

Ref.No. **760** /DAGLU.6.1/SD/08/2021

Jakarta, 5 August 2021

The Director
Investigations
GPO Box 2013
Canberra ACT 2601
Australia

Subject : Written Comments of the Government of Indonesia on the Initiation of Anti-Dumping Investigation Concerning A4 Copy Paper Exported to Australia from the Republic of Indonesia by PT. Pabrik Kertas Tjiwi Kimia Tbk (583)

Dear Sir,

The Government of Indonesia (GOI) refers to the initiation of the above captioned anti-dumping investigation that is now being conducted by the Australia Anti-Dumping Commission (AADC). Having carefully reviewed the Non-Confidential Application (NCA) submitted by Paper Australia Pty Ltd and Consideration report number 583 released by the AADC (Consideration report), the GOI would like to express views and concerns of Indonesian's A4 Copy Paper industry for your thorough consideration as follows.

A. INTRODUCTION

1. AADC initiated an anti-dumping investigation on A4 Copy Paper exported to Australia from the Republic of Indonesia by PT. Pabrik Kertas Tjiwi Kimia Tbk dated 2 Juni 2021, based on the application filed by Paper Australia Pty Ltd (Applicant).
2. The product under consideration (PUC) is A4 copy paper which is classified under tariff items 4802.56.10.03 and 4802.56.10.09.
3. The Period of Investigation (POI) for dumping in the present investigation is 1 April 2020 - 31 March 2021. The injury investigation period is 1 April 2017 - 31 March 2021.

B. THE APPLICANT DOES NOT MEET THE REQUIREMENTS OF DOMESTIC INDUSTRY UNDER ARTICLE 4.1 OF THE ANTI-DUMPING AGREEMENT (ADA)

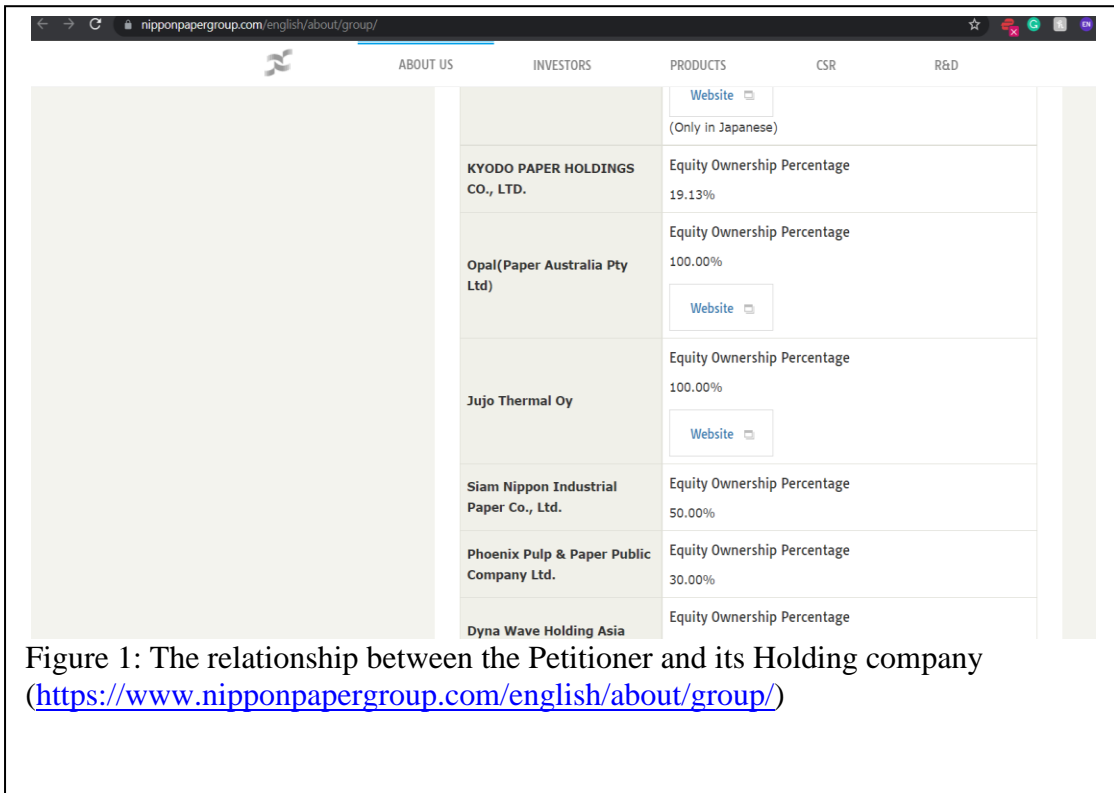
4. Article 4.1 of the Anti Dumping Agreement provides as follow:

"4.1 For the purposes of this Agreement, the term "domestic industry" shall be interpreted as referring to the domestic producers as a whole of the like products or to those of them whose collective output of the products constitutes a major proportion of the total domestic production of those products, except that:

(i) when producers are related¹¹ to the exporters or importers or are themselves importers of the allegedly dumped product, the term "domestic industry" may be interpreted as referring to the rest of the producers;

(footnote original) 11 For the purpose of this paragraph, producers shall be deemed to be related to exporters or importers only if (a) one of them directly or indirectly controls the other; or (b) both of them are directly or indirectly controlled by a third person; or (c) together they directly or indirectly control a third person, provided that there are grounds for believing or suspecting that the effect of the relationship is such as to cause the producer concerned to behave differently from non-related producers. For the purpose of this paragraph, one shall be deemed to control another when the form”

5. The Applicant, in its application, mentioned that it is a wholly-owned subsidiary of Nippon Paper Industries Co. Ltd (NPI) registered in Japan as shown in the figure below:



Since the Applicant and its Holding Company is a single economic entity, the Applicant's production, costs, and sales are closely related to its holding company, and accounted for as consolidated productions, costs, and sales. Hence, it is contentious to consider the Applicant as domestic producer under Article 4.1 (i) of the ADA, considering the Applicant and its Holding company are closely related where holding company is acting as the importers and controlling the Applicant. This fall under the definitions under footnote 11 of Article 4.1 (i) of the ADA. In light of this circumstances, under article 4.1.(i) of the ADA, the Applicant should be excluded from the rest of the domestic producers.

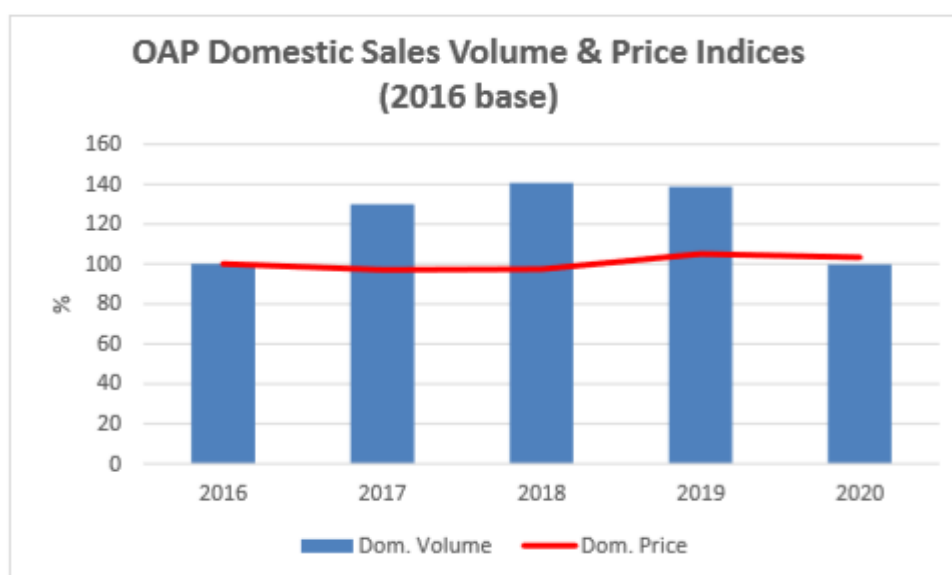
6. Contrary to the Applicant’s claim as the sole producer of the White Uncoated A4 Copy (Cut Sheet) Paper in Australia, there are other producers that have not inquired nor have been taken into consideration about their positions on this application. We believe the AADC should take other domestic producers’ positions regarding this application into consideration before proceeding with the investigation.

C. DETERMINATION OF DUMPING

Requirements of calculation of dumping margin based on actual record of PT. Tjiwi Kimia

7. The GOI would like to recall the established WTO case laws in the Panel and Appellate Body in DS473 (EU's imposition of anti-dumping duty on import of biodiesel from Argentina) and the Panel in DS480 (EU's imposition of anti-dumping duty against import of biodiesel from Indonesia), which is broadly reaffirmed by the Panel in DS529 on Australia's imposition of anti-dumping duty on import of A4 copy paper from Indonesia. The laws stated that the investigating authority is mandated to fully consider the costs data recorded and submitted by the producers, provided that such records are in accordance with the generally accepted accounting principles of the exporting country and reasonably reflect the costs associated with the production and sale of the PUC.
8. It should be noted in DS529, the Panel ruled that even if the distortion occurs but it permits proper comparison between the domestic price and export price, the investigating authority is not allowed to construct the normal value, let alone replace the cost of the producers. As such, the AADC is required to calculate dumping margin of PT. Tjiwi Kimia of the product under investigation based on their actual record only.
9. AADC examined the comparability of prices in a review of the anti-dumping measures on A4 copy paper from Indonesia (case 551) and concluded such prices were comparable. Specifically, the AADC examined the profit margin on sales in Indonesia and of those in Australia and found they were comparable. For that reason, during the investigation period, AADC will find Tjiwi Kimia's profit margins on sales in Indonesia were comparable to those for sales in Australia. Consequently, the AADC should use Tjiwi Kimia's sales in Indonesia for the purpose of normal value.

D. NO EVIDENCE OF INJURY



Source: Non-Confidential Application (NCA).

10. Based on the above data presented by the Applicant in Part A-5.2.1 of the NCA, the Applicant is able to maintain the domestic price stability from the period of 2016-2020, even though there was a significant decrease in the sales volume from 2019 to 2020.

E. LINK BETWEEN INJURY AND DUMPED IMPORTS

Decline in domestic sales, capacity utilisation, and employment is caused by the effect of Pandemic Covid-19 instead of dumped imports

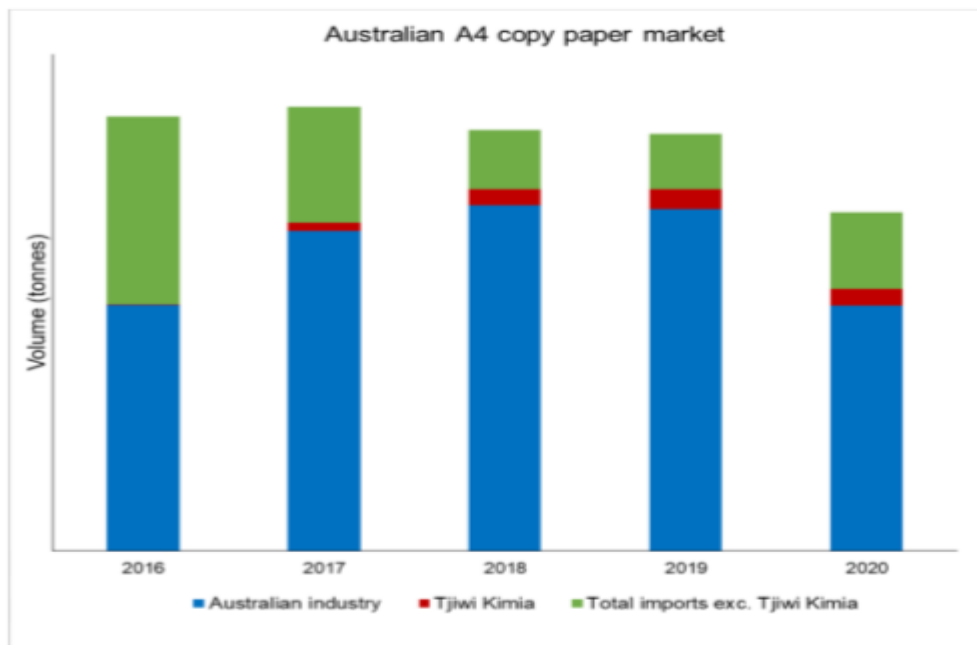


Figure 1: Australian market for A4 copy paper

Source: Consideration Report Number: 583.

11. Based on the above figure presented by the AADC in Part 2.5.1 of Consideration Report number 583, the Australian market in 2020 decreased compared to 2019 which followed by the reduction of sales volume of the Applicant from 2019 to 2020. This means Covid-19 pandemic affected the demand of A4 copy paper in the Australian Market.
12. Moreover, Part A-5 concerning Applicant's sales in the NCA demonstrates sales quantities of the Applicant's PUC decreased from 100 indexed point in 2016 to 99,7 in 2020. Although the Applicant acknowledged that the reduction in sales volume due to the impact of the pandemic COVID-19, noting that all Australian market participants including manufacturers and exporters/importers will have been equally affected by the pandemic as explained in Part A-5 NCA. Before 2020, the Applicant was able to increase its domestic sales volume between 2016 and 2019 due to the imposition of measures in April 2017 on injurious exports from Brazil, China, Indonesia, and Thailand (case 341) and the imposition of measures in April 2019 on injurious exports from Finland, Korea, Russia, Slovakia, and uncooperative Austrian exporters (case 463).
13. The Applicant also mentioned that the capacity utilisation decreased from 100 point index in 2016 to 80,09 indexed point in 2020. However, the Applicant admitted that the reduction in capacity utilisation for A4 copy paper production constitute the impact of reduced demand due to the COVID-19 pandemic as explained in Part A-3.3 NCA.
14. The reduction in employment also occurred from 2016 amounting to 100 indexed point to 91,18 indexed point in 2020. Again, the Applicant stated its reduction is inseparable from

the effect of pandemic COVID-19 which affected marketplace as explained in Part A-3.3 NCA.

15. Based on above explanations, the GOI is of the view that the Applicant's injury is not necessarily linked to dumped imports but is due to the impact of the COVID-19 pandemic, as mentioned in several sections of the Consideration report number: 583 released by the AADC.

In view of the facts above, the GOI strongly requests that the AADC terminates the present investigation without any measure.

The GOI avails itself of this opportunity to renew AADC the assurances of its highest considerations.

Thank you for your kind attention and cooperation.

Sincerely Yours,

A handwritten signature in blue ink, appearing to be 'Pradnyawati', with a stylized flourish at the end.

Pradnyawati

Acting Director of Trade Defence

Cc:

1. Acting Director General of Foreign Trade, Ministry of Trade of the Republic of Indonesia;
2. H.E. Ambassador of the Republic of Indonesia in Canberra, Australia accredited to the Republic of Vanuatu;
3. H.E. Ambassador of Australia to Indonesia in Jakarta;
4. Secretary of Directorate General of Foreign Trade, Ministry of Trade of the Republic of Indonesia.