A2.9.3.1, p. 173.

¹⁵⁵ REP 341, section A2.9.4, p. 174.

¹⁵⁶ REP 341, section A2.9.6.5, p. 183.

¹⁵⁷ REP 341, section A2.9.3.1, p.173.

¹⁵⁸ REP 341, section A2.9.4, p. 174.

PUBLIC RECORD

- the domestic price of Indonesian A4 copy paper is significantly below comparable regional benchmarks. The distortion of the domestic price for A4 copy paper directly results from GOI involvement in the forestry and pulp industries through its support for development of timber plantations and prohibition on exporting of timber logs.¹⁵⁹

The Commission's finding of a market situation in Indonesia was not found to be inconsistent with Article 2.2 of the Anti-Dumping Agreement by the WTO Panel in DS529.

A3 Information relied on for 2019 assessment

In order to assess whether a particular market situation in the Indonesian A4 copy paper market continues to exist in the review period, the Commission sought information from Indonesian exporters and Australian industry by way of a questionnaire. The Commission also relied on findings made in REP 547.

A3.1 Indonesian exporters

In the exporter questionnaire (Indonesia), the Commission sought information at sections H to L of the questionnaire in relation to the following, among other matters, and whether there have been any changes since 2015:

- GOI measures in the pulp and paper sector;
- the A4 copy paper sector and market in Indonesia;
- the provision of standing timber;
- the GOI's prohibition of log exports; and
- proper comparison and suitability of domestic sales for the purpose of determining normal value under section 269TAC(1).

APRIL is the only Indonesian exporter that provided a response to the exporter questionnaire in this review, noting that Indah Kiat, Pindo Deli and Tjiwi Kimia are not subject to this review.

APRIL has stated in its response to the questionnaire that 'Sections H to L to the Exporter Questionnaire (Indonesia) is [sic] unnecessary, irrelevant and unfair',¹⁶⁰ and has not responded to most of the questions in sections H to L of the exporter questionnaire.

APRIL further states that 'Australian Paper did not raise the issues of Particular Market Situation and Proper Comparison in its application nor did the Commissioner when he initiated this review'. APRIL reiterated these claims in a submission.¹⁶¹

The Commission notes that applicants for a review of anti-dumping measures under Division 5 of Part XVB of the Act are not required to 'raise the issues of Particular Market

¹⁵⁹ REP 341, section A2.9.4, pp. 173-174.

¹⁶⁰ EPR 551, item no. 20, p. 37.

¹⁶¹ EPR 551, item no. 21.

PUBLIC RECORD

Situation', nor are applicants required to provide information relevant to a particular market situation in the country of export given that particular market situation is not a variable factor defined in section 269T(4E). Therefore, the Commission disagrees with APRIL's view that Australian Paper should submit a 'fresh application' in which it raises market situation. Australian Paper's application for this review claimed that the variable factors, including the normal value, relevant to the goods exported from Indonesia and other subject countries have changed. This application was considered in accordance with section 269ZC(2) and was not rejected by the Commissioner.

In response to APRIL's claims that the questions at sections H to L of the exporter questionnaire are 'irrelevant to this review', the Commission notes that these questions are to assist the Commissioner obtain information relevant to the determination of the normal value under section 269TAC.¹⁶² The Commission, therefore, considers these questions are relevant to the assessment of whether the normal value has changed. The questions at section H to L of the questionnaire seek information relevant to the situation in the market of the country of export (Indonesia) and information relevant to assessing whether sales in that market are not suitable for determining a price under section 269TAC(1). Therefore, the Commission disagrees with APRIL's contention that the questions at sections H to L of the questionnaire are 'irrelevant to this review'.

A3.2 Government of Indonesia

Given that both Review 547 and Review 551 cover the same review period, in order to avoid imposing additional requirements on the GOI to provide further information for the purposes of this review, the Commission proposed in its written correspondence dated 16 April 2020 to the GOI to have regard to the information provided by the GOI in response to the questionnaire forward in Review 547. The GOI did not raise an objection to this proposal with the Commission.

The GOI's response to this questionnaire was provided on 27 April 2020 and a public version of this response is available on the public record.¹⁶³

The GOI, whilst noting various changes and updates to a range of government regulations and policies, advised that their responses in relation to the 2015 investigation period remained largely unchanged. The GOI also provided copies of updated regulations and updated data for 2019, insofar as the data was available at the time of the GOI completing the questionnaire response. The GOI noted the following changes that were relevant to the review period:

- [T]he cost of electricity will depend on distribution and that the longer distribution from the initial generation stage will result in higher cost;¹⁶⁴

¹⁶² Depending on the circumstances, the normal value of goods exported to Australia from the country of export can be determined in accordance with section 269TAC(1) or sections 269TAC(2)(c) or (d).

¹⁶³ EPR 547, item no. 11.

¹⁶⁴ EPR 547, item no. 11, p. 14.

PUBLIC RECORD

- Importer Identification Numbers are not required for Import Licensing;¹⁶⁵
- [The] Pulp and Paper industry in Indonesia is integrated.... Most of materials refer [in question B.4] are locally sourced ...and pulp is [a] chemical product, therefore only several chemical items need to [be bought] from local supplier[s];¹⁶⁶
- The prevailing regulation concerning [industrial licenses] now is Minister of Industry Regulation No. 15/2019 effective as of 6 May 2019 and that previous regulation No. 41/2008 was revoked. Required commitment to apply for [industrial licenses] are:
 - Sosialisasi Sistem Informasi Industri Nasional (SIINas) Account
 - Letter of Statement
 - Industrial Data
 - Location Permit
 - Environmental Permit according to regulation
 - Field Examination¹⁶⁷
- [The] response to the original investigation remains relevant. However, currently Minister of Trade Regulation No. 45 of 2019 concerning Export Prohibited Goods having objective[s] of
 - [to] protect national security or the public interest, including social, cultural and moral community;
 - to protect intellectual property rights; and / or
 - to protect the health and safety of humans, animals, fish, plants and the environment.¹⁶⁸
- Specifically, export logs are included in the commodities that are prohibited for export and regulated in the Minister of Trade Regulation No. 45 of 2019 concerning Export Prohibited Goods. ...Article 2 of the Minister of Trade Regulation stipulate[s] export prohibited goods on the grounds of:
 - to protect national security or the public interest, including social, cultural and moral community;
 - to protect intellectual property rights; and / or
 - to protect the health and safety of humans, animals, fish, plants and the environment.¹⁶⁹
- [Changes to the following regulations:]
 - Minister of Finance (MOF) regulation No. 52/2014 replaced MOF regulation No. 71/2016 concerning Procedures State-Owned Goods Management Used For Implementing Task and Function of State Ministries/Institution

¹⁶⁵ EPR 547, item no. 11, p. 14.

¹⁶⁶ EPR 547, item no. 11, p. 19.

¹⁶⁷ EPR 547, item no. 11, p. 26.

¹⁶⁸ EPR 547, item no. 11, p. 29.

¹⁶⁹ EPR 547, item no. 11, p. 30.

PUBLIC RECORD

- Tariff: Government Regulation (GR) No. 12/2014 [is]still valid except PNT levies, revoked by MARI decision No. 12 P / HUM / 2015;
- Benchmark Price: Minister of Finance (MOF) regulation No. 68/2014 replaced by MOF regulation No. 64/2017
- IUPHHK-HTI License Fee: Government Regulation (GR) No. 59/1998 replaced by GR No. 12/2014.¹⁷⁰

- [Changes to monitoring of companies to ensure compliance with the forestry laws]
 - Since 2016, all implementation of activities in the field and supervision have been carried out through electronic reporting and supervision, known as the Sustainable Production Forest Management Information System (SI PHPL). SI PHPL has subcomponents which include:
 - a) SI PUHH (Information System of Forest Products) records good reporting from planning, harvesting to transporting forest products. (P.66 / 2019 and P.67 / 2019)
 - b) SI PNBP (Non-Tax State Revenue Information System) records PNBP payment reporting (DR and / or PSDH). (P.71 / 2016)
 - c) SI GANIS (PHPL Technical Personnel Information System) carries out administration and supervision of technical personnel working in the company. (P.70 / 2019)¹⁷¹
 - In carrying out activities, each company reports its harvesting results (LHP) through the SI PUHH system. Then the DR and / or PSDH obligations are calculated through the SI PNBP system and reported payments through the SI PNBP. If the payment obligations have been made, SI PNBP will automatically send the paid status to SI PUHH so the company can then print the transport document. On every stage that is not carried out by the company, the system will be automatically locked and the company cannot proceed to the next stage.¹⁷²
 - Enforcement of the regulations on the companies that do not comply with applicable regulations is done through a compliance audit mechanism that is carried out jointly within related work units (P.54 / 2019).¹⁷³

- [Changes in process to determine if an infringement has occurred in the forestry industry]
 - Response to the original investigation remains applicable with some additional explanation.... In accordance with Law No. 41/1999 and

¹⁷⁰ EPR 547, item no. 11, p. 33

¹⁷¹ EPR 547, item no. 11, p. 35

¹⁷² EPR 547, item no. 11, p. 35

¹⁷³ EPR 547, item no. 11, p. 35.

PUBLIC RECORD

Government Regulation No. 6/2007 jo Government Regulation No. 3/2008, violations may be imposed on permit holders and non-permit holders. If against non-permit holder, will be subjected to criminal provisions and added PNBP in the form of Stumpage Compensation (GRT). If against the permit holder, then can be subjected to both criminal and sanction provisions in the form of fines or other administrative matters. The compliance audit is carried out through a mechanism regulated in Minister of Environment and Forestry Regulation No. P.54 / 2019.¹⁷⁴

- [Update on the actions taken in relation to company violations]
 - Based on the Minister of Environment and Forestry Regulation No. P.30 / 2016, all forestry permit holders (IUPHHK-HA; IUPHHK-HT; IUPHHK-HTR; IUPHHK-RE; IUPHHK-RE; IUPHHK-HKM; IUPHHK-HD ; IUPHHK-HTR; etc.) must have SLK. This system was introduced by the Ministry of Environment and Forestry to ensure that forest products used by companies as raw materials come from legal sources. The Government of Indonesia will conduct designated and random inspections to ensure that all forestry products meet the required certifications.¹⁷⁵
- [Update on Indonesian laws and regulations limiting the export of logs and chips in effect during the review period and the preceding 4 years (2016-2019)]
 - Response to the original investigation remains relevant with additional Minister of Trade Regulation Number 45 Year 2019 concerning Export Prohibited Goods.¹⁷⁶

In addition to providing the updates for 2019, the GOI noted the Commission's finding in Investigation 341 that the log export ban did not constitute a countervailable subsidy. The GOI also made the following statement in their questionnaire response in regard to the particular market situation finding:

'The response and submissions provided by the GOI in the original investigation remain relevant. In fact, there is no particular market situation applies in Indonesia; it did not apply during the original investigation and never applies until this point in time. In fact, ADC determined it conclusively in its CVD original investigation that export log ban did not constitute any subsidy within the WTO SCM Agreement. ADC firmly determined that none other alleged programs were countervailable during the original investigation. As such, the GOI does not see its policies being questioned in [Review 547] have any relevance with particular market situation. Pricing of A4 copy paper is market driven which is again the GOI has no control on it by any form. In particular, as verified by ADC, the companies subject to [Review 547] use the same materials, labours and production facilities. This is irrefutable

¹⁷⁴ EPR 547, item no. 11, p. 36.

¹⁷⁵ EPR 547, item no. 11, p. 38.

¹⁷⁶ EPR 547, item no. 11, p. 47.

that their domestic and export price of A4 copy paper including export to Australia are fully comparable and as such they permit proper comparison.¹⁷⁷

A3.3 Australian industry

In its questionnaire response,¹⁷⁸ Australian Paper submitted that the plans and policies identified by the Commission in Investigation 341 continued to apply equally in 2019.

Australian Paper also provided Indonesian export data on log exports for the period between 1998 and 2020. This data indicated that there was a small amount of log exports under the relevant tariff codes in 2019, however this volume was less than 0.009 per cent of the volume exported in 2001 prior to the discontinuation of log exports.

Australian Paper further stated that it believes that the GOI had not altered its plans and policies relating to the forestry and paper industries in Indonesia. In support of its claims, it referenced Indonesia's Master Plan for the Pulp and Paper Industry (2015-2025) and the Indonesian Forestry Long Term Development Plan (2006-2025). Australian Paper also stated that it considers that the log export ban continues to restrict exports of the key raw materials consumed by the pulp and paper industry in Indonesia.

A3.4 RISI report

The Commission engaged RISI to provide an updated assessment of the Indonesian Pulp and Paper Industries. This analysis identified the following key changes between 2015 and 2019:¹⁷⁹

- Indonesian hardwood roundwood costs increased approximately 19 per cent;
- Indonesian capacity for bleached hardwood kraft pulp production, the dominant fibre source for paper production, increased 22 per cent or approximately 1.6 million tonnes driven in part by increased production capabilities from 2016 from Asia Pulp & Paper's new mill;
- Indonesian bleached hardwood kraft pulp capacity now accounts for 11 per cent of global capacity;
- production of bleached hardwood kraft pulp increased 26 per cent or approximately 1.7 million tonnes;
- exports of bleached hardwood kraft pulp increased 36 per cent;
- copy paper accounts for about 52 per cent of uncoated woodfree paper production in 2019, up from 48 per cent in 2015;

¹⁷⁷ EPR 547, item no. 11, p. 62.

¹⁷⁸ EPR 551, item no. 4.

¹⁷⁹ Confidential Attachment 21 to REP 547.

PUBLIC RECORD

- Indonesian production of copy paper increased 34 per cent supported by an increase in capacity of 11 per cent;
- Indonesian uncoated copy paper demand increased almost 10 per cent or approximately 40,000 tonnes and consumption per capita increased 4 per cent;
- exports of copy paper increased 41 per cent whereas exports of other uncoated woodfree papers increased 10 per cent;
- copy paper accounted for a rising share of exports, up from 52 per cent in 2015 to 58 per cent in 2019;
- Indonesia exported 79 per cent of its copy paper production in 2019, up from 75 per cent in 2015; and
- Indonesia's cut size paper production is still dominated by two companies, the Asia Pulp & Paper Group and the APRIL Group.

A4 Conclusion - particular market situation assessment

The information available to the Commission indicates that the relevant programs and policies of the GOI and the export ban on logs identified in 2015 have continued during the review period. Also, information provided by RISI indicates that Indonesian pulp and paper production and capacity have continued to grow since 2015, that exports of copy paper have continued to increase and that the paper and pulp markets continue to be dominated by the Asia Pulp & Paper and APRIL group of companies.

Notwithstanding the GOI's submissions in Review 547 on the log export ban, the Commission considers its findings that the log ban does not constitute a countervailable subsidy in Investigation 341, and its findings in relation to the particular market situation, are distinct matters. In particular, the Commission notes the Panel's finding in DS529 that Indonesia failed to demonstrate that a situation arising from government action in whole or in part is *necessarily* disqualified from constituting the 'particular market situation'.¹⁸⁰ The Commission also notes that its finding of a market situation was not found to be inconsistent with Article 2.2 of the Anti-Dumping Agreement by the WTO Panel.¹⁸¹

Consequently, the Commission considers that:

- the continuing programs and policies of the GOI and the continuing export ban on logs continue to increase the supply of logs in Indonesia and thereby lower the price and cost of logs, woodchips and hardwood pulp in Indonesia;
- the continuing lowered price and cost of logs and hardwood pulp in Indonesia has induced and allowed the main Indonesian A4 copy paper producers (Sinar Mas Group and the APRIL Group), which are integrated A4 copy paper producers with their own upstream pulp facilities, to supply more A4 copy paper at each possible price point than they otherwise would have; and

¹⁸⁰ Panel Report, *Australia – Anti-Dumping Measures on A4 Copy Paper (Indonesia)*, para. 7.56.

¹⁸¹ *Ibid.*

PUBLIC RECORD

- the resultant price of A4 copy paper during 2019 in Indonesia was the end result of the interactions between those selling, and those buying, A4 copy paper in Indonesia. The resultant price of A4 copy paper in Indonesia in 2019 was artificially low and reflected the lowered price and cost of logs, woodchips and hardwood pulp in Indonesia that resulted from the programs and policies of the GOI.

On this basis, the Commission considers that the particular market situation in the Indonesian A4 copy paper market continues to exist in 2019.

APPENDIX B - COMPETITIVE MARKET COST BENCHMARK

B1 Introduction

As outlined in Chapter 4 of this report, in determining the cost of production or manufacture for the purposes of section 269TAAD, section 43(2) of the Regulation requires that, if an exporter keeps records relating to the like goods which are in accordance with generally accepted accounting principles, and those records reasonably reflect competitive market costs associated with the production or manufacture of like goods, then the cost of production must be worked out using the exporter's records.

The Commission has consequently assessed whether the costs of production as reported in the exporters' records reasonably reflect competitive market costs that are suitable for the purpose of constructing normal value. The Commission's approach to selecting a relevant benchmark and the adjustments made to that benchmark to ensure that they are relevant to the circumstances of the exporter are outlined in this appendix.

B2 Assessment of the benchmark relevant to the circumstances of RAK

In order to determine a competitive cost benchmark for pulp in 2019, the Commission has considered private domestic prices in Indonesia, import prices into Indonesia and external benchmark prices.

The Commission considers that both private domestic prices in Indonesia and import prices into Indonesia would be unsuitable as the basis for a competitive market price in 2019, given that these prices would have been affected by the market situation arising from government influence in Indonesia. In addition, import volumes of uncoated copy paper were insignificant in 2019. Consequently, external benchmark prices were considered to best reflect competitive market prices as these prices are unlikely to be affected by the market situation in Indonesia.

The Commission obtained external benchmark price data for 2019 from RISI and Hawkins Wright. The Commission compared the price data provided by RISI and Hawkins Wright for 2019¹⁸² and observed that there was a level difference between the two data providers. To discover the reason for the level difference, the Commission sought to understand the methodology and specifications used by each provider when it prepared its price data. The Commission examined the global data methodology and price specification document for RISI on its website and found that there is transparency regarding the price discovery process, price specification review process and methodology, and price correction policy used when collecting, quality assuring and correcting data. The Commission was not able to find similar information from Hawkins Wright on its website. On the basis of transparency and to ensure relevance to the circumstances of the Indonesian exporter, the Commission has selected price data sourced from RISI as the relevant benchmark.

¹⁸² Confidential Attachment 19.

PUBLIC RECORD

The Commission found that with respect to the RISI price series data, the Indonesian prices to East Asia and Korea were broadly in alignment with the prices of imports supplied into the region from Canada, the United States and East Asia. The Commission's analysis of external benchmark price series is at **Confidential Attachment 20**.

Given this similarity in prices, the Commission considers that the Indonesian prices to East Asia and Korea reflect competitive market prices and are an appropriate benchmark for assessing competitive market costs. Therefore, the Commission has determined the benchmark market price for 2019 based on an average of the following prices sourced from RISI:

- Indonesia to East Asia (acacia, bleached hardwood kraft); and
- Indonesia to South Korea (acacia, bleached hardwood kraft).

Given that RAK mostly purchased and consumed slush pulp (the remainder being dry bale pulp) in the production of the goods, the Commission has ensured that the competitive cost benchmark is relevant to the circumstances of RAK's purchases of pulp by applying adjustments to the external market price benchmark, as follows:

- deducted amounts for ocean freight and inland transport;
- deducted an amount for SG&A;¹⁸³
- deducted costs relating to pulp drying (adjustment made only when comparing the competitive price benchmark to RAK's slush pulp price).

The Commission considers that the resulting competitive cost benchmark is suitable for comparison to RAK's purchases of pulp originating from Indonesia, as the benchmark takes into account the circumstances pertaining to RAK's purchases of pulp, including that the benchmark relates to pulp originating from Indonesia, and that the product type is acacia bleached hardwood pulp which is the type of pulp consumed by RAK in the manufacture of the goods.

The competitive cost benchmark is also consistent with RAK's initial advice regarding the determination of the pulp transfer price (with the exception of the exclusion of an adjustment for volume rebates, for which no evidence was provided by RAK—refer section 4.6.3.4 of this report).

The determination of the competitive cost benchmark is at **Confidential Attachment 11**.

¹⁸³ The SG&A expense was sourced from APRIL's records in relation to Investigation 341 as this represents the best available information before the Commission for the purpose of this review.