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The Director - Investigations 3
Anti-Dumping Commission
GPO Box 2013
Canberra ACT 2601

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Investigation into A4 Copy Paper exported from Brazil

Dear Director,

This submission is made on behalf of Sylvamo do Brasil Ltda ("Sylvalmo"), formerly known as International Paper do Brasil Ltda., the exporter of A4 copy paper from Brazil. This submission and the evidence contained within it, provide grounds for concluding that the existing measures applicable to exports by Sylvamo, are no longer warranted to prevent dumping and/or material injury from resuming.

Change of company names

It should be noted that from 4th August 2021, International Paper do Brasil Ltda., International Paper Exportadora Ltda. and International Paper Comércio de Papel Ltda., underwent a change in their corporate names to Sylvamo do Brasil Ltda., Sylvamo Exports Ltda. and Sylvamo Comercial Ltda, respectively.

The change in corporate name aims to complete International Paper's global action in creating a company focused on the Printing Paper business. In Brazil, only the company legal name was modified, as abovementioned, and there is no change in any other registration data that identifies the legal entity.

Upon completion of the spin-off of Sylvamo group of companies, the printing paper business will become a standalone, independent and publicly traded company.

Expiry of measures

Section 269ZHF(2) of the Customs Act ("the Act") explicitly requires that the Commissioner:

must not recommend that the Minister take steps to secure the continuation of the antidumping measures unless the Commissioner is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of,

the dumping or subsidisation and the material injury that the anti-dumping measure is intended to prevent.

The Commission's Dumping and Subsidy Manual¹ provides further guidance on the threshold test for establishing whether recurrence of dumping is 'likely'. It explains that:

In examining the likelihood of injury as a result of any future dumping or subsidy, the Commission takes guidance from WTO jurisprudence where 'likely' has been taken to mean 'probable'.

In US Drums², the WTO Dispute Panel found that the continued imposition of measures must be based on 'positive evidence'. The Panel stated:

Accordingly, we must assess the essential character of the necessity involved in cases of continued imposition of an anti-dumping duty. We note that the necessity of the measure is a function of certain objective conditions being in place, i.e. whether circumstances require continued imposition of the anti-dumping duty. That being so, such continued imposition must, in our view, be essentially dependent on, and therefore assignable to, a foundation of positive evidence that circumstances demand it. In other words, the need for the continued imposition of the duty must be demonstrable on the basis of the evidence adduced.

Further, the Appellate Body said of Article 11 in Corrosion Resistant Carbon Steel³:

In view of the use of the word "likely" in Article 11.3, an affirmative likelihood determination may be made only if the evidence demonstrates that dumping would be probable if the duty were terminated – and not simply if the evidence suggests that such a result might be possible or plausible.

Finally, in the review by the Anti-Dumping Review Panel (ADRP)⁴, the ADRP confirmed:

27. Undertaking a continuation inquiry requires a prospective examination of the likelihood of future dumping and material injury. In its reinvestigation report (REP 389) the ADC referred to the decision of the Federal Court in Siam Polyethylene Co Ltd v Minister for Home Affairs (No.2),⁸ where the Court held that the word "likely" in section 269ZHF(2) of the Act was taken to mean "more probable than not".

Therefore, the Act requires the Commissioner to recommend expiry of the measures, unless there is positive evidence to demonstrate that the recurrence of dumping and material injury in the future is likely or probable (ie. implying a greater degree of certainty that the event will occur than a finding that the event is not "not likely"). Sylvamo considers that the evidence and analysis set out in this submission provides a clear basis for concluding that it

¹ Dumping & Subsidy Manual; December 2013, page 153

² US Drums – WT/DS99/R; para 6.42, page 139

³ US – Sunset Review of Anti-Dumping Duties on Corrosion Resistant Carbon Steel Flat Products from Japan – WT/DS244/AB/R; para 111, pages 39-40.

⁴ ADRP Report No. 50 - Food Service and Industrial (FSI) Pineapple exported from the Kingdom of Thailand, pages 8-9.

is not considered likely that expiration of the measures would result in material injury continuing or recurring.

Brazil exports continue to be non-injurious

Exports of A4 copy paper by Sylvamo generally involves products that are non-standard in their characteristics compared to other typical product offerings in the Australian market. This includes:

- exclusive HP branded copy paper with ColorLok technology, optimised for use with HP printers;
- copy paper in non-standard weights of 90gsm; and
- fully recyclable copy paper including a 100% recyclable wrapper.

The characteristics that differentiate these products from other product offerings in the Australian market, also provide for a degree of market segmentation. For example, [REDACTED]

[REDACTED] [proprietary production information]. The ColorLok technology provides bolder blacks, richer colors and faster drying time, improves the recyclability of paper, reduces paper jams and extends the life of print devices when used with laser printers.

As a result of the improved printing performance, businesses, offices and consumers using HP printers are recommended to use HP Inkjet and LaserJet paper, as the paper is specifically designed and manufactured to work best with HP printers. For certain customers then, purchasing decisions will take into account HP's recommendation for the preferred paper, and not purely based on price.

In addition, the export volume of subject goods by Sylvamo has been negligible in the Australian market, both prior to and since the imposition of measures in 2017. The table below shows Sylvamo's export volumes for each year since 2012 and the relative share of the total Australian market. The data confirms that Sylvamo's exports have historically been negligible.

[CONFIDENTIAL TABLE REDACTED]

This again reflects the specialised nature of the copy paper products exported by Sylvamo, and the exclusive distribution channel via the importer, Jackaroo Paper, which itself is a supplier of specialised paper and packaging products.

Based on past and current volumes, there is a clear trend that exports by Sylvamo remain insignificant in the Australian market, confirming that in the absence of measures, material injury caused by Sylvamo's exports would not recur.

Patterns of trade and distribution links

Sylvamo has been exporting to Australia since [REDACTED] and as highlighted in the earlier table, volumes have remained immaterial over that period. The Commission can also observe that Sylvamo has maintained a stable and exclusive distribution link with Jackaroo

Paper. Sylvamo does not and has not sought to acquire new customers in the Australian market, given its exclusive trading arrangement with Jackaroo Paper.

Impact of dumping cases

In its application for continuation, Australian Paper refers to existing measures on subject exports from Brazil into Mexico, Pakistan and the United States (US), as evidence that the continuation of measures by those jurisdictions could lead to excess capacity that may be directed to Australia. The clear evidence does not support this allegation.

In the case of exports to Pakistan, Sylvamo's export volumes [REDACTED] despite the imposition of trade remedy measures in 2018, as evidenced in the table below.

[CONFIDENTIAL TABLE REDACTED]

With regard to US trade remedy measures, Sylvamo has not been a material exporter and has not been impacted by the imposition of the measures. As the Commission is aware, Sylvamo's parent company, International Paper Company, is a local producer of the subject goods in the US. As such, the US market is not a major export market for Sylvamo. Instead, Sylvamo continues to export [REDACTED]

[REDACTED]

[REDACTED] **[Detailed terms and conditions of third country exports].**

Therefore, the current trade remedy measures on imports from Brazil do not and have not impacted Sylvamo's pattern of exports or capacity utilisation.

In the case of exports to Mexico, the trade remedy measures were imposed on a broad range of cut size paper and paper roll products. It is therefore worth noting that Sylvamo's exports to Mexico differ to the goods exported to Australia, being primarily focused on jumbo rolls, folio sheets and rolls in general. Despite the imposed measures, Sylvamo continues to export these non-subject goods to Mexico, confirming that the trade remedy measures have not materially impacted Sylvamo's capacity utilisation of A4 copy paper.

Irrespective of the trade remedy measures imposed in the three jurisdictions, Sylvamo reiterates that its exports to Australia have always been negligible, representing less than [REDACTED] % of its total production capacity. Therefore, the impact of trade remedy measures has no bearing on Sylvamo's export volumes to Australia.

Brazil domestic market for cut size paper

The table below outlines estimated import volumes of A4 copy paper into Brazil from various countries over the last five years. It highlights a similar trend evident in the Australian market, with relatively stable volumes from 2017-2019, followed by reduced volumes in 2020 and 2021. The recent declines can be attributed to the impact of COVID-19 on supply chain disruptions and reduced need for printing, and the sharp increase in international shipping rates.

[CONFIDENTIAL TABLE REDACTED]

In any case, import competition is not a substantial share of the domestic market, with main competition for domestic sales coming from other local producers.

Capacity

Sylvamo's capacity utilisation has improved since the previous review of measures, increasing by approximately ■ percentage points through to the current inquiry period. The improvement in capacity utilisation is a result of increased cutsize sales while reduce sales of rolls and folio sheets. The improvement in capacity utilisation is a result of improved A4 sales. Whilst additional capacity remains, Sylvamo again repeats that its exports to Australia represent a tiny fraction of total sales and total production capacity.

[CONFIDENTIAL TABLE REDACTED]

Value of exported goods

Sylvamo is unaware of retail and distributor prices in the Australian market, or the degree to which prices of various paper products compete on price. For a clearer understanding of price comparisons, including goods manufactured by Sylvamo, the Commission is advised to have regard to the submissions and information presented by Jackaroo Paper. In particular, it is noted that Jackaroo Paper provides strong evidence that goods manufactured by Sylvamo were not undercutting locally produced like goods.

Conclusion

Sylvamo submits that its exports of the subject goods to Australia, continue to be of negligible volumes and representative of atypical products. These characteristics remain unchanged despite the imposition of measures. The past and current evidence confirms that in the absence of measures, Sylvamo's exports would continue at negligible levels given that the products comprise mainly HP branded paper and 90gsm branded paper.

All evidence presented in this submission is included in Confidential Appendix A.