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Public File

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The Director
Investigations 2
Anti-Dumping Commission
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Dear Sir/Madam

Investigation 588 - Opal Australian Paper response to UPM Asia Pacific Pte Ltd submission

I. Introduction

Paper Australia Pty Ltd (hereafter referred to as "Opal Australian Paper", or "OAP") has reviewed recent interested party submissions in response to the initiation of Continuation Inquiry Notice ("Inquiry 588") and responds to the Electronic Public Record ("EPR") submission No. 4 made on behalf of UPM Asia Pacific Pte Ltd ("UPM") and published on 10 August 2021.

In this submission Opal Australian Paper wishes to address factual errors made by the author in relation to OAP's application for continuation of measures as well as correcting commentary surrounding the relevant timeline in relation to this inquiry and OAP's agreements with Officeworks.

II. Compliance with Law

Opal Australian Paper finds the assertion that it has contravened the 'law of the Commonwealth' by submitting its application for the continuation of measures to be misguided. OAP notes that UPM does not provide evidence of any kind in support its unusual claim that OAP has breached some unnamed law. Further, UPM in its submission, somewhat hypocritically, omits information which must be considered by the author to be inconvenient and unsupportive of their narrative.

UPM claims that OAP has misled the Anti-Dumping Commission ("the Commission") by omitting information that UPM considers should have been disclosed in the associated application for the continuation of dumping measures ("the application") and is therefore in breach of s269ZHC(1)(c) of the *Customs Act 1901*. Opal Australian Paper rejects this incorrect assertion since OAP did in fact complete the form in its entirety to the satisfaction of the Commission as supported by the fact that the Commission saw it fit to initiate the inquiry. Further to this, following initiation of the inquiry on 2 July 2021, the Commission requested additional information ("RFI") from OAP in support of its application, which was again completed and submitted to the Commission on 29 July 2021.

To the extent that the application form and subsequent RFI are concerned OAP has provided all information relevant to the inquiry to the Commission in a timely and verifiably accurate manner.

III. Relevance to Inquiry Period

In Opal Australian Paper's application it had proposed an investigation period of calendar year 2020, and provided data and supporting commentary relevant to this investigation period. Subsequent to the submission of OAP's application the Commission suggested that it would shift the inquiry period forward 1 quarter to include the 12 month period commencing April 2020 to March 2021.

OAP was not given advanced notice of the preferred investigation period by the Commission and as such had no way of predicting that the Commission would not accept OAP's proposed period of inquiry. By UPM's own admission, the agreement for supply between OAP and its customer took place in [date] (and not signed by the parties until [date]). This did not fall within the investigation period proposed by OAP in the application (ending December 2020), nor did it take place within the subsequent period of inquiry recommended by the Commissioner in the initiation report (period ending March 2021).

Drafting of OAP's application commenced from January 2021 i.e. several months before discussions with OAP's customer were finalised, and furthermore, the confidential negotiations between senior OAP sales managers and [customer], are not circulated within the broader OAP business until such a time that the agreement is concluded. Therefore, those responsible for drafting the application (a responsibility undertaken by a completely different business unit) would have had no knowledge of the discussions until an even later time.

UPM in its submission also fails to highlight with the Commission the relevant commencement date of the [customer] agreement for supply, which does not commence until [date] i.e. XX months after the end of OAP's proposed inquiry period, and X months after the Commission's preferred inquiry period. UPM will be aware of this fact since [customer] expressly stipulated this commencement date as it needed to clear UPM stock prior to supply of Australian manufactured product. Hence it is clear that UPM has failed to accurately detail timelines that it considers are relevant to the Commission's investigations.

IV. Impact on Continuation

As per its application OAP contends that in the absence of appropriate dumping measures, UPM China and other dumped sources will continue or increase their exports to Australia at the expense of the Australian industry and any non-dumped imports. OAP reiterates the Commission's assessment in Investigation 341, that in 2015 i.e. the last time the Australian market operated without dumping measures, the dumped goods supplied 52 per cent of the Australian market. Furthermore, in that period China exported roughly 58,000 tonnes (28 per cent of the market), which in today's reduced market size would equate to around 45 per cent of the entire market. Market intelligence supplied to the Commission as part of OAP's Inv No. 341 application was verified to show that the vast majority if the dumped Chinese exports to Australia in 2015 were produced by UPM.

As recently as July 2021, UPM China was found by the Commission as part of Review 551 to be dumping in the Australian market despite the presence of measures. It is evident that in the absence of measures UPM China would likely continue to export its product to Australia at reduced prices to attract customers and secure lost volumes, resulting in a recurrence of dumping and material injury that the anti-dumping measures are intended to prevent.

It is apparent to Opal Australian Paper that Chinese exports continue to represent around 21 per cent of the Australian market despite the dumping measures. That is to say, whether dumping measures are in place or not, UPM China continues to demonstrate its willingness to export the goods to Australia at dumped prices.

To demonstrate how the presence, availability and even access to dumped price offers in the Australian market causes injury to the domestic industry, OAP reiterates the Commission's findings in previous investigations, and as recently as June 2021 when it published its review 551 Final Report, that *"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."*¹ Importantly, the Commission noted in the Review 547 Final Report, that *"the evidence before the Commission indicates that there is significant transparency in the pricing*

¹ REP 551 – Section 4.6.3.2 page 45.

of A4 copy paper, such that customers in various channels and segments of the market are aware of prices in the market.”² The implication is that the cross-channel trade verified by the Commission, along with price sensitivity and transparency creates a situation where the availability of dumped goods in any channel in the market, is likely to give rise to depressed or suppressed market prices either directly or indirectly. OAP has provided the Commission with examples of competitive price offers which have led prices expectations downwards regardless of whether the exported goods are actually supplied. Simply put, as long as dumped goods are offered/available to Australian customers, the domestic industry will be injured and threatened with future material injury due to the persisting market dynamics.

Irrespective of UPM's misconceptions about the timing and relevance of the information contained in its submission, it remains that in the absence of measures dumped exports would result in a recurrence of material injury and threaten future material injury to the domestic industry.

V. OAP's Market Share

UPM has made further reference to Opal Australian Paper's current market share which OAP wishes to correct. According to latest data available through TradeData International³, OAP's 3 month rolling market share was XX per cent, not the overstated 75 per cent claimed by UPM in their submission. To suggest that the Commission would have not initiated the Continuation Inquiry if it had access to the verifiably inaccurate and uninformed estimate of an interested party regarding OAP's market share is incorrect, not least for the fact that the Commission has access to actual import and sales data with which it will verify these matters during the inquiry process.

VI. Conclusion

Opal Australian Paper does not consider that the UPM submission provides any new and relevant information to the Commission.

It has been made clear that the negotiations between relevant parties were confidential and ongoing at the time of drafting OAP's application for the continuation of measures, and took place outside of the inquiry period and related to a period of supply which was far removed from the inquiry period.

OAP rejects in the strongest terms the assertions made by UPM that it omitted any information relating to the inquiry period in its application for the continuation of measures. OAP seeks to correct UPM's incorrect assertions relating to future sales by OAP and claimed market share holdings as not being supported by reliable information.

Finally, OAP encourages the Commission to conduct its inquiry process including full verification of all information contained within the application and RFI questionnaire responses free from the confusion and misdirection that UPM seeks to introduce with its submission.

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

Yours sincerely



Matt Decarne
Trade Affairs Manager

² REP 547 – Section 5.3.7 competition in the Australian market, page 58.

³ Based on collated exports to Australia up to the end of the inquiry period March 2021.