



CUSTOMS ACT 1901 - PART XVB

REPORT NO. 588

**INQUIRY CONCERNING THE CONTINUATION 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
AND THE KINGDOM OF THAILAND**

4 March 2022

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ABBREVIATIONS

| | |
|------------------|---|
| \$ | Australian dollars |
| ABF | Australian Border Force |
| the Act | <i>Customs Act 1901</i> |
| ADN | Anti-Dumping Notice |
| AFEM | APRIL Far East (Malaysia) Sdn. Bhd. |
| AKU | PT Anugerah Kertas Utama |
| APR | PT Asia Pacific Rayon |
| APRIL | Asia Pacific Resources International Limited. |
| Asia Symbol | Asia Symbol (Guangdong) Paper Co., Ltd |
| Brazil | the Federative Republic of Brazil |
| China | the People's Republic of China |
| CIF | Cost, Insurance and Freight |
| the commission | the Anti-Dumping Commission |
| the Commissioner | the Commissioner of the Anti-Dumping Commission |
| CTMS | cost to make and sell |
| CY | calendar year |
| the Direction | <i>Ministerial Direction on Material Injury 2012</i> |
| Double A | Double A (1991) Public Co., Ltd |
| Dumping Duty Act | <i>Customs Tariff (Anti-Dumping) Act 1975</i> |
| EPR | electronic public record |
| EXW | Ex Works |
| FIS | Free Into Store |
| FOB | Free On Board |
| GAAP | generally accepted accounting principles |
| Greenpoint | Greenpoint Global Trading (Macao Commercial Offshore) Ltd |
| gsm | grams per square metre |
| GOB | Government of Brazil |
| GOC | Government of China |
| GOI | Government of Indonesia |
| the goods | A4 copy paper, the goods the subject of the application (also referred to as the goods under consideration) |
| the Guidelines | <i>Guidelines on the Application of Forms of Dumping Duty November 2013</i> |
| ICD | interim countervailing duty |

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|----------------------------|--|
| IDD | interim dumping duty |
| Indah Kiat | PT Indah Kiat Pulp & Paper Tbk |
| Indonesia | the Republic of Indonesia |
| International Paper | International Paper do Brasil Ltda. |
| Investigation 341 | <i>Anti-Dumping Investigation No. 341</i> |
| Investigation 463 | <i>Anti-Dumping Investigation No. 463</i> |
| Investigation 583 | <i>Anti-Dumping Investigation No. 583</i> |
| Jackaroo | Jackaroo Pty Ltd |
| the Manual | <i>Dumping and Subsidy Manual (December 2021)</i> |
| MCC | model control code |
| Mexico | the United Mexican States |
| the Minister | the Minister for Industry, Energy and Emissions Reduction |
| MT | metric tonnes |
| Nine Dragons | Nine Dragons Paper (Holdings) Limited |
| NIP | non-injurious price |
| NPI | Nippon Paper Industries Co. Ltd |
| OCOT | ordinary course of trade |
| OECD | Organisation for Economic Co-operation and Development |
| the original investigation | Investigation 341 |
| p.a. | per annum |
| PAD | Preliminary Affirmative Determination |
| Pakistan | the Islamic Republic of Pakistan |
| Paper Australia | Paper Australia Pty Ltd |
| the period of analysis | 1 July 2020 to 30 June 2021 |
| Pindo Deli | PT Pindo Deli Pulp & Paper Mills |
| RAK | PT Riau Andalan Kertas |
| RAPP | PT Riau Andalan Pulp and Paper |
| the Regulation | <i>Customs (International Obligations) Regulation 2015</i> |
| REP 341 | <i>Anti-Dumping Commission Report No. 341</i> |
| REP 463 | <i>Anti-Dumping Commission Report No. 463</i> |
| REP 547 | <i>Anti-Dumping Commission Report No. 547</i> |
| REP 551 | <i>Anti-Dumping Commission Report No. 551</i> |
| REQ | response to exporter questionnaire |
| Review 547 | <i>Review of Measures No. 547</i> |
| Review 551 | <i>Review of Measures No. 551</i> |

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|-----------------------|--|
| RGQ | response to government questionnaire |
| RISI | Fastmarkets RISI |
| ROI | return on investment |
| ROK | Republic of Korea |
| Russia | the Russian Federation |
| SEF | statement of essential facts |
| SEF 588 | <i>Statement of Essential Facts No. 588</i> |
| Shandong Chenming | Shandong Chenming Paper Holdings Limited |
| Slovakia | the Slovak Republic |
| the subject countries | collectively, Brazil, China, Indonesia and Thailand |
| Sylvamo | Sylvamo Exports Ltda (formerly International Paper Exportadora Ltda) |
| Sylvamo Brazil | Sylvamo do Brasil Ltda (formerly International Paper do Brasil Ltda) |
| Tjiwi Kimia | PT Pabrik Kertas Tjiwi Kimia Tbk |
| Thailand | the Kingdom of Thailand |
| UPM | collectively, UPM Asia Pacific Pte Ltd and UPM (China) Co., Ltd |
| UPM-AP | UPM Asia Pacific Pte Ltd |
| UPM China | UPM (China) Co., Ltd |
| USA | the United States of America |
| USP | unsuppressed selling price |
| WTO | World Trade Organization |
| Yueyang Forest | Yueyang Forest & Paper Co., Ltd. |

1 SUMMARY AND RECOMMENDATIONS

1.1 Introduction

The Anti-Dumping Commission (the commission) has prepared this report in relation to whether 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) and
- the Kingdom of Thailand (Thailand),

(collectively referred to as the subject countries) should continue or expire. The anti-dumping measures are in the form of a dumping duty notice (applying to all subject countries) and a countervailing duty notice (applying to China only).

The anti-dumping measures currently applicable to exports of the goods to Australia from the subject countries are due to expire on 19 April 2022.¹

The Commissioner of the Anti-Dumping Commission (the Commissioner) initiated the inquiry on 2 July 2021 following consideration of an application lodged by Paper Australia Pty Ltd (Paper Australia). Paper Australia is a body corporate representing the whole of the Australian industry producing like goods to the goods covered by the measures (see section 269ZHB(1)(b)(ii) of the *Customs Act 1901* (the Act)).²

This report sets out the findings and conclusions on which the Commissioner has based his recommendations to the Minister for Industry, Energy and Emissions Reduction (the Minister). The Commissioner recommends that the measures be continued.

In preparing this report, the Commissioner had regard to:

- the application seeking a continuation of the current measures
- submissions relating generally to the continuation of the current measures to which the Commission has had regard for the purpose of formulating the *Statement of Essential Facts No. 588* (SEF 588)
- SEF 588
- submissions made in response to SEF 588
- submissions that were made just prior to publication of SEF 588, but were not considered in its preparation, as to do so would have prevented the timely publication of SEF 588 by the due date.³

1.2 Legislative framework

Division 6A of Part XVB sets out, among other things, the procedures the Commissioner is required to follow when considering an application for the continuation of anti-dumping measures.

¹ Under section 269TM, dumping duty notices and countervailing duty notices expire 5 years after the date of publication, unless revoked earlier. If not continued, the anti-dumping measures would no longer apply on and from 20 April 2022.

² All legislative references in this report are to the *Customs Act 1901* unless otherwise stated.

³ Section 269ZHE(3) refers.

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Section 269ZHE(1) requires the Commissioner to publish a SEF on which to base recommendations to the Minister concerning the continuation of the measures. Section 269ZHE(2) specifies that the Commissioner:

- must have regard to the application and any submissions received within 37 days of the initiation of the inquiry and
- may have regard to any other matters that the Commissioner considers relevant.

Pursuant to section 269ZHF(4), the Commissioner is not obliged to have regard to any submissions made in response to the SEF that are received after the end of the 20 day period referred to in section 269ZHF(3)(a)(iv) if to do so would, in the Commissioner's opinion, prevent the timely preparation of this report to the Minister. In respect of SEF 588, the Commissioner specified a period longer than 20 days, pursuant to section 269SMG, to account for the due date for submissions coinciding with the Australian Christmas and New Year holiday period. The alternative due date specified by the Commission was 11 January 2022.

Pursuant to section 269ZHF(2), the Commissioner must not recommend that the Minister take steps to secure the continuation of the measures unless 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 and/or subsidisation and the material injury that the measure is intended to prevent.

Pursuant to section 269ZHF(1)(a), in giving the Minister a report, the Commissioner must recommend:

- that the notice remain unaltered or
- that the notice cease to apply to a particular exporter, or to a particular kind of goods, or
- that the notice have effect in relation to a particular exporter or to exporters generally, as if different variable factors had been ascertained, or
- that the notice expire on the specified expiry day.

1.3 Statement of essential facts

The Commissioner published SEF 588 on 17 December 2021.⁴ SEF 588 sets out the findings of the Commissioner and the Commissioner's proposed recommendation to the Minister based on the information before the Commissioner at that time.

1.4 Findings and recommendations

Based on the evidence before him, the Commissioner is satisfied that the expiration of the measures on exports of A4 copy paper from Brazil, China, Indonesia and Thailand would lead, or would be likely to lead, to a continuation of, or a recurrence of, dumping and subsidisation and the material injury that the measures are intended to prevent.

In relation to exports by PT Riau Andalan Kertas (RAK) and all other exporters from Indonesia, the commission has found that there has been a change in the variable

⁴ EPR 588, Item No. 023

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factors.⁵ Consistent with the Commissioner's notice initiating the inquiry, the variable factors for all other subject countries remain unchanged.

Based on the above findings, the Commissioner recommends that the Minister:

- take steps to secure the continuation of the dumping duty notice applicable to the goods exported from Brazil, China, Indonesia and Thailand
- take steps to secure the continuation of the countervailing duty notice applicable to the goods exported from China, and
- alter the variable factors for the dumping duty notice in relation to exports by
 - RAK from Indonesia and
 - all other subject exporters from Indonesia.

The Commissioner further recommends that interim dumping duty (IDD) be collected for all exporters using the combination of fixed and variable duty method, and that interim countervailing duty (ICD) be collected for all exporters subject to the notice as a proportion of the export price.⁶

The Commissioner also recommends that the non-injurious price (NIP) will be the operative measure for exports to Australia by the following entities:

- all exporters from Brazil
- all exporters from China, except for UPM Asia Pacific Pte Ltd (UPM-AP) and
- all exporters from Thailand.

The effect of these recommendations, if accepted, are summarised in Table 1.

| Country | Exporter | IDD rate | ICD rate |
|-----------|--|----------|----------------|
| Brazil | Sylvamo Exports Ltda ⁷ | 8.1% | Not applicable |
| | All other exporters | | |
| China | UPM Asia Pacific Pte Ltd | 3.2% | Not applicable |
| | Greenpoint Global Trading (Macao Commercial Offshore) Ltd | 10.0% | |
| | All other exporters | 3.0% | 7.0% |
| Indonesia | PT Riau Andalan Kertas | 59.7% | Not applicable |
| | All other exporters <u>except</u> (PT Indah Kiat Pulp & Paper Tbk, PT Pabrik Kertas Tjiwi Kimia Tbk and PT Pindo Deli Pulp & Paper Mills) ⁸ | | |
| Thailand | Double A (1991) Public Company Ltd | 0.9% | Not applicable |
| | All other exporters | | |

Table 1 Summary of recommended measures

⁵ The variable factors relevant to the dumping duty notice are the normal value, the export price and the non-injurious price (section 269T(4D)(a) refers). If the measures are continued, the commission considers that it is appropriate to establish a contemporary basis for calculating the payment of interim duty.

⁶ Section 5 of the *Customs Tariff (Anti-Dumping) Regulation 2013*.

⁷ Formerly International Paper Exportadora Ltda.

⁸ Following the completion of Review of Measures No. 547, with effect from 12 March 2020, the anti-dumping notice was revoked on exports by Indah Kiat and Pindo Deli (ADN No. 2020/090 refers). The notice does not apply to PT Pabrik Kertas Tjiwi Kimia Tbk because Investigation 341 found that its exports were not dumped (ADN No. 2017/34 refers).

2 BACKGROUND

2.1 Initiation and current measures

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 then Assistant Minister for Industry, Innovation and Science, and Parliamentary Secretary to the Minister for Industry, Innovation and Science. The measures were imposed following consideration of *Anti-Dumping Commission Report No. 341* (REP 341).⁹

Anti-Dumping Investigation No. 341 (Investigation 341, or ‘the original investigation’) and the imposition of the measures resulted from an application made under section 269TB by Paper Australia who represented the Australian industry producing like goods.

On 7 July 2021, the Minister altered the anti-dumping and countervailing measures to have effect as if different variable factors had been fixed in respect of exporters generally. The variable factors were altered following consideration of *Anti-Dumping Commission Report No. 551* (REP 551).¹⁰

The dumping duty notice applies to all exporters of A4 copy paper from the subject countries except the following exporters from Indonesia:

- PT Indah Kiat Pulp & Paper Tbk (Indah Kiat)
- PT Pabrik Kertas Tjiwi Kimia Tbk (Tjiwi Kimia)
- PT Pindo Deli Pulp & Paper Mills (Pindo Deli).¹¹

The countervailing duty notice applies to all exporters of A4 copy paper from China except for:

- Greenpoint Global Trading (Macao Commercial Offshore) Ltd (Greenpoint)
- UPM-AP

The anti-dumping measures are due to expire on 19 April 2022.¹²

A background to key cases in relation to the goods is summarised in Table 2.

| Case type and no. | ADN number | Date | Country of export | Findings |
|-----------------------|----------------------|---------------|---|--|
| Investigation 341 | 2017/039 2017/040 | 19 April 2017 | Brazil China Indonesia Thailand | Measures imposed on exporters from all subject countries (except Tjiwi Kimia). |
| Investigation No. 463 | 2019/037 | 10 April 2019 | Austria Finland Korea Russia Slovakia | Measures imposed on exporters from all countries except Austria (ADN No. 2019/036) |

⁹ ADN Nos. 2017/39 (dumping) and 2017/40 (subsidy) refer. REP 341 is available on the commission’s website.

¹⁰ ADN No. 2021/075 refers. REP 551 is available on the commission’s website.

¹¹ Following the completion of Review of Measures No. 547, with effect from 12 March 2020, the anti-dumping notice was revoked on exports from Indonesia by Indah Kiat and Pindo Deli (ADN No. 2020/090 refers).

¹² On and from 20 April 2022, if not continued, the anti-dumping measures would no longer apply.

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| Case type and no. | ADN number | Date | Country of export | Findings |
|----------------------------|------------|-------------------|--|---|
| Review of Measures No. 547 | 2020/090 | 14 September 2020 | Indonesia | Dumping duty notice applying to Indah Kiat and Pindo Deli was revoked |
| Review of Measures No. 551 | 2021/075 | 9 July 2021 | Brazil China Indonesia Thailand | Variable factors altered for all exporters from the subject countries (except Tjiwi Kimia, Indah Kiat and Pindo Deli) |

Table 2 Summary of cases undertaken in relation to the goods

Table 3 sets out the current measures (from *Review of Measures No. 551* (Review 551)) applying to exports of the goods to Australia.

| Country | Exporter | Dumping notice | | Countervailing notice | |
|-----------|---|---|---------------------|----------------------------|--------------------|
| | | Method | Effective IDD rate | Method | Effective ICD rate |
| Brazil | Sylvamo Exports Ltda. ¹³ | Combination of fixed and variable duty method | 8.1% | Not applicable | |
| | Uncooperative and all other exporters | | 8.1% | | |
| China | UPM Asia Pacific Pte Ltd | | 3.2% | Not applicable | |
| | Greenpoint Global Trading (Macao Commercial Offshore) Ltd | | 10.0% | | |
| | Uncooperative and all other exporters (dumping) Non-cooperative entities (subsidy) | | 3.0% | Proportion of export price | 7.0% |
| Indonesia | PT Riau Andalan Kertas | | 13.8% ¹⁴ | Not applicable | |
| | Uncooperative and all other exporters | | 19.2% | | |
| Thailand | Double A (1991) Public Company Ltd | | 0.9% | Not applicable | |
| | Uncooperative and all other exporters | | 0.9% | | |

Table 3 Summary of current measures applying to the goods

Further details on the measures is available on the Dumping Commodity Register at: www.adcommission.gov.au

¹³ International Paper Exportadora Ltda changed its name to Sylvamo Exports Ltda (Sylvamo), effective from 4 August 2021. The producer of the goods in Brazil, International Paper do Brasil Ltda was also renamed Sylvamo do Brasil Ltda (Sylvamo Brazil).

¹⁴ As amended by ADRP Report No. 138.

2.1.1 Submissions in response to the initiation of the inquiry

The commission received several submissions relating to the Commissioner's consideration of Paper Australia's application.

- UPM-AP at EPR 004 claimed that Paper Australia's application did not comply with section 269ZHC(1)(c). It also made a further submission at EPR 006.¹⁵
- Paper Australia at EPR 005, EPR 011 and EPR 012.¹⁶
- APRIL Far East (Malaysia) Sdn. Bhd. (AFEM) submitted amongst other things at EPR 007 that Paper Australia's application for the inquiry did not provide grounds or supporting evidence to satisfy section 269ZHD(2).¹⁷
- Jackaroo Paper Pty Ltd (Jackaroo), an importer of the goods from Brazil, made a submission at EPR 009 in response to Paper Australia's submission at EPR 005.¹⁸

UPM-AP's submission relates to Paper Australia's compliance with section 269ZHC(1)(c) and the requirement that an application must contain such information as the form requires. UPM-AP claims that Paper Australia's application omits relevant information regarding a 2021 agreement between UPM-AP's customer and Paper Australia. That agreement resulted in the customer switching supply from UPM-AP to Paper Australia.

The commission's application form (B600) requests certain information from applicants. The Commissioner considered Paper Australia provided the required information.

Paper Australia completed the B600 application form by answering each question, providing source data for the figures in its application and acquiring third party data to inform its responses. The data presented by Paper Australia spanned the period 2016 to 2020. Following initiation of the inquiry, Paper Australia provided further sales and cost information for the March quarter of 2021.

Notwithstanding the omission of Paper Australia's 2021 supply agreement, the commission reiterates the requirement of the Commissioner to consider section 269ZHD(2)(b) and whether there appear to be reasonable grounds for the application.

Paper Australia's application addressed a range of issues and provided a large body of relevant information. Information that would reasonably be available to the applicant. The Commissioner also had regard to other relevant information as permitted by section 269ZHD(1)(b). Based on this information, the Commissioner was satisfied there appeared to be reasonable grounds for the application.

The commission raised the matter of UPM-AP's submission with Paper Australia during verification of its economic condition. After ascertaining the agreement is relevant information, it has been relied upon to formulate the recommendations to the Minister outlined in this report. The commission therefore considers that its investigative processes have addressed the matters raised by these submissions.

¹⁵ EPR 588, Item No. 004 and 006

¹⁶ EPR 588, Item No. 005

¹⁷ EPR 588, Item No. 007

¹⁸ EPR 588, Item No. 009

2.2 Conduct of inquiry

The Commissioner recently completed Review of Measures No. 551 (Review 551) pursuant to Division 5 of Part XVB of the Act. The Minister accepted the findings and recommendations resulting from that review. The Commissioner's initiation notice proposed to have regard to the variable factors determined in Review 551 for the purpose of this inquiry.¹⁹

Notwithstanding the proposal outlined in the initiation notice, the commission made exporter and importer questionnaires available for completion by interested parties.

The initiation notice informed interested parties to complete exporter questionnaires by no later than close of business on Monday 9 August 2021. The period relevant to the information requested in the exporter questionnaire was 1 July 2020 to 30 June 2021 (the analysis period).

The commission has also examined data from the Australian Border Force (ABF) import database from 1 January 2010 and financial data from the Australian industry from 1 January 2015 for the purposes of analysing trends in the market for the goods and assessing potential injury factors.

2.2.1 Statement of essential facts

The initiation notice initially advised publication of the SEF was due by 20 October 2021. However, as advised in ADN No. 2021/132 the Commissioner approved an extension of time for the publication of the SEF until 17 December 2021.²⁰

2.2.2 Report to the Minister

The Commissioner must, within 155 days after the initiation of an inquiry, or such longer period as is allowed under section 269ZHI(3), give the Minister a report recommending that the relevant notice:

- remain unaltered
- cease to apply to a particular exporter or to a particular kind of goods
- have effect in relation to a particular exporter, or to exporters generally as if different variable factors had been ascertained, or
- expire on the specified expiry day.

The initiation notice advised that the Commissioner would provide a report to the Minister on, or before, 6 December 2021. As advised in ADN No. 2022/012, the Commissioner approved an extension of time to provide the Minister a report by 4 March 2022.²¹

¹⁹ ADN 2021/082. The review period established in Review 551 was 1 January to 31 December 2019.

²⁰ EPR 588, Item No. 016.

²¹ EPR 588, Item No. 031.

2.2.3 Australian industry

The Commissioner is satisfied that the Australian industry for the continuation of the measures, Paper Australia, is the person specified under section 269ZHB(1)(b)(ii), being the person representing the whole of the Australian industry producing like goods to the goods covered by the measures.

The commission conducted a verification of the information provided by Paper Australia in its application. The report made in relation to the verification is available on the EPR.²²

2.2.4 Importers

The commission identified several entities in the ABF import database who had imported the goods from the subject countries. As outlined in the initiation notice, the commission did not forward a copy of the importer questionnaire to any interested parties. However, the commission placed a copy of the importer questionnaire on its website for voluntary completion. The commission did not receive any responses to the importer questionnaire.

2.2.5 Exporters

The commission identified several suppliers in the ABF import database who had exported the goods from the subject countries. As outlined in the initiation notice, the Commissioner proposed to have regard to the variable factors determined in Review 551, for the purposes of this continuation inquiry.

As outlined in the initiation notice the commission did not send an exporter questionnaire to any interested parties. However, the commission placed a copy of the exporter questionnaire on its website for voluntary completion.

The commission received one exporter questionnaire from AFEM in connection with exports by RAK from Indonesia.²³ RAK and AFEM are related parties and are both subsidiaries of Asia Pacific Resources International Limited (APRIL). AFEM is involved in the export of the goods to Australia.

The commission accepted the REQ from AFEM following an extension of 29 days to the initial deadline for the receipt of questionnaires by 9 August 2021. Information relating to the verification of AFEM's response is available on the EPR.²⁴

2.2.6 Governments

The commission contacted the Government of China (GOC) at the outset to advise that the inquiry had been initiated. The commission also invited the GOC to submit a questionnaire regarding information relevant to the countervailing duty notice. The commission did not receive a response from the GOC.

²² EPR 588, Item No. 015

²³ EPR 588, Item No. 010

²⁴ EPR 588, Item No. 020

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On 7 July 2021, the Government of the Federative Republic of Brazil submitted that it acknowledged the receipt of ADN No. 2021/082 and requested to be included as an interested party in the inquiry process.²⁵

2.3 Submissions received from interested parties

Submissions received by the commission prior to publication of SEF 588 are summarised in Table 4. Prior to the publication of SEF 588, the commission had insufficient time to consider two submissions received from AFEM on 16 December 2021.²⁶ The commission did not have regard to AFEM's submissions, as to do so would have, in the Commissioner's opinion, prevented the timely placement of SEF 588 on the public record.²⁷ The commission has, therefore, had regard to AFEM's submissions in this report to the Minister. The preparation of SEF 588 considered all other submissions listed in Table 4.

| EPR Item No. | Interested Party | Date Received |
|--------------|---|---------------|
| 003 | Federative Republic of Brazil – Recognition of interested party status | 07/07/2021 |
| 004 | UPM Asia Pacific Pte Ltd – Paper Australia application compliance with section 269ZHC(1)(c) of the Act | 09/08/2021 |
| 005 | Paper Australia Pty Ltd – Response to UPM at EPR 004 | 23/08/2021 |
| 006 | UPM Asia Pacific Pte Ltd – Response to Paper Australia at EPR 005 | 03/09/2021 |
| 007 | AFEM – Scope of inquiry, legal test of likely and material injury, application deficiencies, response to initiation notice ADN 2021/082 | 07/09/2021 |
| 008 | Jackaroo Paper Pty Ltd – Expiry of measures on goods from Brazil | 07/09/2021 |
| 009 | Jackaroo Paper Pty Ltd – Response to submissions at EPR 004 & 005 | 08/09/2021 |
| 011 | Paper Australia Pty Ltd - Response to UPM at EPR 006 | 22/09/2021 |
| 012 | Paper Australia Pty Ltd – Response to Jackaroo at EPR 008 & 009 | 23/09/2021 |
| 013 | Paper Australia Pty Ltd – Pre-verification exporter briefing | 06/10/2021 |
| 014 | Sylvamo do Brazil Ltda – grounds that measures are no longer warranted | 08/10/2021 |
| 017 | AFEM – Approach to normal value calculation for RAK | 10/11/2021 |
| 018 | AFEM – Response to Paper Australia briefing at EPR 013 | 10/11/2021 |
| 019 | Paper Australia Pty Ltd – Response to AFEM at EPR 017 | 29/11/2021 |
| 021 | AFEM – Grounds arguing continuation of measures is not warranted | 16/12/2021 |
| 022 | AFEM – Response to draft verification report for RAK. | 16/12/2021 |

Table 4 Submissions received prior to publication of SEF 588

Table 5 details submissions received after the publication of SEF 588.

²⁵ EPR 588, Item No. 003

²⁶ EPR 588, Item Nos. 021 and 022.

²⁷ Section 269ZHE(3) refers.

PUBLIC RECORD

| EPR Item No. | Interested Party | Date Received |
|--------------|---|---------------|
| 024 | UPM Asia Pacific Pt Ltd – argues grounds that exports from China are not likely to continue, the inquiry's initiation is not valid and the commission's price undercutting analysis is incorrect. | 11/01/2022 |
| 025 | Paper Australia Pty Ltd – submission expressing support from the proposed recommendations in SEF 588 | 11/01/2022 |
| 026 | Jackaroo Paper Pty Ltd – argues that continued exports from Brazil are not likely to lead to material injury and price undercutting | 12/01/2022 |
| 027 | Joint submission by RAK and AFEM – Statutory test, RAK dumping margin, grounds for continuation, national interest test. | 17/01/2022 |
| 028 | Sylvamo do Brazil Ltda – grounds that measures are no longer warranted and price undercutting analysis | 18/01/2022 |
| 029 | Paper Australia Pty Ltd – submission in response to EPR items 026 and 028 | 19/01/2022 |
| 030 | Joint submission by RAK and AFEM – Supplementary information to EPR 027 | 25/01/2022 |
| 032 | Paper Australia Pty Ltd – submission in response to EPR Item 024 | 10/02/2022 |
| 033 | Government of Brazil – Comments on price undercutting analysis | 17/02/2022 |
| 034 | UPM Asia Pacific Pt Ltd – submission in response to EPR Item 032. | 18/02/2022 |
| 035 | Joint submission by RAK and AFEM – All other exporters | 2/03/2022 |

Table 5 Submissions received in response to the publication of SEF 588

The Commissioner must have regard to any submission made in response to the SEF that interested parties provide within 20 days after placing the SEF on the public record.²⁸ Because the 20 day period set aside for submissions coincided with the Australian Christmas and New Year holiday period, the Commissioner specified a longer period for the receipt of submissions, 11 January 2022.²⁹ The Commissioner is not obliged to have regard to any submission in response to the SEF after this date, if to do so would, in the Commissioner's opinion, prevent the timely preparation of the final report to the Minister.³⁰ The Commissioner may also disregard information for which an interested party did not provide a public summary unless it could demonstrate the information was correct.³¹

The Commissioner has had regard to all of the submissions referred to in Tables 4 and 5 in the preparation of this report, but for the submission from RAK and AFEM received on 2 March 2022. In the Commissioner's opinion, to have regard to this submission would have delayed the timely preparation of this report.

2.4 Public record

The public record contains non-confidential submissions received from interested parties, non-confidential versions of the commission's verification reports and other publicly available documents. It is available online via the EPR at: www.adcommission.gov.au

Interested parties should read this in report in conjunction with documents on the public record.

²⁸ Section 269ZHF(3)(a)(iv).

²⁹ Section 269SMG.

³⁰ Section 269ZHF(4).

³¹ See sections 269ZJ(5) and (6).

3 THE GOODS AND LIKE GOODS

3.1 Finding

The Commissioner is satisfied that the A4 copy paper produced locally is “like” to the goods subject to the anti-dumping measures.

3.2 Legislative framework

In order to be satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation or recurrence of dumping or subsidisation, the Commissioner assesses whether the goods produced by the Australian industry are “like” to the imported goods. Section 269T(1) defines like goods as:

“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”.

Where the locally produced goods and the imported goods are not alike in all respects, the Commissioner assesses whether they have characteristics closely resembling each other against the following considerations including:

- physical likeness;
- commercial likeness;
- functional likeness; and
- production likeness.

3.3 The goods

3.3.1 Goods subject to measures

ADN No. 2021/082 defines the goods under consideration as follows:

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 (210mm x 297mm) (also commonly referred to as cut sheet paper, copy paper, office paper or laser paper).

Further information on the subject goods specifies that 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.

3.3.2 Tariff classification

The goods are generally, but not exclusively, classified to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995*:³²

³² 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 are for convenience or reference only and do not form part of the goods description. Please refer to the goods description for authoritative detail regarding goods subject to the anti-dumping measures.

PUBLIC RECORD

| 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 | White |
| | 09 | Weighing 90 g/m ² or more but not more than 150 g/m ² |

Table 6 Tariff classification of the goods

3.4 Model control code

The commission undertakes model matching using a model control code (MCC) structure to identify key characteristics used to compare the goods exported to Australia and the like goods sold domestically in the country of export.³³

The MCC structure outlined below for this inquiry follows the structure applied in Review 551 and Review 547.

| Category | Sub-category | Identifier | Sales Data | Cost data |
|--|---------------------|------------|------------|-----------|
| Weight (grams per square meter (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 7 MCC Structure

3.5 Like goods

This section sets out the commission's assessment of whether the locally produced goods are identical to, or closely resemble, the goods under consideration and are therefore 'like goods'. For the purposes of the findings below, the commission has relied upon information obtained from the verification of Paper Australia's manufacturing facilities and prior findings of the commission.

³³ Guidance on the Commission's approach to model matching is in the Anti-Dumping Commission, *Dumping and Subsidy Manual (December 2021)* (the Manual), available at: www.adcommission.gov.au

3.5.1 Physical likeness

The A4 copy paper produced for sale onto the Australian market by the Australian industry is physically like to the goods. They share similar physical characteristics, being white and falling within the gsm weight of between 70 and 100 (noting that the majority of A4 copy paper is 80 gsm).

3.5.2 Commercial likeness

The A4 copy paper produced for sale onto the Australian market by the Australian industry is commercially like to the goods. Australian industry sells A4 copy paper into the same market sectors, considered interchangeable and use similar distribution channels as the imported goods.

3.5.3 Functional likeness

The A4 copy paper produced by the Australian industry for sale in the Australian market is considered to be functionally alike as it has the same end use, including high speed and low speed copying, printing and general use in business, education and home offices, as well as in small offset printers.

3.5.4 Production likeness

The A4 copy paper produced by the Australian industry for sale in the Australian market is manufactured using the same or similar raw material inputs and manufacturing processes used to produce the goods.

3.5.5 Like goods assessment

Based on the above findings, the commission considers that the A4 copy paper manufactured by the Australian industry, has characteristics closely resembling, the goods exported to Australia, as:

- the primary physical characteristics of the goods and locally produced goods are similar
- the goods and locally produced goods are commercially alike, as they are sold to common users, and directly compete in the same market
- the goods and locally produced goods are functionally alike, as they have a similar range of end uses, and
- the manufacturing process for locally produced goods and the goods is similar.

In light of the above, the Commissioner is satisfied that the Australian industry for A4 copy paper produces like goods to the goods the subject of the application, as defined in section 269T(1).

4 THE AUSTRALIAN INDUSTRY

4.1 Finding

The Commissioner is satisfied that there is an Australian industry producing like goods, consisting solely of Paper Australia.

4.2 Legislative framework

The Commissioner must be satisfied that like goods are produced in Australia. Sections 269T(2) and 269T(3) specify that for goods to be regarded as being produced in Australia, they must be wholly or partly manufactured in Australia. The manufacture of the goods must include at least one substantial process carried out in Australia to consider the goods partly manufactured in Australia.

4.3 Australian industry

Paper Australia is the sole manufacturer of A4 copy paper in Australia. The commission has previously visited Paper Australia's manufacturing facilities in Maryvale, Victoria and was able to observe the production process. No additional Australian industry manufacturers of the goods identified themselves to the commission following the initiation of the inquiry, nor were additional Australian industry manufacturers identified by the commission.

Based on these considerations, the commission is satisfied that there is an Australian industry consisting only of Paper Australia that produces like goods in Australia.

4.4 Production process

Australian Paper claims that the entire manufacturing process from wood to wrapped, boxed and palletised cut sheet paper takes place in Australia (at its Maryvale mill in Gippsland, Victoria).

The major raw material used in papermaking is wood-free pulp (made from wood), including recycled pulp. Paper Australia's Maryvale site produces the majority of pulp used in the production process and supplemented by up to 10% imported pulp. Calcite and starch are the other key materials used in the production process. Australian entities produce and supply these inputs.

Australian Paper claims the production process described in its application is consistent with the papermaking process in all printing and writing paper mills.

4.5 Summary

The commission is satisfied there is an Australian industry producing like goods and the manufacture of A4 copy paper is substantially in Australia.

5 AUSTRALIAN MARKET

5.1 Finding

The commission has found that the Australian industry, as well as imports from China, Indonesia, Brazil and Thailand, and imports from other countries (not subject to measures) continue to supply the Australian market for A4 copy paper.

5.2 Market structure

Paper Australia predominantly sells cut sheet paper (copy paper, office paper or laser paper) that is A4 (210 x 297 mm) in size and 80 gsm in weight, with a much smaller quantity sold in other sizes (i.e. A3 and A5). Australian Paper advised that it sold small quantities in other sheet weights of 70, 75, 85, 90 and 100 gsm of A4 copy paper.

Australian A4 copy paper of imported sources originates from a number of countries, with the highest volumes historically originating from China and Indonesia. All subject countries continue to supply the Australian market.

Anti-dumping duties imposed on all exports of the goods from Finland, the Republic of Korea (ROK), the Russian Federation (Russia) and the Slovak Republic (Slovakia) (except by Mondi SCP a.s (SK)) followed the completion of Investigation No. 463 in April 2019.³⁴ These countries are not the subject of this inquiry.

In addition to the countries named above, exporters from other countries that are not subject to anti-dumping measures supply the Australian market. This has predominantly included exports from the following countries in the 3 years prior to 2021:

- Germany
- the French Republic
- Malaysia
- the Republic of South Africa

The commission confirmed that Paper Australia and imports from other countries, which includes exporters from the countries the subject of this inquiry (i.e. Brazil, China, Indonesia and Thailand), supply or have the potential to supply the Australian market for A4 copy paper.

5.2.1 Marketing

The commission established that suppliers of A4 copy paper market to the following three broad categories of end users:

- manufacturer brands
- private label/customer brands and
- plain or generic labelled brands.

Notwithstanding the existence of different brand categories, Paper Australia claims that end users are unlikely to discern significant physical or functional differences between brands. In this regard, end users will recognise brand and price differences when promotions occur.

³⁴ ADN No. 2019/037 refers.

PUBLIC RECORD

Copy paper use occurs in a wide variety of commercial outlets including mail houses, digital, instant and commercial printing businesses. Entities engaged in activities such as offset printing and general printing, business, educational and home offices also use copy paper in smaller quantities.

5.2.2 Supply and distribution

Paper Australia has previously stated that supply channels of A4 copy paper are concentrated through a limited number of national resellers and retailers. The commission's examination of sales and trade flow information confirmed this to be the case.

The key supply channels for A4 copy paper in Australia are retail, corporate stationery and resellers. These supply channels then sell to the following categories of end users:

- home and home office/small office/business sectors
- medium and large business, the government and education sectors and
- industrial sector including instant print and in-plant printing operations.

The commission has represented this market structure at Figure 1.

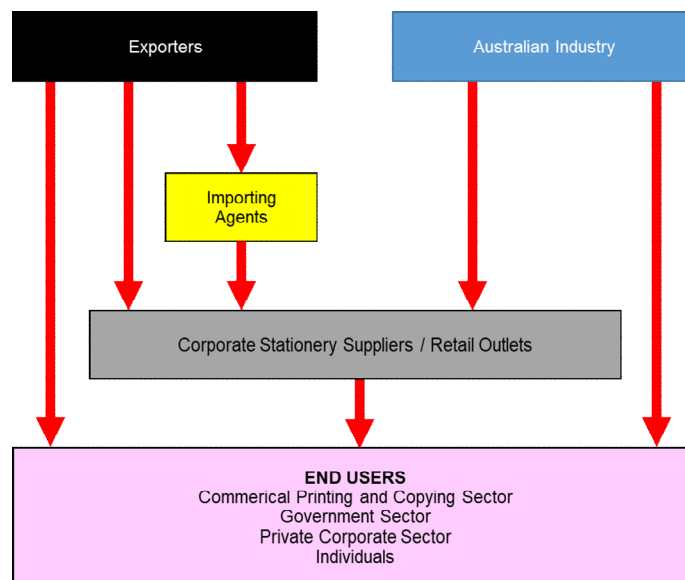


Figure 1 The commission's representation of the Australian market

Sellers of A4 copy paper, particularly in the corporate stationery and retail segments, commonly source a range of A4 copy paper brands and grades from multiple sources, both Australian made and imported. Therefore, consumer groups also have access to and consume A4 copy paper from a variety of sources.

Supply channels for A4 copy paper are concentrated through a limited number of national resellers and retailers. Paper Australia and imported sources supply the same end users, via the same supply channels, resulting in direct competition.

Paper Australia has a network of warehouses across Australia to service a broad range of customers. In addition to its production of A4 copy paper, it sells other paper products (produced at Maryvale), imported stationery items, envelopes (produced at Preston) and overprint services for the envelope market.

5.2.3 Demand

Paper Australia indicated that strongest demand exists in the medium to large business, government and education sectors. Second in ranking was the home office/small business and personal home usage sector. A market segment analysis confirmed this description.³⁵

Paper Australia has cited in prior cases that demand drivers for copy paper historically related to population growth generally and growth in the Australian workforce. However, it now considers these indicators are no longer accurate predictors of copy paper demand.

Paper Australia attributes declining demand to the increased level of digitisation of communications and record keeping in developed economies.³⁶ Paper Australia's parent company, Nippon Paper Industries Co. Ltd (NPI), expresses similar views in its May 2021 business plan and results presentation for the 2020 financial year.³⁷

The commission examined trends in products that are complementary to A4 copy paper usage. In particular, the commission found the value of imported toner cartridges used in multi-function devices and photocopiers, printing and copying devices and machinery had declined in recent years.³⁸ The trends in these complementary markets is consistent with the reasons Paper Australia cites as being the driver for the contracting A4 copy paper market in Australia.

Whilst the above relate to longer terms trends in copy paper demand, the reduction in market volume depicted for 2020 at Figure 2 suggests other factors may be driving down demand in the shorter term. The commission considers the COVID-19 pandemic is one such factor, as both NPI and Paper Australia address the impact of the COVID-19 pandemic in their 2020 financial statements.

The Paper Australia financial report for 2020, dated May 2021, states that:

- the pandemic resulted in deteriorating selling prices and returns due to the significant impact on demand for domestic office and printing papers.
- local and international business conditions, and pricing, improved towards the end of 2020 and into 2021.
- the domestic economy rebounded, despite the ongoing global impact of the pandemic
- business conditions and confidence are at multi-year highs and this is expected to continue through 2021.

Paper Australia's parent company, NPI, outlines in its May 2021 business plan presentation that the rate of reduction in demand increased in the 2020 financial year due to the pandemic. It states that this reduction is in addition to the structural decrease in demand, due to the progress of digitisation.

³⁵ Confidential Attachment 1 to EPR 588 Item No. 015, pp.24-25 refers.

³⁶ Confidential Attachment 1 to EPR 588 Item No. 015, p.78 refers.

³⁷ [2030 VISION – MEDIUM TERM BUSINESS PLAN 2025, p.7, NPI, 14 May 2021 \(downloaded 16 September 2021\)](#)

³⁸ Confidential Attachment 1 to EPR 588 Item No. 015, pp.78-80 refers.

International Paper Company, who was the US based parent company of Sylvamo, also states in its 2020 performance summary that the pandemic led to an unprecedented decline in printing paper demand, due to the impact on business and schools.³⁹

UPM-AP's Finland based parent company, UPM-Kymmene Corporation, also cited the pandemic as a cause of reduced demand for paper products in its 2020 annual report.⁴⁰

5.3 Pricing

Due to the interchangeable nature of A4 copy paper, Paper Australia's products compete directly with products imported from overseas in all market segments.

In its questionnaire response for Investigation 583 which is examining imports of allegedly dumped goods from Indonesia, Paper Australia highlighted that there is a 'great deal' of transparency in the market due to large sellers servicing end-users across all segments (e.g. home/small offices, medium and even large sized businesses, as well as the education sector).⁴¹ Paper Australia also outlined that price negotiation power resides with a handful of resellers and retailers who supply the Australian market.

Paper Australia stated in its submission of 23 August 2021 that it provided the commission with evidence of competitive price offers.⁴² In a request for information (RFI) issued during verification, the commission invited Paper Australia to provide the information cited in its submission, as it was not provided with its inquiry application. The RFI also invited Paper Australia to describe the resources available to participants in the market that caused prices to be transparent.⁴³

Paper Australia's response to the RFI referred the commission to various statements in *Anti-Dumping Commission Report No.463* (REP 463) and cited the data it provided in its application for Investigation No. 583.

REP 463 examined calendar year (CY) 2017 in relation to alleged dumping of A4 copy paper from Austria, Finland, ROK, Russia and Slovakia. The price offer data relied on in REP 463 does not relate to the exporters from the countries examined in this inquiry, nor is it contemporaneous to the current inquiry period. The relevance of this information may therefore be limited. However, REP 463 did establish that cross channel trade in the market led to price transparency.⁴⁴

The market structure diagram provided at Figure 1 and the examination of the Australian market undertaken for the purpose of this inquiry supports a conclusion that cross channel trade continues to be a feature of the Australian market.

In relation to Paper Australia's citation of its application for Investigation 583, the commission notes that this investigation is examining alleged dumping by only one Indonesian exporter, Tjiwi Kimia. Notwithstanding the data was supplied for a different matter, the information relates to interactions between market participants. The

³⁹ https://s1.q4cdn.com/597881801/files/doc_financials/2020/ar/2020-Annual-Performance-Summary.pdf

⁴⁰ <https://www.upm.com/siteassets/asset/investors/2020/upm-annual-report-2020.pdf>

⁴¹ EPR 583 Item No. 004, p.11.

⁴² [EPR 588 Item No. 005, p.3](#)

⁴³ Confidential Attachment 1 to EPR 588 Item No. 015, p.20 refers.

⁴⁴ Chapter 5.2.1, REP 463, p.19.

commission considers that the examination of price setting practices, as summarised below, is relevant.

Paper Australia describes the downstream market for copy paper as 'highly competitive' and price sensitive. Paper Australia submitted that major or dominant market participants incentivise purchasers of copy paper by using specific marketing strategies such as:

- offering 'price beat' guarantees at major/dominant retail market players
- using aggressive price-pointing (or price-fighter) strategies to maximise sales in the ultra-price sensitive market
- customers or 'resellers' will often use the largely indiscernible product differences to justify these price-pointing strategies despite there being little to no practical difference between the goods
- selling low priced copy paper to entice customers to visit stores and possibly purchase higher margin items in the same visit.⁴⁵

Paper Australia stated that it was not the price leader for sales of copy paper in Australia. Paper Australia claims that the price of imported goods determines market pricing expectations and it also claims this has been cited as a 'pressure point' by its customers during price negotiations.⁴⁶

Paper Australia further explained that it is a 'price taker' because barriers, such as informal supply arrangements for customers to seek alternate supply are very low. Paper Australia claims the strong bargaining positions held by customers requires it to track the price offers for goods sourced from subject exporters.⁴⁷

In relation to considerations other than the price offers from exporters, Paper Australia set out in its RFI response that it also had regard to input costs such as key raw materials (wood/fibre), utility expenses and logistics and warehousing costs.⁴⁸

Based on the price suppression finding at chapter 6.4.2 and the profit results at chapter 6.5, it was not clear to the commission whether cost was a core consideration. However, Paper Australia's prices were sufficient to recover a material proportion of its production costs.

As requested by Paper Australia, the commission also undertook an examination of the case study data outlined in Paper Australia's application for Investigation No. 583.⁴⁹ The price negotiations set out in that evidence related to tenders to supply customers in the CY 2020.

The examined information did not specifically refer to competing overseas exporter's price offers. However, it did permit validation of Paper Australia's claims regarding its customers' decisions to preference Paper Australia's products (or the products offered by overseas competitors).

⁴⁵ Section B-2.3, EPR 583 Item No. 004, p.23.

⁴⁶ Section B-3.1, EPR 583 Item No. 004, p.24.

⁴⁷ Section B-3.3, EPR 583 Item No. 004, p.25-26.

⁴⁸ Section B-3.4, EPR 583 Item No. 004, p.26.

⁴⁹ Item A-9.1.1 and A-9.1.2, EPR 583 Item No. 001, p.40-42.

Paper Australia's price offer evidence was useful to understand the conduct of negotiations with potential customers and to assess the outcomes that negatively affect Paper Australia's sales volumes and revenue. However, the evidence provided did not relate to the exporters who are the subject of this inquiry. To overcome this the commission has examined confidential information from interested parties and other sources. This evidence was beneficial for validating the Australian industry's claims regarding the effect on price. Chapter 8 discusses this evidence in further detail.⁵⁰

5.4 Market size

The commission has estimated the size of the Australian market for A4 copy paper using the domestic sales data from Paper Australia and data sourced from the ABF import database.

Figure 2 depicts the commission's estimate of the Australian market size for A4 copy paper, expressed in metric tonnes (MT) for each CY in the period 1 January 2012 to 31 December 2020. The entities relating to each data series include the following:

- Australian industry - Paper Australia
- Subject exporters (341) - entities that were examined for the purpose of Investigation 341 and remain subject to measures
- Non-subject exporters (341) - entities that were examined for the purpose of Investigation 341 and are no longer subject to measures
- All other exporters - exporters from countries examined for the purpose of Investigation No. 463 and all other countries not subject to measures.

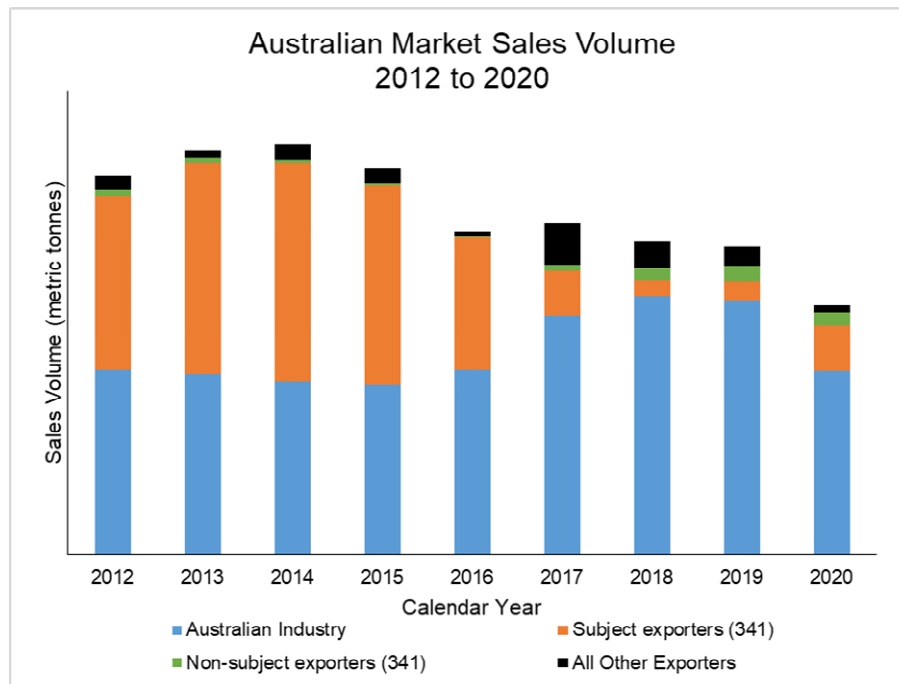


Figure 2 Australian Market Size

The market depicted in Figure 2 shows that the size of the Australian market for A4 copy paper has decreased since 2015. This is consistent with Paper Australia's claims that there has been a lack of growth in the market.

⁵⁰ This addresses UPM-AP submission on page 6 to EPR 024.

PUBLIC RECORD

The commission's assessment of the size of the Australian market is contained in **Confidential Attachment 1**.

6 ECONOMIC CONDITION OF THE INDUSTRY

6.1 Finding

The commission finds that the economic condition of the Australian industry exhibited mixed results in the period from 1 January 2015 to 31 December 2020.

Prior to 2020 and since the imposition of anti-dumping measures on exports from the subject countries, the Australian industry improved its economic condition in relation to:

- sales volume
- market share
- value of assets deployed in the production of like goods
- capital investment
- sales revenue
- capacity
- capacity utilisation
- employment levels
- productivity
- inventory turnover

Performance measured by the above factors deteriorated in 2020. In what appears to be a longer term issue, Paper Australia was not able to achieve price increases that were sufficient to cover increasing costs during the analysis period. This outcome has had a significant impact on its profit and profitability for a number of years. As a result, the commission considers the Australian industry has continued to experience injury in the form of:

- price depression
- price suppression
- reduced profit and profitability
- reduced return on investment (ROI)

Performance in relation to the following other economic factors was also found to have declined at the same time that Paper Australia was experiencing increasing sales volumes and revenue:

- closing stock levels
- accounts receivable balance
- receivables turnover

6.2 Approach to economic condition analysis

Using the information provided by Paper Australia and the ABF, the commission assessed the economic condition of the Australian industry from 1 January 2015. The data interval for each period reflects CYs ending 31 December. Where relevant, the commission has also had regard to data provided for the quarter ending 31 March 2021.

A report outlining a verification of the data supplied by Paper Australia is available on the public record.⁵¹

⁵¹ 588 EPR Item No. 015.

6.3 Volume effects

6.3.1 Sales volume

Figure 3 shows Paper Australia's total sales of like goods in metric tonnes for each CY in the period 1 January 2010 to 31 December 2020. The trend in this data shows that Paper Australia's sales of all like goods declined year-on-year to 2015.

Paper Australia's sales increased following the imposition of measures in April 2017. Prior to a sharp decline in 2020, 2019 and 2018, sales were similar. Sales in 2020 returned to 2016 levels, the year after the period examined in Investigation 341.

The commission's analysis of Paper Australia's data revealed that like goods sales of 0% to 20% recycled content were consistently sold in the highest volume and influenced total sales volume overall. The other two categories related to like goods of 21-79% and 80-100% recycled content. Historically, fluctuations in sales for like goods in these other two categories were minimal.

The commission's analysis indicated that the majority of sales within the 0% to 20% recycled content were of 0% recycled contents.⁵² This indicates that Paper Australia's economic condition is most sensitive to sales of this variant of like goods.

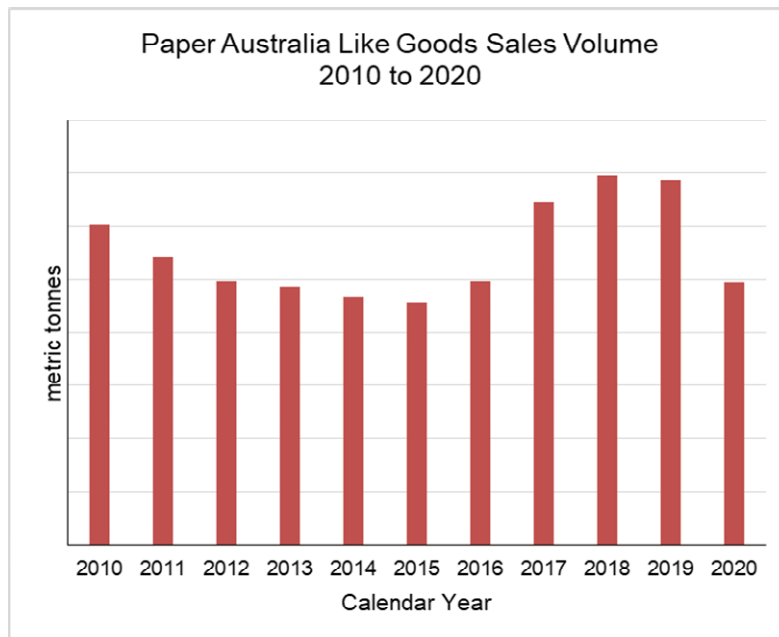


Figure 3 Sales Volume⁵³

The Australian market depicted in Figure 2 at chapter 5.4 shows that the size of the Australian market for A4 copy paper appeared to have undergone a sustained contraction after 2015. This is consistent with Paper Australia's claims that there has been a lack of growth in the market.

Notwithstanding the contracting market size, Paper Australia secured higher sales volumes following imposition of measures on the subject countries by way of two Preliminary Affirmative Determinations (PADs) in September and November of 2016 and the final measure imposed in April 2017.

⁵² Attachment GP4-B to Confidential Attachment 1 at EPR Item No. 015 refers.

⁵³ Confidential Attachment 1 to EPR Item No. 015, p.27.

PUBLIC RECORD

Table 8 further details the change in sales volumes in relation to country of origin. The figures for Indonesia include exporters from that country who are not subject to measures.

| Country of origin | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
|-------------------------------|------------|-----------|-----------|-----------|-----------|-----------|
| Australian Industry | 100 | 108 | 141 | 152 | 150 | 108 |
| Brazil | 100 | 78 | 41 | 26 | 9 | 22 |
| China | 100 | 48 | 2 | 2 | 11 | 38 |
| Indonesia | 100 | 115 | 73 | 36 | 32 | 33 |
| Thailand | 100 | 53 | 24 | 16 | 15 | 10 |
| Other Subject Countries (463) | 100 | 11 | 698 | 382 | 0 | 0 |
| All Other Countries | 100 | 52 | 98 | 96 | 197 | 67 |
| Total Market | 100 | 84 | 86 | 81 | 80 | 64 |

Table 8 Index of change in sales volume⁵⁴

It would appear that trading conditions in 2020 have led to a further contraction in the Australian market. However, the Australian industry suffered a greater decline in sales compared to the market generally. In contrast, the subject exporters collectively achieved higher sales compared to 2019.

6.3.2 Market share

The commission's analysis of market share in Figure 4 indicates that:

- the Australian industry secured increasing market share from 2015 to 2018
- the subject exporters acquired market share from the Australian industry and exporters from all other countries in 2020.
- exporters not subject to measures examined in Investigation 341, i.e. Indah Kiat, Pindo Deli and Tjiwi Kimia, held increasing market share since 2017.⁵⁵

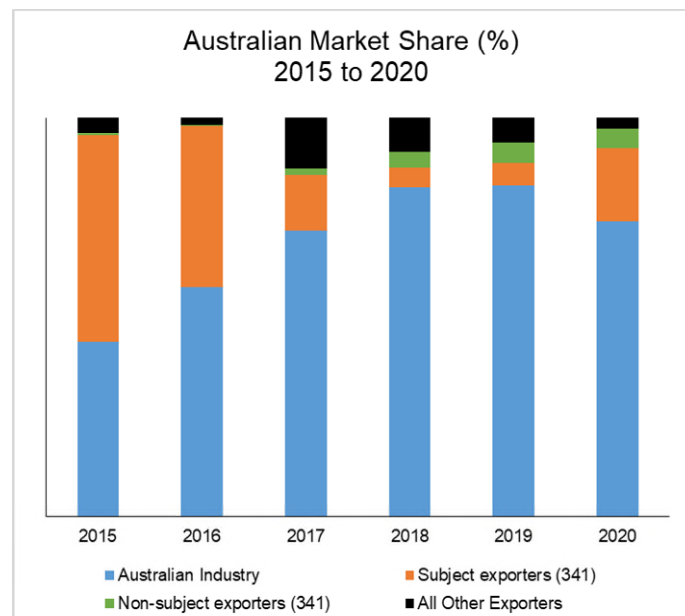


Figure 4 Market Share⁵⁶

⁵⁴ Table 3 to Confidential Attachment 1.

⁵⁵ Data Series 'Non Subject Exporters (341)' refers

⁵⁶ Table 6 to Confidential Attachment 1.

6.3.3 Conclusion – volume effects

Paper Australia experienced an improved economic condition in relation to sales volume and market share in the period 2016 to 2019. This improvement coincides with the imposition of anti-dumping measures in the form of two PADs in September 2016 and November 2016 in relation to imports from the subject countries and the dumping and subsidy notices in April 2017.

However, Paper Australia's economic condition exhibited a deterioration in 2020, particularly in relation to sales volume, which returned to the pre-measures level of 2016. It also lost 10% of market share.

Notwithstanding the contraction in the Australia market during 2020, the subject exporters achieved higher sales volumes and market share compared to 2019.

6.4 Price effects

6.4.1 Price depression

Price depression occurs when a company, for some reason, lowers its prices.

Figure 5 shows the trend in Paper Australia's weighted average selling price expressed in Australian dollars (\$) per MT for all sales of like goods in each CY during the period 1 January 2015 to 31 December 2020.

The commission's examination of price trends in Figure 5 revealed the weighted average price reflects sales of non-recycled paper, because Paper Australia sold these particular like goods in the largest volume.⁵⁷ The commission considers the trend in Figure 5 is suitable for assessing price depression.

Paper Australia's prices for like goods sales experienced reducing selling prices from 2015 to 2017. After the implementation of measures in April 2017, 2018 saw unit price stabilise before increasing in 2019. Prices in 2019 did not persist into 2020. Data examined by the commission shows that prices continued to decline in the quarter ending 31 March 2021.

⁵⁷ Attachment GP4-B to Confidential Attachment 1 at EPR Item No. 015 refers.

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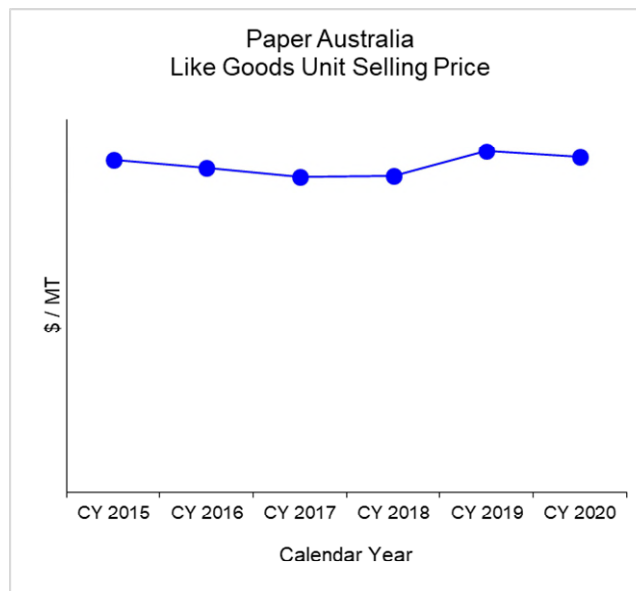


Figure 5 Unit Selling Price⁵⁸

Paper Australia has previously claimed that the expected positive effect on its economic condition did not transpire following the imposition of measures after the conclusion of Investigation 341 in April 2017. Rather, it cites the flat price trend throughout 2017 and 2018 caused by the emergence of dumped imports from countries examined in Investigation No. 463. Figure 5 shows that Paper Australia achieved increased prices following the imposition of measures after Investigation No. 463.

6.4.2 Price suppression

Price suppression occurs when price increases, which otherwise would have occurred, have been prevented. An indicator of price suppression may be the margin between prices and costs. To assess whether Paper Australia has experienced injury in the form of price suppression, the commission has had regard to trends in the data shown in Figure 6.

Figure 6 compares Paper Australia's weighted average selling price and weighted average cost to make and sell (CTMS) expressed in \$/MT for all sales of like goods in each CY during the period 1 January 2015 to 31 December 2020.

⁵⁸ Worksheet 'Aggregated Charts' to Confidential Attachment 2 refers.

PUBLIC RECORD

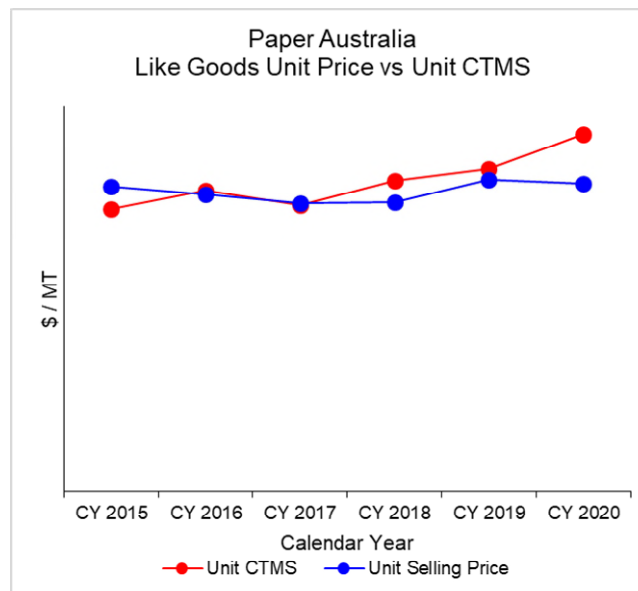


Figure 6 Unit Selling Price and CTMS⁵⁹

Having regard to the relationship between the trends in Figure 6, the commission makes the following observations:

- unit CTMS increased from 2017 to 2020
- selling prices have generally not kept pace with increasing CTMS.

The commission observes that Paper Australia has been unable to increase unit selling prices in response to its increasing unit CTMS.

6.5 Profit and profitability

Figure 7 charts Paper Australia's total profit and unit profitability (i.e. unit profit divided by unit selling price) for all like goods sales for each CY in the period 1 January 2015 to 31 December 2021.

⁵⁹ Worksheet 'Aggregated Charts' to Confidential Attachment 2 refers.

PUBLIC RECORD

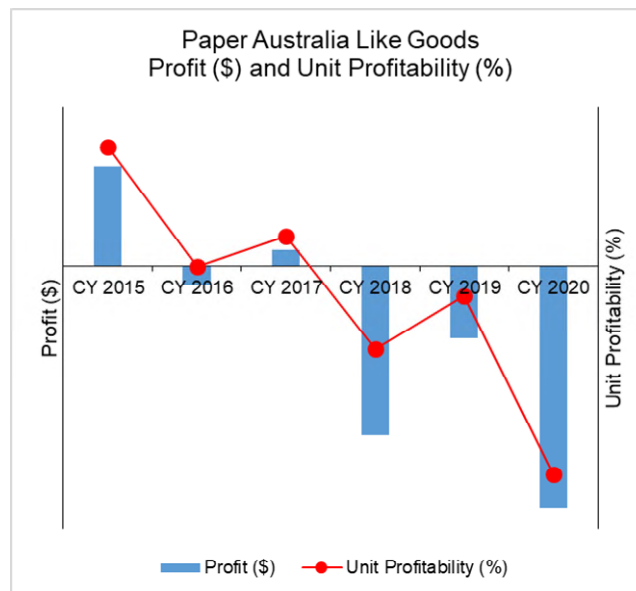


Figure 7 Profit and profitability⁶⁰

The profit performance outlined in Figure 7 shows that Paper Australia was profitable in 2015, the period that was examined for the purpose of Investigation 341. In contrast to its 2015 results, Paper Australia has experienced a significant deterioration of its profit and unit profitability since 2015, particularly in the period following the imposition of anti-dumping measures following Investigation 341 and Investigation No. 463. The commission also examined data for the quarter ending 31 March 2021 and found that Paper Australia's position had improved, as net losses had reduced by 50%.

6.5.1 Conclusion – profit effects

The commission considers that Paper Australia experienced a deterioration in its economic condition because of the decline in profit and profitability since 2015.

6.6 Other economic factors

As part of its application, Paper Australia provided data in relation to a range of other economic factors that may also be indicative of injury. This included data for the period covering CYs 2015 to 2020 in relation to:

- assets
- capital investment
- revenue
- return on investment
- capacity
- capacity utilisation
- employment
- wages
- productivity
- stocks
- cash flow measures.⁶¹

⁶⁰ Worksheet 'Aggregated Charts' to Confidential Attachment 2 refers.

⁶¹ Worksheet 'Annualised' to Confidential Attachment 3 refers.

For each economic factor listed above, the commission outlines its observations in the following.

6.6.1 Assets

The commission calculated the value of assets deployed in the production of like goods as relevant revenue divided by total assets.

Paper Australia's initial figures indicated a significant increase in assets reported for 2020. In response to questions on this trend, the company confirmed that the increase was the result of a preparation error that incorrectly included the assets acquired as part of Paper Australia's 2020 purchase of Orora Fibre.

After taking account of the issues outlined above, the commission found Paper Australia's installed production capacity increased in 2016 after it commissioned a de-inking facility. Since this time, Paper Australia has not undertaken any significant changes to its production assets. The fluctuation shown in the table below is, therefore, a function of the allocation base utilised by Paper Australia, rather than any increase in the actual value of assets deployed.

Correcting for the above preparation error, the total 'Assets' in 2020 is approximate to prior periods. Table 9 depicts the indexed variation of assets used in the production of like goods (as corrected).

| Assets | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
|--------------------------|------|------|------|------|------|------|
| Production of like goods | 100 | 119 | 144 | 159 | 147 | 147 |

Table 9 Goods Production Assets Deployed 2015 to 2020

6.6.2 Capital Investment

In place of 'capital investment' data, Paper Australia provided fixed asset balances. The yearly trends observed in fixed assets (property, plant and equipment or PPE) for the production of like goods (Table 10) are similar to the trend for asset deployment in Table 9 above. Taking the effects of depreciation into account, the balance of fixed assets observed for the production of like goods in 2019 and 2020 suggests minimal outlays of capital investment.

| Fixed Assets, or PPE | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
|--------------------------|------|------|------|------|------|------|
| Production of like goods | 100 | 120 | 144 | 163 | 152 | 152 |

Table 10 Goods Production Fixed Assets 2015 to 2020

6.6.3 Revenue

Table 11 depicts the variation of Paper Australia's revenue in the period 2015 to 2020.

The commission observed revenue from like goods increased year on year from 2015 to 2019, but fell significantly in 2020. The increasing revenue up to 2019 corresponds with Paper Australia securing a larger share of the market and increasing sales volumes. Likewise, the decline in 2020 was largely due to the reduction in sales volume observed in this period.

| Revenue | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
|------------|------|------|------|------|------|------|
| Like goods | 100 | 114 | 126 | 131 | 135 | 106 |

Table 11 Index Revenue Variation 2015 to 2020

6.6.4 Return on investment

Figure 8 shows Paper Australia's ROI, recalculated by the commission as operating profit divided by the value of assets deployed in the production of like goods as reported by Paper Australia.

The chart indicates that the overall trend shows declining returns, despite a short-lived recovery to positive ROI in 2017. This result is consistent with other observations that Paper Australia has experienced low or no profits since 2015, and an asset base that has remained largely unchanged since the installation of a de-inking plant at the end of 2015.

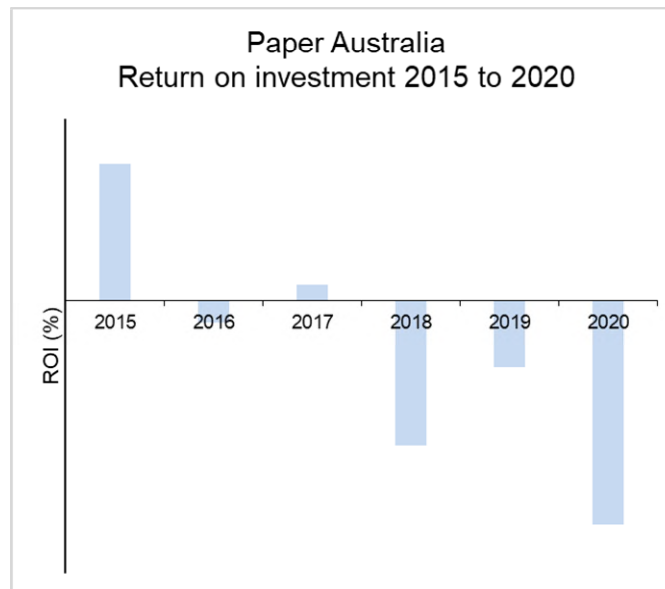


Figure 8 Return on Investment 2015 to 2020

6.6.5 Capacity and Capacity Utilisation

Table 12 shows that the capacity of like goods production increased in 2016 and then remained relatively stable over the next 4 years. The commission established that there has been no new capacity since the installation of a de-inking facility in 2015.

| Capacity | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
|------------|------|------|------|------|------|------|
| Like goods | 100 | 122 | 122 | 124 | 127 | 119 |

Table 12 Index Capacity Variation 2015 to 2020

Table 13 shows that capacity utilisation relating to like goods production remained at similar levels from 2015 to 2019. Capacity utilisation reduced to below 2015 levels in 2020, noting that plant capacity in 2015 precedes the installation of the de-inking facility.

| Capacity utilisation | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
|------------------------------------|------|------|------|------|------|------|
| Actual production of like goods | 100 | 127 | 123 | 127 | 131 | 99 |
| Capacity utilisation of like goods | 100 | 104 | 101 | 103 | 103 | 83 |

Table 13 Index Capacity Utilisation Variation 2015 to 2020

6.6.6 Employment and Wages

Table 14 depicts the variation in the number of people employed in the production of like goods at Paper Australia's facility in Maryvale, Victoria. The number of employees involved in like goods production increased to 2017 where it then remained at similar levels through to 2019, before reducing in 2020.

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Paper Australia confirmed that the reduction in employment numbers observed for 2020 was the result of

- a hiring freeze due to uncertainty in the market arising because of COVID-19
- deployment of existing staff (particularly the finishing and converting room) to other functions.

| Employment | Unit | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
|------------|---------|------|------|------|------|------|------|
| Like goods | Persons | 100 | 119 | 123 | 122 | 123 | 108 |

Table 14 Persons Employed in Production of Goods 2015 to 2020

In addition to the number of persons employed, the commission also examined the wages data reported by Paper Australia. The trend in annual average wages per employee across the analysis period exhibited modest variation compared to the base year of 2015.

6.6.7 Productivity

The commission calculates productivity connected with the like goods, using the ratio of production volume by the number of persons employed for the production of like goods. Table 15 shows that productivity remained relatively stable in the period from 2015 to 2019, but reduced in 2020. The high number of employees relative to what were lower production volumes in 2020 is a likely explanation for the reduced productivity.

| Productivity | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
|--------------|------|------|------|------|------|------|
| Like goods | 100 | 107 | 100 | 105 | 107 | 92 |

Table 15 Index Productivity Variation 2015 to 2020

6.6.8 Closing stock levels

Table 16 shows that the average closing stock holdings fluctuated in the period 2015 to 2020, and were higher in 2020 than the base year of 2015.

| Inventory Metric | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
|---------------------------|------|------|------|------|------|------|
| Like goods production | 100 | 121 | 123 | 124 | 148 | 107 |
| Like goods domestic sales | 100 | 108 | 141 | 152 | 150 | 108 |
| Closing stock | 100 | 168 | 115 | 89 | 146 | 135 |

Table 16 Index Stock Movement Variation 2015 to 2020

In response to questions from the commission, Paper Australia explained that the reduction in 2018 closing stock levels was the combined result of two events:

- unbudgeted increase in demand from customers who had previously secured inventories from overseas suppliers
- temporary production issues.

The increase in Paper Australia's sales volumes, at Figure 3, supports its comments regarding demand during 2018. Paper Australia claimed that the unbudgeted demand in 2018 coincided with the implementation of anti-dumping measures arising out of Investigation No. 463.

Data relating to imports of the goods subject to Investigation No. 463 indicated that volumes from the relevant subject countries reduced just after the Commissioner made a

PAD on imports from Austria, Finland, ROK, Russia and Slovakia in May 2018.⁶² The increase in sales during 2018 correlates with Paper Australia's views regarding unbudgeted demand.

Paper Australia further explained that the higher closing stock levels observed for 2019 were the result of depleting inventory levels being restored to 'normal' levels and softening demand.⁶³

6.6.9 Cash Flow Measures

Paper Australia provided data in relation to three measures of cash flow:

- accounts receivables
- receivables turnover and
- inventory turnover.

Table 17 details the indexed variations of each of the above measures.

| Cash flow measures (like goods) | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
|---------------------------------|------|------|------|------|------|------|
| Accounts receivable | 100 | 103 | 104 | 124 | 125 | 121 |
| Receivables turnover | 100 | 100 | 97 | 90 | 81 | 78 |
| Inventory turnover | 100 | 132 | 102 | 114 | 116 | 58 |

Table 17 Index Variation of Cash flow Measures 2015 to 2020

Accounts receivable balances relating to like goods increased year-on-year from 2015 to 2019, but reduced slightly in 2020.

The indexed variation depicted in Table 17 shows a steady decline in Paper Australia's receivables turnover. Receivables turnover is calculated by dividing revenue by accounts receivable (solely in respect of the like goods). The cash flow measure of receivables turnover provides an indication of how efficiently Paper Australia collects on credit sales made. The increasing trend in accounts receivable balances appeared to drive the decline in the receivables turnover metric. The reduction in receivables turnover is an indicator of the deterioration in a company's liquidity (e.g. reduced cash flow).

Inventory turnover identifies how quickly Paper Australia can convert stock into revenue. Higher inventory levels, due to reduced demand for products can lead to reduced inventory turnover performance. Paper Australia's figures for inventory turnover are worked out by dividing the like goods revenue with the average stock of the relevant year. The resulting figures indicate that inventory turnover fluctuated in the period 2015 to 2019, prior to a significant decline in 2020.

⁶² During Investigation No. 463 a PAD resulted in the taking of securities on imports from Austria, Finland, ROK, Russia and Slovakia in May 2018. Anti-dumping measures were subsequently implemented in April 2019, with the exception of Austria

⁶³ Confidential Attachment 1, p.56 refers.

7 ASSESSMENT OF VARIABLE FACTORS (DUMPING)

7.1 Finding

The public notice advising of the initiation of the inquiry stated that the Commissioner proposed to rely on the variable factors and the resulting dumping margins established in Review 551. With the exception of RAK from Indonesia, the commission did not receive questionnaire responses from any other subject exporters. This chapter therefore deals with the variable factors relevant to exports from Indonesia. The variable factors and dumping margins determined in Review 551 for exports from Brazil, China and Thailand remain unchanged.

The Commission is satisfied that the variable factors relating to the collection of anti-dumping duty on imports of the goods from Indonesia have changed.

The margins outlined in Table 18 reflect the dumping margins determined in REP 551 for exporters from Brazil, China and Thailand, and the margin based on data supplied in RAK's questionnaire response to this inquiry.

| Country | Exporter | Dumping margin |
|-----------|---|----------------|
| Brazil | Sylvamo Exports Ltda ⁶⁴ | 8.1% |
| | All other exporters | 8.1% |
| China | UPM Asia Pacific Pte Ltd | 3.2% |
| | Greenpoint Global Trading (Macao Commercial Offshore) Ltd | 10.0% |
| | All other exporters | 3.0% |
| Indonesia | PT Riau Andalan Kertas | 59.7% |
| | All other exporters | 59.7% |
| Thailand | Double A (1991) Public Company Ltd | 0.9% |
| | All other exporters | 0.9% |

Table 18 Dumping margins

7.2 Legislative framework

In accordance with section 269ZHF(2), the Commissioner must not recommend that the Minister take steps to secure the continuation of anti-dumping 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 dumping. The existence of dumping during the inquiry period may be an indicator of whether dumping may occur in the future.

Dumping occurs when one country exports goods to another country at a price less than its normal value. The export price and normal value of the goods are determined under sections 269TAB and 269TAC, respectively.

The commission applied the methodology in section 269TACB(2)(a) to determine whether dumping has occurred and the levels of dumping by comparing the weighted average export price over the whole of the inquiry period with the weighted average of corresponding normal values over the whole of the inquiry period.

⁶⁴ Formerly International Paper Exportadora Ltda.

7.2.1 Export price

Export price is determined in accordance with section 269TAB, taking into account whether the purchase or sale of goods are arms-length transactions under section 269TAA. Section 269TAB(1)(a) generally provides that the export price of any goods exported to Australia is the price paid (or payable) for the goods by the importer where the goods have been exported to Australia otherwise than by the importer, and have been purchased by the importer from the exporter in arms-length transactions.

7.2.2 Normal value

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.

Section 269TAC(2)(a)(i) provides that the normal value of goods exported to Australia cannot be ascertained under section 269TAC(1) where there is an absence, or low volume, of sales of like goods in the market of the country of export that would be relevant for the purpose of determining a price under section 269TAC(1). Relevant sales are sales of like goods sold for home consumption that are arms-length transactions and sold in the OCOT.

Domestic sales of like goods are taken to be in a low volume where the total volume of like goods is less than 5% of the total volume of the goods under consideration that are exported to Australia (unless the Minister is satisfied that the volume is still large enough to permit a proper comparison).⁶⁵ As per the commission's Dumping and Subsidy Manual (December 2021) (the Manual), where the total volume of relevant sales is 5% or greater than the total volume of the goods under consideration, and where comparable models exist, the Commission also considers the volume of relevant domestic sales of like goods for each model (or MCC).

7.2.3 Cooperative exporters

In the notice announcing the initiation of the inquiry, the Commissioner proposed to have regard to the variable factors established in Review 551 for the purposes of this continuation inquiry. However, it was open for exporters to submit questionnaire responses containing information that the commission may consider relevant to exporters in a later period.

The commission received one exporter questionnaire from RAK. Further details of the export price and normal value calculations for RAK are set out below.

7.2.4 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 inquiry within a period the Commissioner considered to be reasonable; or
- where the Commissioner is satisfied that an exporter significantly impeded the review.

⁶⁵ Section 269TAC(14).

As a result of the commission's proposal to conduct the inquiry on the basis of variable factors established in Review 551, nil responses from exporters previously examined in Review 551 are not considered to constitute non-cooperation within the definition of section 269T(1).

7.3 Exporter questionnaires and verification

Following travel restrictions associated with COVID-19, the Commissioner suspended onsite exporter verification from 20 March 2020. As a result, the verification of all cooperating exporters was undertaken remotely.⁶⁶

7.3.1 Submissions received in relation to verification of exporters

In its submission of 10 November 2021, AFEM expressed its concerns regarding the commission's conduct of exporter verification briefings.⁶⁷ AFEM broadly raises the following issues:

- the commission has not provided interested parties with information relating to the circumstances surrounding the Australian industry's involvement
- how the scope of the briefing was developed and
- why RAK was the only exporter selected for the briefing.

To address AFEM's submission, the commission provides the following information about the exporter verification briefing:

- the Australian industry was invited to brief the commission once RAK's REQ was published
- the commission did not specify an agenda for the Australian industry
- RAK was the subject of the briefing as it was the only exporter who completed a questionnaire response to the inquiry
- the briefing provided commission staff with an opportunity to familiarise themselves with the product
- the commission considered briefing materials presented in a public record format consistent with section 269ZJ.⁶⁸

The commission considers the document put on the public record following the briefing is sufficient to allow interested parties a reasonable understanding of the substance of the information and the circumstances leading to the receipt of the information. This included a review of the document by commission staff to ensure it satisfied the requirement at section 269ZJ. In this regard, the commission took adequate steps to afford interested parties an opportunity to defend their interests if statements in the briefing related to their activities.

⁶⁶ Refer to ADN No. 2020/029.

⁶⁷ 588 EPR Item No. 018

⁶⁸ 588 EPR Item No. 013

7.4 RAK

7.4.1 Verification of RAK's information

The commission is satisfied that RAK is the producer of the goods and like goods. The commission is satisfied that the information provided by RAK is accurate and reliable for ascertaining the variable factors applicable to its exports of the goods in the period 1 July 2020 to 30 June 2021 (the period of review).

A report covering the verification findings is available on the public record.⁶⁹

7.4.2 The exporter of the goods

The commission verified that RAK sold the goods to Australian customers through its Malaysian based related entity AFEM. Review 551 also examined the roles of RAK and AFEM in the exportation of the goods and concluded that RAK was the exporter for the purpose of section 269TAB.

Having regard to the information examined for this inquiry, the commission considers the circumstances relating to RAK's Australian sales remain the same as those outlined in REP 551, to the extent they relate to which entity is identified as the exporter. In a confirmation of this finding, RAK and AFEM have jointly submitted to the inquiry that the nature and structure of APRIL's [i.e. RAK and AFEM] export transactions to Australia have not materially changed since the original investigation [i.e. Investigation 341].⁷⁰

In a number of submissions to Review 551, RAK and AFEM jointly claimed that AFEM is the exporter. The ADRP also reviewed REP 551 and specifically which entity was the exporter. The ADRP affirmed that RAK is the exporter.⁷¹ RAK and AFEM have again jointly submitted to this inquiry that AFEM is the exporter. The commission outlines its consideration of those submissions in chapter 7.4.9.

For the avoidance of doubt or misunderstanding, the commission considers it necessary to clarify the nature of the entities involved in the sale of the goods produced by RAK. This is because in the various submissions received by the commission, RAK and AFEM jointly refer to themselves as APRIL.

APRIL is the ultimate holding company to which RAK and AFEM are subsidiaries. However, APRIL is not involved in the production and sale of the goods exported to Australia by RAK. Use of the term APRIL appears to relate to the way in which the APRIL organisation brands its enterprise. There is no individual website for RAK or AFEM. A search of publically available information established that APRIL's website described the nature of RAK's business.⁷² APRIL's website did not seem to contain any references to AFEM. In addition, the commission's examination of invoices issued by RAK and AFEM found them to have APRIL group branding.

In respect of the goods exported to Australia from Indonesia by RAK, the commission found that:

⁶⁹ EPR 588, Item No. 020.

⁷⁰ EPR 588, Item No. 022, Section 4, p.5.

⁷¹ The commission's finding in this inquiry is consistent with the ADRP's review of REP 551 which identified the exporter of the goods is RAK. [ADRP Report No. 138](#), paragraph 48, p.19 refers.

⁷² <https://www.aprilasia.com/en/about-us/our-operations>

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- RAK is located in the country of export (Indonesia) and manufactures the goods exported to Australia.
- RAK sold the finished goods to AFEM (an entity incorporated and based in Malaysia), which on-sold the goods to the Australian importer.
- RAK was aware that AFEM on-sells the goods to Australia. The sales documents, including the commercial invoices for sales from RAK to AFEM, list the Australian customer's name and location, as well as the final Australian port destination.
- RAK was responsible for delivering the goods to the port of export in Indonesia at Free on Board (FOB) terms, and was responsible for all logistics and port handling charges to that point.
- The certificate of origin confirmed RAK consigned the goods to the Australian customer and the Australian customer's names contained in the marks and numbers.
- 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 is satisfied that RAK is the exporter of the goods exported to Australia.⁷³

7.4.3 Export price

Due to the roles of RAK and AFEM in the exportation of the goods to Australia, and the fact that these parties are related, the commission has undertaken a two step process for testing whether their sales are at 'arms length' (as expressed in the Act).⁷⁴ The first step considers whether the price of the goods sold by RAK to AFEM is arms length. The second step considers whether AFEM's selling prices to unrelated parties in Australia are arms length.

Further, for a small volume of exports by RAK, the commission found AFEM to be the beneficial owner of the goods at the time of their importation into Australia. This was because the INCOTERMS for the relevant exportations were at Delivery Duty Paid (DDP) terms. For the remaining exports, the commission found that AFEM's Australian customer was the beneficial owner of the goods at the time of their importation.

The following discussion outlines the commission's arms length assessment and details the two export price methodologies used to account for the different circumstances regarding who the beneficial owner of the goods was at the time of their importation into Australia.

Sales by RAK to AFEM

In respect of RAK's export sales of the goods to the related entity AFEM, the commission's verification of RAK's sales could not necessarily discern evidence that:

⁷³ The Manual at p. 23 states: 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.

⁷⁴ Section 269TAA refers.

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- there was any consideration payable for, or in respect of, the goods other than their price⁷⁵ or
- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise received a benefit for, or in respect of, the whole or any part of the price.⁷⁶

However, the commission found evidence that the price between RAK and AFEM appeared to be influenced by a commercial or other relationship between the buyer (AFEM) and the seller (RAK).⁷⁷

In the report detailing the verification of RAK's Australian sales, the commission outlines its examination of the data relevant how the price AFEM paid RAK was determined. During verification of its data, RAK presented a study concerning its transfer-pricing policy to support how RAK's relationship to AFEM did not influence the price AFEM paid RAK for the goods. The transfer price study informed price-setting practices between paper manufacturers and paper traders within the APRIL group. In particular, the study provided guidance regarding the value of an arms length rebate (represented by the gross margin by paper traders) that paper manufacturers should give to paper traders within the APRIL group.⁷⁸ The commission considers the transfer price study relevant to the assessment required by section 269TAA as RAK and AFEM are within the APRIL group.

In addition to the transfer price study tabled by RAK, the commission also examined prices for a sample of transactions presented by RAK during verification.⁷⁹ The price constructions in the sample indicated the price RAK received for the goods was based on the price AFEM received from the Australian customer less the amounts shown for 'freight and related charges' and 'volume rebate'.

The commission's analysis of the sample found the amounts reported for 'freight and related charges' and were demonstrably different to the actual amounts reported by RAK in its Australian sales listing for the corresponding transactions.

Further, the amount shown as the 'volume rebate', otherwise referred to as the 'gross margin' in the transfer price study, did not reflect the arms length amount recommended in the transfer pricing study. AFEM's margin (in its role as the trader) over the price it paid RAK (the paper manufacturer) was much higher than the upper limit in the range specified in transfer price study. Further analysis revealed all but one of AFEM's Australian sales of the goods sourced from RAK exhibited the same.⁸⁰

Having regard to the circumstances relevant to the sales of the goods by RAK to AFEM, the commission finds the following:

- the methodology relied on to set the selling price of RAK's goods involved certain considerations affecting price, known to RAK and AFEM, which are not possible to

⁷⁵ See section 269TAA(1)(a).

⁷⁶ See section 269TAA(1)(c).

⁷⁷ See section 269TAA(1)(b).

⁷⁸ Section 10 in Attachment GP-6.M to Confidential Attachment 1 in EPR 588, Item No. 020, p.8.

⁷⁹ Attachment GP-6.L to Confidential Attachment 1 in EPR 588, Item No. 020.

⁸⁰ EPR 588, Item No. 020, worksheet '(a) Australian sales' column CB in Attachment GP-6.P to Confidential Attachment 1.

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establish or take into account where transactions involve sales between unrelated entities.

- RAK's selling price to AFEM was not the result of real bargaining.⁸¹
- the price at which RAK sold A4 copy paper to AFEM, in relation to goods destined for the Australian market, appeared to be influenced by its relationship with AFEM.

On the basis of the findings outlined in the RAK verification report and summarised above, the commission considers that exports of the goods sold by RAK to AFEM during the period of review were not arms length transactions, pursuant to section 269TAA(1)(b).⁸²

Sales by AFEM to Australian customers

In relation to AFEM's sales to Australian customers, the verification team found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than their price or
- the price was influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller or
- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise received a benefit for, or in respect of, the whole or any part of the price.

Accordingly, the commission considers that AFEM's sales of the goods to Australian customers during the period of review were arms length transactions.

Calculation of export prices pursuant to section 269TAB(1)(b)

Having regard to a relatively low volume of consignments of the goods exported by RAK, the commission identifies AFEM as the beneficial owner of the goods at the time of their importation. AFEM is therefore the importer for the purpose of section 269TAB.

However, the commission found that none of AFEM's purchases of the goods from RAK were arms length transactions. It is therefore not appropriate to determine RAK's export price pursuant to section 269TAB(1)(a) for exports where AFEM is considered the importer.

For exports of the goods where AFEM is considered the importer, the commission has determined RAK's export price pursuant to section 269TAB(1)(b) as the following conditions are met:

- the goods have been exported to Australia otherwise than by the importer (AFEM), and have been purchased from by the importer from the exporter (RAK).
- the purchase of those goods by the importer was not an arms length transaction.
- RAK's goods were subsequently sold by the importer in the condition in which they were imported, to a person who is not an associate of the importer.

⁸¹ The Manual, p.21

⁸² The Commission notes that the finding in this report that the export sales to Australia did not take place on an arms length basis relates to the assessment of export prices for anti-dumping purposes under section 269TAB. It is not an assessment of its transfer pricing policy with respect to compliance with the revenue laws of any jurisdiction.

RAK's export price for transactions relevant to section 269TAB(1)(b) reflects the price at which the goods were sold by the importer (AFEM) to a person who is not its associate, less the prescribed deductions, being amounts for any duties of customs, costs arising after exportation, and AFEM's profit (if any).⁸³

Calculation of export prices pursuant to section 269TAB(1)(c)

For the majority of the goods exported to Australia by RAK, the commission found that the importer had not purchased the goods from the exporter. Rather, RAK initially sold the goods to AFEM who then on-sold the goods to the Australian customer. In this circumstance, an export price cannot be determined under sections 269TAB(1)(a) or 269TAB(1)(b). The commission has therefore determined RAK's export price pursuant to section 269TAB(1)(c) having regard for all the circumstances of the exportation for those relevant transactions.

The export price determined pursuant to section 269TAB(1)(c) reflects the price at which the goods were sold by AFEM to its Australian customer, less amounts for overseas freight and marine insurance (where applicable), and an amount for AFEM's profit (if any).⁸⁴

7.4.4 Particular market situation in Indonesia

In REP 341, REP 547 and REP 551, the commission found that a particular market situation existed in the Indonesian domestic A4 copy paper market.

The commission's most recent assessment in REP 551 examined the period 1 January 2019 to 31 December 2019. Underpinning the finding in REP 551 was the observed continuation of various programs and policies of the Government of Indonesia (GOI) and the export ban on logs. The identification of these factors in the conduct of the original investigation subsequently led to the finding in REP 341 that a particular market situation existed in Indonesia. The commission notes the World Trade Organization (WTO) Panel found that the market situation the identified in REP 341 was consistent with Article 2.2 of the Anti-Dumping Agreement.⁸⁵

For assessing variable factors relevant to this inquiry, the commission placed exporter questionnaires on the public record. The questionnaire sought information relevant to the particular market situation assessment for the period 1 July 2020 to 31 June 2021.

Parallel to this inquiry, the commission also initiated *Anti-Dumping Investigation No. 583*, which is investigating exports of the goods by Tjiwi Kimia from Indonesia in the period 1 April 2020 to 31 March 2021. After initiating this investigation, the commission invited and received a fully completed questionnaire from the GOI on matters relating to 'particular market situation' and 'proper comparison'.⁸⁶ As the period relevant to Investigation 583 and this review are almost identical, the commission considers the GOI's response is relevant information.

The commission considers it reasonable that the grounds upon which REP 551 found a particular market situation are likely still relevant, due to the proximity of the period examined in Review 551 and the period specified in the questionnaire for this review.

⁸³ Prescribed deductions pursuant to section 269TAB(2)

⁸⁴ The commission's finding in this inquiry is consistent with the ADRP's review of REP 551 in relation to RAK's export price pursuant to section 269TAB(1)(c). [ADRP Report No. 138](#), paragraph 64, p.23 refers.

⁸⁵ Panel Report, Australia – Anti-Dumping Measures on A4 Copy Paper (Indonesia), para. 7.56.

⁸⁶ [583 EPR Item No. 009 refers](#).

The commission's consideration of such matters includes:

- the ongoing ban on log exports from Indonesia
- a continued high level of concentration in suppliers to the Indonesian market
- Indonesia's Master Plan for the Pulp and Paper Industry (2015-2025)
- Indonesian Forestry Long Term Development Plan (2006-2025).

7.4.5 Suitability of domestic sales in Indonesia

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).

The commission's examination of RAK in Review 551 found that the situation in the Indonesian market did not render RAK's domestic sales unsuitable for determining a normal value in accordance with section 269TAC(1).

For the purpose of this inquiry, the commission has had regard to REP 551 (set out in the discussion outlined in chapter 4.6.3), and the circumstances that supported the commission's findings that RAK's domestic selling prices were suitable for the comparison to export prices.

Having regard to the information relevant to this inquiry, the commission considers the circumstances outlined in REP 551 have not changed. The commission is therefore satisfied that the provisions of section 269TAC(2)(a)(ii) do not apply to RAK's domestic sales.

7.4.6 Assessment of RAK production costs

In REP 551, the commission assessed RAK's production costs for like goods against the criteria outlined in section 43(2) of the *Customs (International Obligations) Regulation 2015* (the Regulation).

The commission concluded that RAK's costs were kept in accordance with the generally accepted accounting principles (GAAP) in the country of export, pursuant to section 43(2)(b)(i) of the Regulation. However, the commission was not satisfied that those costs reasonably reflected competitive market costs associated with the production or manufacture of the goods pursuant to section 43(2)(b)(ii) of the Regulation.

In relation to the second limb of section 43(2)(b) of the Regulation the commission found an absence of reliable information to assess the transfer price of RAK's related party pulp purchases. The commission set about adjusting RAK's pulp production costs by having regard to a competitive market benchmark price for pulp. The resulting adjustment increased the value of CTMS relevant to the assessment of like goods sold in OCOT by RAK.

Notwithstanding the commission's treatment of the pulp costs reported by RAK in Review 551, the higher level of CTMS had no effect on the volume of sales in the OCOT.

Noting the past assessment of RAK's related party pulp purchases, the commission has again considered RAK's reported pulp costs against the criteria outlined in section 43(2)(b) of the Regulation.

The commission's assessment of RAK's pulp costs had regard to the following:

- a transfer price assessment of RAK's related party supplier's pulp sales

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- RAK's construction of an 'order-in-take-price' which it claimed was representative of an arms length competitive market price
- the difference between RAK's pulp 'order-in-take-price' and a relevant competitive market benchmark price for pulp⁸⁷
- sales data relevant to RAK's related party suppliers
- the profitability of RAK's related party pulp sales to RAK, and
- if the price of RAK's pulp purchases was reflected in its CTM figures.

The commission's examination of related party pulp purchases by RAK observed the following:

- RAK's pulp purchases listing at Section G of its REQ was accurate
- RAK's 'order-in-take-price' construction was considered reasonable and capable of verification
- the price of RAK's related party slush pulp purchases was higher than the related party supplier's fully absorbed CTMS⁸⁸
- CTM data relevant to Section G of its REQ appropriately reflected the price of slush pulp paid by RAK

On the basis that RAK's 'order-in-take-price' was presented as evidence for the purpose of substantiating that its purchases of pulp reflected a competitive market cost, the commission examined its construction. The price was comprised of amounts for:

- inland transport to a relevant port of export in Indonesia
- drying costs (to convert wet pulp into dry pulp)
- industrial rebates based on the slush pulp prices paid by RAK adjusted for drying expenses and delivery to port (equivalent to an FOB level price) and
- ocean freight.

RAK also claimed that its 'order-in-take-price' was consistent with transfer pricing principles. RAK provided a report which assessed sales between RAK's related party supplier of pulp and that supplier's related party overseas customers to support its claim.

RAK and the related customers, the subject of the transfer price report, are within the group of companies under the control of APRIL. The commission highlights the following points contained in the assessment:

- The purpose of the assessment is to ensure compliance with Indonesian taxation principles with respect to arms length transfer pricing.
- The transfer price mechanism was subject to audit procedures for complying with the principles governed by Article 18 of the Income Tax Law No. 36/2008 [Indonesia].
- The assessment compared the related supplier's transfer price to a RISI price benchmark at Cost, Insurance and Freight (CIF) terms for dry bale pulp ex-Indonesia, less amounts for post exportation expenses and an industrial volume rebate.
- The transfer prices were considered to fall within an 'arm's length range'.⁸⁹

⁸⁷ The commission has had regard to the RISI dry bale pulp price for acacia and bleach hardwood kraft, ex Indonesia and South Korea. Section B2 of Non-Confidential Appendix B in REP 551 refers.

⁸⁸ Table 3 in worksheet 'Profit' to Confidential Attachment 4

⁸⁹ EPR 588, Item No. 020, Confidential Attachment 1, pp.95-98

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The commission acknowledges the auditor's opinion set out in the financial accounts of RAK's supplier, which states that its accounts were kept in accordance with Indonesian Financial Accounting Standards and fairly presented. RAK's audited accounts also contained a similar auditor's opinion. The commission considers it reasonable that the revenue and costs recognised in the accounts of both entities reflects the GAAP relevant to Indonesia.

The commission outlines the following reasons why RAK's 'order-in-take-price' construction is suitable to assess its pulp purchases pursuant to section 43(2) of the Regulation:

- it relies on a method which relies on inputs that appear acceptable under Indonesian tax law principles for determining arms length transfer prices between related parties
- it involves the supplier from whom RAK also purchased its pulp
- the revenue and costs recognised in the accounts of RAK and its supplier are presented in accordance with Indonesian Financial Accounting Standards and
- RAK's price was sufficient for its supplier to realise a profit on the transactions.

When the commission compared RAK's 'order-in-take-price' to the RISI dry bale pulp average benchmark price for CIF sales ex-Indonesia and ex-Korea the two prices series were found to be comparable.

The commission further observed that the price of related party pulp purchases by RAK were similar to its supplier's sales to the parties, the subject of the cross border transfer price assessment. RAK's prices were slightly lower due to the specification of its purchases being for slush pulp, which is cheaper, due to lower production costs.

The commission considers that RAK's reported slush pulp production expenses are in accordance with the GAAP relevant to Indonesia and reasonably reflect competitive market costs.

7.4.7 Normal value

In respect of RAK's domestic sales of like goods to its related and unrelated customers during the period, the commission found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than their price, or
- the price appeared to be influenced by a commercial or other relationship between the buyer (or an associate of the buyer) and the seller (or an associate of the seller), or
- the buyer (or an associate of the buyer) was directly or indirectly reimbursed, compensated or otherwise received a benefit for, or in respect of, the whole or any part of the price.

The commission therefore considers that all domestic sales made by RAK in the analysis period were arms length transactions.

Having regard to the data collected during a verification of RAK's REQ, the commission assessed the total volume of relevant sales of like goods as a percentage of the goods exported to Australia in the analysis period. The commission found that the volume of domestic sales was 5% cent or greater and, therefore, was not a low volume. As a result, the commission is satisfied that the normal value can be ascertained under section 269TAC(1).

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As per the Manual, where the total volume of like goods is greater than 5% of the total volume of the goods under consideration, and where comparable models exist, the commission also tests the suitability of domestic sales of like goods individually for each model type.

For the three MCCs exported to Australia, the commission found the volumes of domestic sales sold in OCOT for each MCC was sufficient. However, for two MCCs there was an absence of relevant domestic sales in certain quarters corresponding with the sales of the exported MCC.

For these MCCs, the commission relied on the normal value of the relevant MCC sold in the quarter nearest to the relevant export quarter with an adjustment for timing differences applied pursuant to section 269TAC(8). The timing adjustments relied on the movement in the normal value for an MCC of the closest product specification or the relevant export MCC movement in cost of production. Table 19 details the basis of the timing adjustments for each relevant MCC.

| Export MCC | Basis of adjustment |
|------------|---|
| 70-N | Based on the change in normal value established for 75-N in the September and December 2020 quarters. |
| 80-N | Based on the change in the following: <ul style="list-style-type: none"> normal value established for 75-N in the September and December 2020 quarters. export CTM for 80-N in the December 2020 and March 2021 quarters. |

Table 19 Description of timing adjustments

7.4.8 Adjustments

When calculating normal values under section 269TAC(1), the Commission considers that certain adjustments in accordance with section 269TAC(8) are necessary to ensure fair comparison of normal value with export prices, as summarised in Table 20.

| Adjustment Type | Deduction/addition |
|--|---|
| Domestic credit terms | Deduct an amount for domestic credit |
| Domestic packing expenses | Deduct an amount for domestic packaging expenses |
| Domestic ocean freight, marine insurance, and inland transport (including mill to port) | Deduct an amount for expenses incurred on domestic sales transported via sea freight |
| Domestic empty container costs | Deduct an amount for empty container transport expenses incurred on domestic sales |
| Domestic handling and other (import duties, stevedoring, and document fees) | Deduct an amount for expenses incurred on domestic sales transported via sea freight |
| Export credit terms | Add an amount for export credit given by AFEM. |
| Export packing expenses | Add an amount for export packaging expenses |
| Export inland transport charges (including mill to port, empty container costs, stevedoring and document fees) | Add an amount for expenses incurred on Australian sales transported via sea freight |
| Export inland transport, port handling, loading and ancillary expenses | Add an amount for export inland transport, port handling, loading and ancillary expenses |
| Export demurrage fees | Add an amount for demurrage fees incurred on Australian sales |
| Timing adjustment | For certain MCCs exported to Australia there was an absence of domestic sales in the corresponding quarter. |

Table 20 RAK summary of adjustments

7.4.9 Submissions received regarding RAK's variable factors

The commission received submissions from AFEM and Paper Australia in relation to the normal value determined for RAK.⁹⁰ Both submissions addressed the following issues:

- PMS assessment for the Indonesian A4 copy paper market
- treatment of the exporter's pulp raw materials

The commission considers the discussions outlined in chapters 7.4.4 and 7.4.6 address the matters raised in each of the above submissions.

In response to the draft RAK verification report provided to RAK on 26 November 2021, AFEM and RAK (collectively APRIL) made a joint submission on 17 December 2021 at EPR 022. As SEF 588 was published on the same date there was insufficient time to have regard to it in the SEF. The following discussion outlines the commission's consideration of the matters raised by APRIL in the submission of 17 December 2021.

Verification report content

APRIL takes issue with the commission's approach to the presentation of issues in verification reports. APRIL claims it was informed the report would only contain detail on unresolved issues. Since all issues were resolved by way of verification, APRIL is of the view the report should not contain references to 'exceptions'.

APRIL initially raised its objection to exception based reporting on 3 December 2021 after receiving the first draft of the RAK verification report. In providing a second draft for RAK's consideration, the commission referred RAK to notice ADN No. 2016/030.⁹¹ This notice details the commission's approach to 'exception based' reporting. The commission published this notice on March 2016. RAK's verification report also cross-references this notice.

APRIL's complaint is unclear as to how disclosure of corrective action taken by the commission's officers would be adverse to RAK's interests. Prior to publication of the verification report, the commission asked RAK to review and identify information that it considered confidential and not for publication. Following the provision of two draft versions, RAK consented to publication of the report on 13 December 2021.

Analysis of data relevant to normal value adjustments

APRIL objects to inclusion of normal value adjustments at Chapter 9 in the RAK verification report. The purpose of Chapter 9 was to summarise the verification team's examination of data that may be relevant to normal value adjustments pursuant to either section 269TAC(8) or (9). The report did not communicate how the commission was planning to apply the information.

Finding that RAK is the exporter

APRIL disagrees with the verification report finding that RAK is the exporter of the goods from Indonesia. APRIL contends that the commission should identify AFEM as the exporter. APRIL's submission is an extension of the position it held during Review 551 where it similarly objected to the commission's finding that RAK was the exporter.

⁹⁰ EPR 588, Items Nos. 017 and 019.

⁹¹ [ADN No. 2016/030](#).

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The commission has established that the circumstances relevant to the findings in REP 551 are consistent with those identified in this inquiry. In turn, the findings in REP 551 are consistent with the basis of the findings outlined in REP 341 for the original investigation.

By way of its own submission, APRIL has also stated that the nature and structure of APRIL's export transactions to Australia have not materially changed since the original investigation.⁹² APRIL's statement confirms that the circumstances informing the commission's determination of the exporter, as a relevant consideration in determining the export price in this inquiry, are consistent with the circumstances identified in REP 551.

Notwithstanding the above discussion, the commission has had regard to elements within APRIL's submission concerning the entity that took the goods out of Indonesia and conveyed them to Australia.⁹³ APRIL argued similar grounds in submissions to Review 551.⁹⁴ In REP 551, the commission considered APRIL's proposition and concluded that AFEM was not capable of being an exporter, although RAK was.⁹⁵

APRIL disagreed with the Commissioner's recommendations in REP 551 and sought an ADRP review of the Minister's decision. However, the ADRP subsequently affirmed the commission's finding.⁹⁶ APRIL's submission to this inquiry expresses its disagreement with the ADRP's conclusion.

In its submission to this inquiry, APRIL's reasons differ slightly in so far that that it claims AFEM's status as an export trading company (ETC) qualifies AFEM to be the exporter.

The sources referenced in APRIL's submission outline that an ETC takes title of the goods in the exporting country, making that transaction a domestic transaction. APRIL argues that AFEM's status as an ETC makes it the exporter because it holds title over the goods in the Indonesian domestic market before their exportation. The basis of APRIL's position relies on a bill of lading which states AFEM is the shipper. APRIL's submission did not furnish the bill of lading identified in its submission.

In order to test APRIL's claim, the commission had regard to export sales documents examined during the verification of RAK's REQ. Contrary to APRIL's explanation, the relevant bill of lading documents for shipment of the goods from the Indonesian port of export (Buatan) by barge to Singapore identify RAK as the shipper.⁹⁷

The commission further observed that Indonesian customs clearance documents presented during verification identify RAK as the exporter and owner of the goods, with AFEM listed as 'receiver' at the port of export in Indonesia.⁹⁸ The country of origin certificates issued by Indonesia also identify RAK as the consignor of the goods.

APRIL's submission relies on a secondary bill of lading document issued in Singapore from where the goods are transhipped en-route to Australia. These bill of lading documents identify AFEM as the shipper from Singapore. These documents do not

⁹² EPR 588, Item No. 022, Section 4, p.5.

⁹³ EPR 588, Item No. 022, Section 3, pp.2-5.

⁹⁴ EPR 551, Item No. 045, p.4.

⁹⁵ REP 551, Chapter 4.6.1, pp. 41-42.

⁹⁶ [ADRP Report No. 138](#), paragraph 48, p.19 refers.

⁹⁷ EPR 588, Item No. 020, Attachment GP-6.A to Confidential Attachment 1.

⁹⁸ EPR 588, Item No. 020, Confidential Attachment 1, p.52.

establish the shipper of the goods in the manner argued by APRIL. The commission remains satisfied that RAK is the exporter.

Export price and transfer pricing arrangements

APRIL disagrees with the commission's findings regarding the pricing arrangements between RAK and AFEM. APRIL states that the commission acknowledged the price between RAK and AFEM was arms length, even though no such finding was made.

APRIL's submission refers to information contained in draft versions of the RAK verification report issued to RAK prior to publication on the public record. These earlier versions included references to RAK's reliance on OECD transfer pricing guidelines, the volume of RAK's unprofitable export sales and changes in ocean freight and container charges.

The RAK verification report did not disclose the information cited in APRIL's submission, due to confidentiality asserted by RAK and accepted by the commission. Similarly, SEF 588 does not cite the same information in explicit terms. The information considered confidential by APRIL is contained in the verification work program to the RAK verification report and cross-referenced in the SEF and this report.

The commission had regard to the transfer pricing study of 7 January 2021 that informed transfer price-setting practices for entities within the APRIL group of companies.⁹⁹ The commission considered this relevant given RAK and AFEM are both in the group.

APRIL has stated that its experts certified the transactions between RAK and AFEM, amongst others, and the verification team verified this. The commission disagrees. The commission obtained the relevant transfer price study during verification, but has not agreed the relevant sales prices were arms length transactions.

The commission established during the verification that RAK's sales of the goods to AFEM did not reflect the arms length criteria set out for rebates in the transfer price study commissioned by APRIL.

The transfer price study states the following regarding rebates:

- it is to document results of a benchmarking exercise to guide related party transfer pricing policies between the paper manufacturers and paper traders within the APRIL group.
- the rebate provided by paper manufacturers under the group's transfer price policy effectively represents the gross margin required by the paper traders for their selling and distribution functions.
- for the purpose of this benchmarking study, the arm's length rebate that should be given by the paper manufacturers to the distributors [traders] should be as follows [confidential table of upper, lower and median rebates (gross margins) expressed as a % above the price received by the paper manufacturer]
- the target rebate from the range should not result in a non arms length return for the paper manufacturer [confidential range of return is provided].¹⁰⁰

The commission examined a sample of export transactions that RAK provided, in order to demonstrate how AFEM and RAK set the price AFEM would pay RAK for the goods.¹⁰¹ The price RAK received was based on the price AFEM invoiced the Australian customer,

⁹⁹ EPR 588, Item No. 020, Attachment GP-6.M to Confidential Attachment 1.

¹⁰⁰ EPR 588, Item No. 020, Section 10 in Attachment GP-6.M to Confidential Attachment 1.

¹⁰¹ EPR 588, Item No. 020, Attachment GP-6.L to Confidential Attachment 1.

less amounts for 'freight and related charges' and a 'volume rebate'. The commission understands the 'volume rebate' is a reference to the rebate, or gross margin, described in the transfer price study.

The commission observed that the cost and rebate assumptions were demonstrably different to the actual costs incurred and this, in turn, enabled the commission to form different conclusions from what the transfer price study suggested as being an arms length rebate between producers and traders.¹⁰²

APRIL has claimed that changes in costs, such as ocean freight and container costs, were not captured in price setting practices due to sudden and unexpected fluctuations. However, the difference between actual expenses and rebates compared to those presented in the study indicated otherwise.

- For one of the invoices, the sum of ocean freight and container costs was 125% higher than the actual amount in RAK's sales listing. This invoice was dated August 2021 and coincided with a 4 month period, covering July to October 2021, during which ocean freight and container costs had been consistent.
- For a second invoice, dated in December 2021, the actual amount for ocean freight and container costs was 42% lower than the usual cost. This invoice occurred at a time when ocean freight expenses spiked.

The commission considers that a company such as AFEM, whose primary business is to trade goods on the international market, should have reasonable knowledge of trends relevant to factors such as ocean freight, or access to contemporaneous market intelligence. Access to this kind of information should have enabled the estimation of costs with greater degree of accuracy.

In relation to the amounts which RAK claims represents the volume rebate (otherwise known as gross margin), the commission found the amounts tested in the sample were significantly higher than the upper limit recommended in the transfer price study. An analysis for all of RAK's exports identified a similar result.¹⁰³

Both the RAK verification report and SEF 588 had regard to the findings outlined above. These are detailed in chapter 7.4.3.

The commission considers the inputs into the pricing calculations RAK provided to challenge the commission's arms length price assessment were unreliable and inconsistent with the expert advice it claims to have followed, i.e. the transfer price study.

In a further submission at EPR 030, RAK provided a sample of additional export transactions like those which were examined during verification. The purpose of the additional invoices was also to demonstrate how the price AFEM paid RAK for the goods was based on arms length amounts for rebates.¹⁰⁴ RAK claims the calculations in the sample were indicative of an arms length price.

The commission examined RAK's further sample in EPR 030 and observed that the methodology was not consistent with the transfer price study. RAK's version relies on using AFEM's price to the Australia customer at FOB terms, less amounts for freight and related charges. The difference between this result and the price paid to RAK being the

¹⁰² EPR 588, Item No. 020, Attachment GP-6.L to Confidential Attachment 1.

¹⁰³ EPR 588, Item No. 020, worksheet '(a) Australian sales' column CB in Attachment GP-6.P to Confidential Attachment 1.

¹⁰⁴ Section 1 to the submission at pp.1-2 refers.

rebate. When compared to the AFEM price at FOB terms, RAK asserts that the rebate, as a proportion of this FOB price, was within the range identified in the study.

The commission found that RAK's calculations included the previously discussed inaccurate freight and related charges. In addition, the methodology regarding the rebate determined by RAK was inconsistent with the description of the rebate in its own transfer price study.

Using the transfer price study, the commission identified the gross margin as the difference between the price received by the trader (AFEM) from its customer (in Australia) and the amount payable by the trader (AFEM) to the paper manufacturer (RAK). The amount payable to the manufacturer being less than the amount received by the trader, but only within a certain range that the study identifies as being at arms length. In the current case, AFEM's margin over the price it paid RAK was well above the upper limit identified in the study. If the logic/method of the study is correct, this necessarily means that RAK received a lower price than it should have.

As the study states, the rebate represents the gross margin required by the respective paper traders to cover their selling and/or distribution functions.¹⁰⁵ RAK's methodology calculates the rebate after first deducting the relevant selling and distribution expense. This then produces an incorrect and understated level of rebate. The point of the rebate is to give relief to a trader, so it may cover such expenses.

While APRIL claims the price between RAK and AFEM was arms length, the information before the commission leads it to form a different conclusion. The outcome of the commission's analysis identified that AFEM's margin over the price it paid RAK was much higher than the level specified in the transfer price study. The commission also found that the basis for the price RAK receives from AFEM bears no relationship to factors that the commission considers parties at arms length would reasonably factor into bargaining processes.

Export price calculation

APRIL has objected to the commission's method for determining RAK's export prices pursuant to either section 269TAB(1)(b) and TAB(1)(c). APRIL argues that export prices under section 269TAC(1)(a) should rely on the price paid by the importer of the goods.

The commission generally has no objection to APRIL's position. However, in the circumstances relevant to this inquiry, the criteria outlined in section 269TAB(1)(a) were not satisfied. The commission, therefore, relied on the methods available in sections 269TAB(1)(b) and (1)(c). The commission has outlined its reasons in the verification report, SEF 588 and in this report at chapter 7.4.3. The commission's consideration of additional specific matters raised by APRIL are outlined below.

APRIL further considers that the export price calculation should not include deductions for AFEM's profit, as this is akin to a commission it earns in exchange for the role it plays in the sales process. RAK did not report paying commissions to AFEM.

As the beneficial owner of the goods at the time of their importation, AFEM was considered to be the importer. On the basis of the relevant facts and the importer's relation to the exporter, the export price has consequently been calculated under section 269TAB(1)(b) where the conditions of this section were satisfied.

The profit margin component for export prices determined pursuant to section 269TAB(1)(b) is a prescribed deduction (as outlined in section 269TAB(2)(c)). The

¹⁰⁵ EPR 588, Item No. 020, Section 10 in Attachment GP-6.M to Confidential Attachment 1.

commission considers that the export prices determined pursuant to 269TAB(1)(b) have been calculated in accordance with the Act.

APRIL has also questioned the basis of the profit component in the export price calculation given the finding that transactions between RAK and AFEM are not arms length.

The Act does not require the profit to reflect an arms length amount. Such requirements would be contradictory to the purpose of section 269TAB(1)(b), which deals with transactions that are not arms length. It therefore follows that the profit referred to in section 269TAB(2)(c) would not necessarily reflect an arms length amount. The inclusion of the phrase 'if any' anticipates that there may be no profit at all. The commission has used the profit AFEM generated on its sales of the goods.

For export prices determined pursuant to section 269TAB(1)(c), the commission used AFEM's price to the Australian customer as the starting point to work out RAK's export price. This is consistent with the approach endorsed by the ADRP in its review of REP 551.¹⁰⁶ It also reflects the sale of the goods to an unrelated party in an arms length transaction, which is unaffected by the association between RAK and AFEM.

APRIL submission of 17 January 2022

APRIL made a further submission on 17 January 2022 (EPR 027).

At section 2.1 of APRIL's submission, it claims the difference in the dumping margin determined for RAK in this inquiry compared to REP 551 was due to an erroneous method adopted by the commission. In demonstrating its point, APRIL offers 4 hypothetical scenarios to explain the change in the dumping margin determined for RAK in this inquiry compared to REP 551, which is based on CY 2019 transactions.

The commission notes the information in Table 27 that shows there has been a decrease in AFEM's price to its Australian customers, and RAK's export price since 2019. Relative to 2019, RAK's normal value for this inquiry was approximately 5% lower. This indicates that the reduction in RAK's export price was the key driver that led its dumping margin increasing from the current 13.8% to 59.7%.

The method used to work out RAK's export price for this inquiry is the same as that endorsed by the ADRP in its review of the REP 551 findings. In both cases, AFEM's selling prices to its Australian customer forms the basis for RAK's export price at the FOB level. The resulting export price for RAK corresponded with the price AFEM paid RAK for most transactions. In a limited number of transactions AFEM's selling prices were insufficient to cover its costs. RAK's export price in these instances was below what it actually charged AFEM.

At section 2.2 in APRIL's submission, it contends adjustments to the normal value determined for RAK also render the resulting dumping margin erroneous. APRIL argues that there is no evidence that AFEM's price to the Australian customer was negotiated by having regard to the exportation expenses outlined in the normal value adjustments at Table 19 to SEF 588. APRIL further claims that there is no basis for prices between RAK and AFEM to be modified by costs on account of the manner in which RAK's price is set.

ARRIL relies on the construction of the price AFEM pays RAK as the basis for its argument. However, as outlined at chapter 7.4.3 and in responses to APRIL's submissions, the commission considers that the prices between RAK and AFEM were not the result of an arms length transaction. Notwithstanding, once amounts pertaining to AFEM's price to the

¹⁰⁶ [ADRP Report No. 138](#), paragraph 64, p.23 refers.

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Australian customer were taken into account, the resulting RAK export price at FOB terms and domestic like goods prices reflected different circumstances and terms of sale.

The different terms between the majority of RAK's domestic selling prices and its export price to the FOB level meant that RAK incurred much higher costs on those domestic sales.¹⁰⁷ The commission therefore considered it necessary to perform adjustments pursuant to section 269TAC(8)(c). The adjustment led to a net decrease to RAK's normal value.¹⁰⁸

APRIL also raises the basis of the adjustment for timing differences should have benchmarked to movements in prices of copy paper in Indonesia rather than the quarterly variation in RAK's production costs. APRIL considers the resulting adjustment exceeds the change in domestic like goods prices.

The commission was required to apply a timing adjustment due to an absence of relevant like goods sales in the December 2020 and March 2021 quarters, when RAK had exported the goods.¹⁰⁹ The timing adjustment for the December 2020 quarter relied on RAK's movement in selling prices for a like good that closely resembled the relevant like good. This price based adjustment satisfies APRIL's expectation that the commission should have had regard to market prices.

- RAK's prices in the December 2020 quarter were 26% higher than prices in the prior quarter.
- For the March 2021 quarter, there were no domestic sales of any like goods or production of such like goods. The commission therefore relied on the change in production costs for exported goods to inform the change in domestic prices.
- Production costs in the March 2021 quarter increased by 8% compared to the December 2020 quarter. In the preceding quarter, there was minimal difference between the cost of production for domestic like goods and exported goods of the same specification.
- As the difference between production costs for domestic and exported goods appeared to be minimal, the movement in export production cost serves as a reasonable alternative in the absence of relevant domestic production costs.

On the basis that the normal value should be an amount that is in the OCOT, i.e. above the cost of production, the commission considers the cost based timing adjustment is appropriate. The resulting normal value reflects the profit margin achieved in the referenced quarter and the variation in production costs.

APRIL submission of 25 January 2022

APRIL's 25 January 2022 submission, at EPR 030, restates its position on the commission's normal value timing adjustment. APRIL provided domestic prices of A4 copy paper relating to sales by PT Anugerah Kertas Utama (AKU) and PT Asia Pacific Rayon (APR) in support of its claim that the timing adjustment should be based on market prices. AKU and APR are both entities in the APRIL group.

Publically available information identifies AKU as a paper distributor. APR's website states the nature of its business is in the production of viscose rayon. APRIL's submission fails to identify where either entity sourced its copy paper inventory. Neither of the entities

¹⁰⁷ 'Delivery cost and ancillary charges', The Manual, p.60.

¹⁰⁸ Columns BN:BU and BW:BY in worksheet '(a) Domestic Sales' to Confidential Attachment 7 refer.

¹⁰⁹ Section 269TAC(8)(a).

appears to be a copy paper producer. This means that the prices in the sales listing are likely not what a manufacturer such as RAK may have received. APRIL has not established the relevance of the AKU and APR information as it pertains to RAK. Even if APRIL explained why APR and AKU's data was relevant to RAK, not enough information was provided to calculate the movement in price and the effect on the timing adjustment.

APRIL has further claimed that RAK's domestic like goods are APRIL's premium product range and as such attract a price premium over what it claims are non-premium exported goods. It therefore considers an adjustment pursuant to section 269TAC(8)(b) is necessary. APRIL's submission regarding the claimed premium nature of RAK's domestic like goods is the first time it has raised the matter with the commission. Further, APRIL's submission contains no evidence that permits an objective assessment of its claim. The commission's approach has been to rely on the verified, relevant data specific to RAK's and APRIL's circumstances.

7.4.10 Dumping margin

The dumping margin in respect of the goods exported to Australia by RAK for the analysis period is **59.7%**.

The Commission's calculations are contained in **Confidential Attachments 5 to 8**.

7.5 Indonesian all other exporters

The commission's analysis of goods exported from Indonesia found that RAK remains as the predominant exporter of the goods subject to measures. However, an analysis of ABF import data revealed the identity of the exporter was unclear with respect to certain consignments. This was because the import declaration identified the supplier of goods as being a trading entity, rather than a known manufacturer.¹¹⁰ As a result, it could not be determined if those goods originated from an exporter that is not subject to measures.

The commission considers that exports of the goods from parties in the 'all other exporters' category continues to be relevant to the collection of anti-dumping duties. On the basis that the commission has information that is contemporaneous to the imports of the goods examined in Review 551, it is appropriate to review the variable factors relevant to all other exporters from Indonesia.

7.5.1 Export prices

The commission has determined an export price pursuant to section 269TAB(3), having regard to all relevant information.

On the basis that the volume of goods exported from Indonesia was predominantly from RAK, the commission considers RAK's export price as the information most relevant to the assessment outlined in section 269TAB(3). Specifically, the commission has used the export price established for RAK.

7.5.2 Normal values

The commission has determined the normal value pursuant to section 269TAC(6) after having regard to all relevant information.

¹¹⁰ Table 2 to Worksheet 'Indonesia' in Confidential Attachment 9 refers.

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On the basis that the volume of goods exported from Indonesia was predominantly from RAK, the commission considers RAK's domestic sales information is most relevant to the assessment outlined in section 269TAC(6). Specifically, the commission has used the normal value price established for RAK.

7.5.3 Dumping margin

The dumping margin for all other exporters of the goods from Indonesia is **59.7%**.

7.6 Exports by all other subject exporters (Brazil, China and Thailand)

The notice announcing the initiation of the inquiry advised of the Commissioner's proposal to rely on the variable factors established in Review 551. Notwithstanding, the commission still made questionnaires available for interested parties. With the exception of RAK from Indonesia, the commission did not receive any other questionnaire responses.

Consistent with the Commissioner's initiation notice, and with the exception of RAK and all other exporters from Indonesia, the variable factors of export price and normal value established in REP 551 will remain unaltered for exporters from the other subject countries.

8 LIKELIHOOD THAT DUMPING, SUBSIDISATION AND MATERIAL INJURY WILL CONTINUE OR RECUR

8.1 Finding

On the basis of the evidence examined in this inquiry, 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 and subsidisation and the material injury that the measures are intended to prevent.

8.2 Legislative framework

Section 269ZHF(2) provides that the Commissioner must not recommend that the Minister take steps to secure the continuation of 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 and/or subsidisation and the material injury that the anti-dumping measure is intended to prevent.

The commission notes that its assessment of the likelihood of certain events occurring and their anticipated effect, as is required in a continuation inquiry, necessarily requires an assessment of a hypothetical situation. The Anti-Dumping Review Panel, which supports this view, noted that the commission must consider what will happen in the future should a certain event, being the expiry of the measures, occur. However, the Commissioner must nevertheless base conclusions and recommendation on the facts.¹¹¹

In its submission of 8 October 2021, Sylvamo Brazil submitted that the meaning of the word 'likely' in section 269ZHF(2) means 'more than 50 percent chance' and the WTO has found that 'likely' in this context means nothing less than 'probable'.¹¹² The commission's interpretation of the term of 'likely' for the purpose of section 269ZHF(2) has similarly been applied in this inquiry.

8.3 Australian industry's claims

In its application, Paper Australia claimed, among other things, that:

- exporters from all subject countries have maintained their distribution channels to Australia and have continued to export the goods under consideration to Australia
- Paper Australia's domestic selling prices of like goods are influenced by the price of the imported goods subject to measures
- exports of the goods from the subject countries continue to be dumped
- the price of imported subject goods undercut Paper Australia's selling prices
- expiration of anti-dumping measures will lead to injury in the form of reduced sales volumes and price erosion and
- overcapacity amongst subject exporters will demonstrably impact the Australian industry if the measures are allowed to expire.

Paper Australia's application also refers to anti-dumping measures imposed by the governments of the United Mexican States (Mexico), the Islamic Republic of Pakistan

¹¹¹ [ADRP Report No. 44](#) (Clear Float Glass) refers.

¹¹² 588 EPR, Item No. 014.

(Pakistan) and the United States of America (USA). The measures imposed by these other jurisdictions relates to imports from the subject countries.

8.4 Are exports likely to continue or recur?

The commission has had regard to the following factors to determine whether exports of the goods are likely to continue or recur should the measures expire:

- import volumes
- maintenance of distribution links
- excess production capacity of the subject exporters.

8.4.1 Import volumes

Table 21 shows an index of the volume of imported subject goods from each subject country in the period 1 January 2015 to 30 September 2021. The data uses CY 2015 as the baseline, and excludes imports from Indonesian exporters who are not subject to measures.

| Country | Baseline year: 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 |
|-----------|---------------------|------|------|------|------|------|------|
| Brazil | 100 | 78 | 41 | 26 | 9 | 22 | 10 |
| China | 100 | 48 | 2 | 2 | 11 | 35 | 29 |
| Indonesia | 100 | 120 | 64 | 11 | 1 | 8 | 3 |
| Thailand | 100 | 53 | 24 | 16 | 15 | 10 | 8 |

Table 21 Index of import volume of subject goods¹¹³

Having regard to the trends in the data contained in Table 21, the commission observed the following:

- Decreasing imports from the subject exporters corresponds with the contraction in the size of the Australian market after 2015.
- Total imports from the subject exporters decreased further after measures were implemented in April 2017, remaining at lower levels overall.
- In contrast to a further contraction of the market in 2020, subject exporters from Brazil, China and Indonesia had increased sales.
- Subject exporters from all four countries continue to supply the Australian market.

8.4.2 Are exports from Brazil likely to continue or recur?

In data relating to the goods from Brazil, over 95% of the volume exported in the period 1 January 2015 to 30 September 2021 originated from one supplier, International Paper, now named Sylvamo. Jackaroo is on the record as an importer of the goods from Brazil who on-sells those goods to the final Australian customer.

In relation to whether exports from Brazil are likely to continue, the commission refers to the trade flow information presented in Table 21. Exporters from Brazil have continued to sell the goods into the Australian market, notwithstanding that the volume of those goods is now much lower than the levels observed for 2015 and 2016.

To aid in assessing whether the goods from Brazil are likely to continue, the commission has had regard to information provided in a submission by Jackaroo.¹¹⁴ Jackaroo's

¹¹³ Table 12 to Confidential Attachment 1 refers.

¹¹⁴ 588 EPR Item No. 008, p.2

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submission raises various points concerning the materiality of its imports from Brazil. The submission does not address whether exports from Brazil are likely to continue.

The submission from Jackaroo states that it supplied 75 gsm and 90 gsm copy paper.¹¹⁵ In a submission from Sylvamo, it also mentions exportation of 90 gsm.¹¹⁶ Neither entity provided contemporaneous sales data to validate their statements.

The commission's examination of the sales records provided by Jackaroo in Review 551 confirms that Jackaroo imported and sold HP brand paper in 80 gsm and a private label brand in 90 gsm in CY 2019.¹¹⁷

The commission's review of publically available information in this inquiry confirmed the following HP branded copy paper exported by Sylvamo during 2019 were still available for sale as at 20 October 2021.

- HP Everyday Paper A4 80 gsm¹¹⁸
- HP Office Paper A4 80 gsm¹¹⁹

Both variants of the HP brand paper identified above were in the sales listings presented by Jackaroo in Review 551. However, it appears Sylvamo no longer supplies the private label brands identified in Review 551.

The commission also found information that countered the product descriptions outlined in the submissions from Jackaroo and Sylvamo.

- HP brand paper in 90 gsm was identified as being sourced from France not Brazil.¹²⁰
- HP brand paper in 75 gsm was not available in the Australian market.

The commission's review of publically available information in October 2021 established that exports of the goods from Brazil are of 80 gsm, not 90 or 75 gsm.

The commission is satisfied that the goods imported from Brazil after 2019 comprises the same HP brands identified in Review 551.

To assess whether the above exports of the goods from Brazil are likely to continue, the commission also had regard to information about those goods as sold on the Australian market.

Figure 9 shows that the Brazilian sourced HP branded 'HP Office Paper A4 80 gsm' paper is of a comparable specification to other copy paper products and competitively priced compared to other brands produced in Australia and other subject countries.

¹¹⁵ 588 EPR Item No. 008, p.2

¹¹⁶ 588 EPR Item No. 014, p.2

¹¹⁷ 551 EPR Item No. 026 – Jackaroo Importer Verification Report

¹¹⁸ www.officeworks.com.au, viewed 20 October 2021.

¹¹⁹ www.officeworks.com.au, viewed 20 October 2021.

¹²⁰ HP Color Choice 90 gsm A4 Paper 500 Sheet Ream, www.officeworks.com.au, viewed 20 October 2021.

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Figure 9 Officeworks price offer at 20 October 2021 (per ream pack)¹²¹

Figure 10 shows that the Brazilian sourced HP branded 'HP Everyday Paper A4 80 gsm' product is of a comparable specification to other copy paper products and competitively priced.

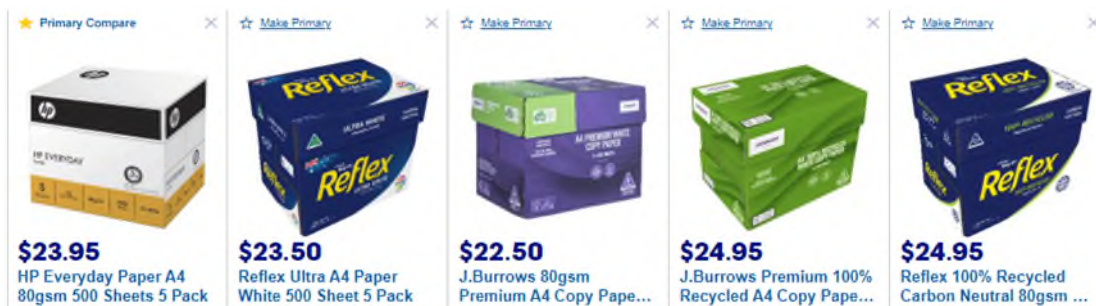


Figure 10 Officeworks price offer at 20 October 2021 (5 ream pack)¹²²

Having regard to the above, the commission is satisfied that exports from Brazil are likely to continue for the following reasons:

- exporters from Brazil have supplied the Australian market with the goods after the imposition of measures and continue to do so.
- the goods from Brazil are of a comparable specification to Australian industry's products, and those sourced from other countries.
- Australian resellers of paper continue to source the paper from Brazil.
- there is no evidence to support an opinion that a cessation of exports from Brazil is likely.

8.4.3 Are exports from China likely to continue or recur?

The commission's pattern of trade analysis in Table 21 indicates that imports from China initially reduced to almost zero after the implementation of formal measures on all exporters from China in April 2017. After a period of very low export volume, exports increased in 2019.

Figure 11 provides a detailed picture of quarterly import volumes from China in the period 1 January 2015 to 30 September 2021. Following the publication of the PAD and SEF in the September quarter of 2016 and the imposition of measures in the June quarter of 2017, volumes decreased significantly.

In the period covering the December 2019 to September 2021 quarters, the average quarterly volume from China increased from almost zero, to 40% of the average quarterly

¹²¹ www.officeworks.com.au, viewed 20 October 2021.

¹²² www.officeworks.com.au, viewed 20 October 2021.

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import volume that existed prior to implementation of measures. The commission observes that there was a substantial increase in volumes from the December 2019 quarter.

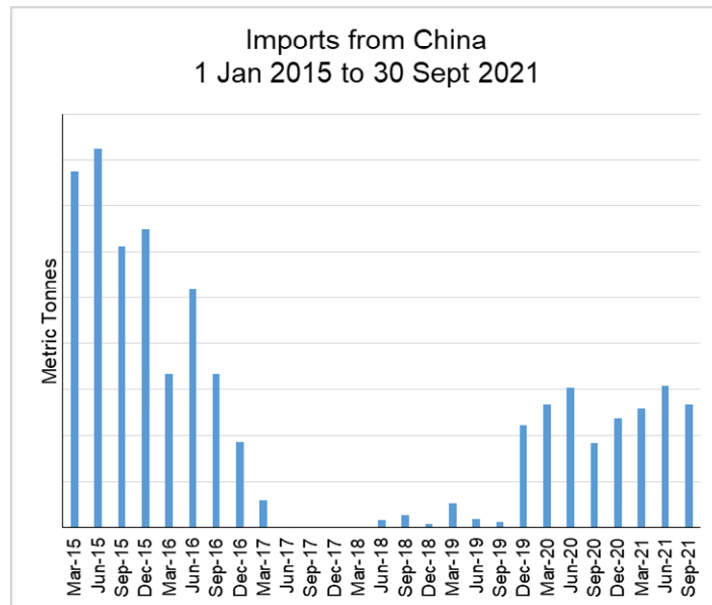


Figure 11 Imports from China 2015 to 30 September 2021¹²³

To assess the likelihood of exports from China continuing, the commission has considered the condition of the Australian market observed in the original investigation period, i.e. 2015 and the current period (2020 to 2021). This includes an analysis of the customer base in each of these periods and prices of goods in the market. These factors inform the potential level of demand for the goods and, therefore, whether exports from China are likely to continue.

During the original investigation, exporters and importers of the goods from China reported sales to major Australian buyers of A4 copy paper. Some of these entities continue to sell paper under the banner of the new owner or have since exited the market.¹²⁴

Notwithstanding the prior changes in the market, the commission identified (in the source data for Figure 11) that entities who have previously imported the goods continue to be present in the Australian market. These entities have exhibited behaviour whereby they will periodically switch suppliers.

The commission confirmed the switching behaviour described above by examining the names of the parties identified from the source data that forms the basis of Figure 11 and Paper Australia's historical sales records. Figure 11 illustrates the reduction in volumes from China in the period 1 April 2017 to 30 September 2019. The trend in the Australian industry's sales volume shown in Figure 3 indicates a corresponding increase during the same period.

¹²³ Worksheet 'China' in Confidential Attachment 9 refers.

¹²⁴ Chapter 5.3.2 in REP 463 provides a detailed summary of market consolidation and exits, [EPR 463 Item No. 068, p. 26](#) refers.

Impact of Paper Australia's new supply arrangements

In its submission of 9 August 2021, UPM outlines that Paper Australia's application for the inquiry omitted the presence of a 2021 contract to supply a large Australian reseller of A4 copy paper with locally produced product.¹²⁵ The commission can disclose that this entity is Officeworks, as its identity as the reseller is already on the public record.

UPM's further submission of 3 September 2021 outlines the specific detail relevant to the agreement struck between Paper Australia and Officeworks, which UPM had supplied since late 2019. The arrangement between UPM and Officeworks was due to end by late 2021. After that time, Paper Australia will supply the customer concerned.¹²⁶

The commission validated UPM's statements regarding its customer's change of supplier by obtaining the documentation referenced in its submission. The commission obtained similar documentation from Paper Australia to validate the existence of the agreement cited in UPM's submission.¹²⁷

In a similar line of argument to that raised in Jackaroo's submission at EPR 008, UPM submits (at EPR 006) that the effect of the 2021 agreement struck by Paper Australia will lead to the Australian industry holding a 95% share of the Australian market. UPM claims this will arise once the sale of all imported inventory sourced from UPM occurs in late 2021.

Supply agreements

UPM's forecasted market share of the Australian industry relies on a presumption that Paper Australia's customers have committed to sourcing their supply from Paper Australia for a fixed period.

Paper Australia provided the commission with information regarding how its supply arrangements with customers operated.¹²⁸ Paper Australia's response outlined that participants in the Australian market do not prefer such arrangements. Paper Australia identified that there was no formal arrangement in place with certain customers.

Where there was an agreement it appeared that customers were not obliged to purchase minimum volumes, notwithstanding that failing to purchase a minimum volume may invoke a price revision. The supply agreements examined appeared to instruct how the provision of goods by the manufacturer would operate, when and if the customer required inventory. There was nothing that indicated exclusivity for Party A to supply Party B for a fixed term (by way of example).

When a term of the agreement was stated, the commission considered this related to operational matters governing the purchase and supply of inventory, rather than any specific obligation to continue sourcing that inventory from a particular party.

The commission obtained similar information from UPM in relation to its supply of goods to Officeworks.¹²⁹ To demonstrate the point regarding exclusivity, the commission found that UPM lost its Officeworks sales upon Officeworks declining UPM's March 2021 price offer and seeking alternative supply arrangements. The only condition relating to the cessation

¹²⁵ [588 EPR Item No. 004, p.1.](#)

¹²⁶ [588 EPR Item No. 006, p.2.](#)

¹²⁷ Item 2 in Worksheet 8.4.3 to Confidential Attachment 10 refers.

¹²⁸ Attachment GP1-D to Confidential Attachment 1 at EPR Item No. 015 refers.

¹²⁹ Item 1 in Worksheet 8.4.3 to Confidential Attachment 10 refers.

of the relationship was that UPM committed to the purchase of a remaining volume of stock with the remaining cycle.

The commission considers the above example demonstrates that customers appear to have the ability to switch suppliers with relative ease. As a further demonstration of this switching behaviour, the following outlines the dynamic between Officeworks, UPM and Paper Australia.

Supplier switching

Officeworks has sourced from both UPM and Paper Australia over the previous 5 years. Paper Australia initially supplied Officeworks up to December 2019 before it changed supplier to UPM. Officeworks commenced sourcing its inventory from Paper Australia in late 2021.

Paper Australia has represented to the commission that it won the Officeworks business after agreeing to offer prices comparable to those offered by exporters. The commission confirmed that Paper Australia's statement is accurate by comparing the price in its successful offer to Officeworks and the prevailing price of the goods from China.¹³⁰ The prices in this comparison were at comparable terms.¹³¹

The commission considers that agreements between parties in the Australian market provide customers with the ability to exit the relationship when suppliers offer goods at more attractive prices.

Australian customer base and relevance of price motivated decision-making

The commission has established that UPM and other exporters from China have previously supplied Australian customers who remain active in the Australian market. Other customers who are in the Australian market may also seek out alternative sources of supply.

The commission's price undercutting analysis in chapter 8.6.1 shows that the fully landed and anti-dumping duty inclusive price of the goods imported from China undercut Paper Australia's prices in 2021. Further information outlined in chapter 8.6.1 about a 2021 price offer by UPM-AP indicated that the price in this offer also undercut the Australian industry's prices.¹³²

The commission considers the low price of the goods from China would likely be a key purchasing consideration and incentivise Australian customers to seek out the cheapest supplier. The commission's analysis at chapter 8.4.7 also established that exporters from China retain sufficient spare capacity to supply those customers.

The possibility of the above occurring increases due to the operation of supply agreements that do not oblige a customer to source inventory from manufacturers for a fixed period. In other cases, there was no documented supply arrangement. On this basis, the commission concludes there is a likelihood of Australian customers entering into new supply agreements with exporters from China.

The commission is therefore satisfied that exports from China are likely to continue.

¹³⁰ Table 6 in Worksheet 8.6.1.2 to Confidential Attachment 10 refers.

¹³¹ This addresses UPM-AP's submission at page 4 to EPR 024 regarding statements on page 55 of SEF 588.

¹³² This addresses UPM-AP's submission at page 4 to EPR 024 regarding statements on page 56 of SEF 588.

8.4.4 Are exports from Indonesia likely to continue or recur?

The commission's analysis of the pattern of trade data in Table 21 indicates that imports subject to measures from Indonesia initially increased after 2015, despite the contraction in the Australian market. The surge in exports during 2016 preceded a significant reduction from 2017 onwards. Import volumes to 30 September 2021 were down 97% on 2015 levels.

Figure 12 provides further detail about the quarterly import volumes from Indonesian subject exporters in the period from 1 January 2015 to 30 September 2021. Imports of the goods reduced after the commission made a PAD in the September 2016 quarter [denoted by a yellow star] and continued to decrease to zero in the following 24 months. Demand for the subject goods from Indonesia has continued despite quarterly imports volumes becoming relatively sporadic.

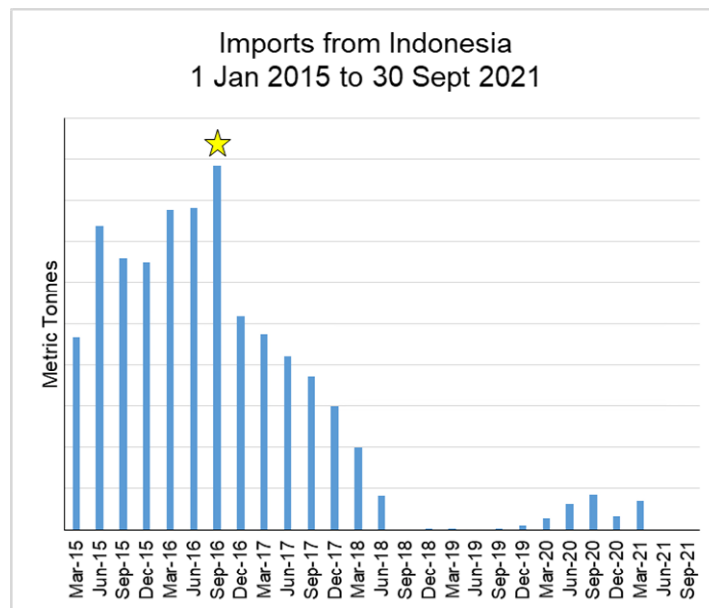


Figure 12 Imports from Indonesia 2015 to 30 September 2021¹³³

The commission's examination of the pattern of trade data in Figure 12 identifies RAK as the predominant exporter of the goods. This follows revocation of the anti-dumping notices in relation to exports by Pindo Deli and Indah Kiat. The sales listing provided by RAK for the purpose of this inquiry confirms that its Australian customers continue to trade the goods on the Australian market.¹³⁴

In addition to a contemporaneous analysis of the entities who continue to import goods subject to measures from Indonesia, the commission has examined a different version of historical patterns of trade in Figure 13.

Figure 13 shows the pattern of trade for all goods (both subject and not subject to measures) imported from Indonesia for each CY in the period 1 January 2012 to 30 September 2021. In contrast to the post measures trend shown in Figure 12, exporters from Indonesia have historically exported much larger volumes.

¹³³ Worksheet 'Indonesia in Confidential Attachment 9 refers.

¹³⁴ Table 3 to worksheet 8.4.4 in Confidential Attachment 10.

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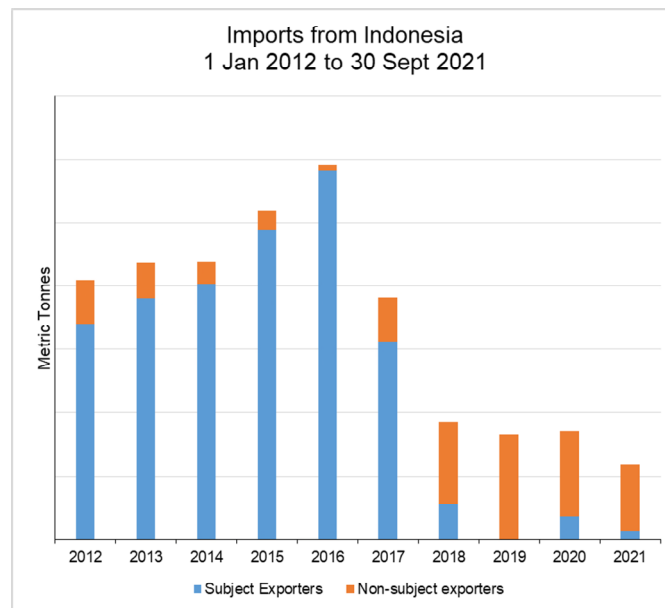


Figure 13 Historical import volumes from Indonesia – all exporters¹³⁵

The commission's analysis of the exporter and importer relationships presented in Figure 13 indicates that RAK, represented as the 'subject exporters' data series, was the predominant exporter of the goods until 2017. Exporters represented by the 'non-subject exporters' data series include Tjiwi Kimia, Pindo Deli and Indah Kiat. Tjiwi Kimia made up most of the exports that occurred after 2017.

The commission further ascertained that imports of the goods from subject exporters were predominantly by one entity in the period covering CYs 2012 to 2017.¹³⁶ The sudden decrease in imports by this entity coincides with Paper Australia's acquisition of the relevant entity's office products division in July 2016.¹³⁷ Since divesting its office products division to Paper Australia, the relevant entity, now merged with another Australian seller of paper and office products, has imported a fraction of the amount previously imported by the above mentioned office products division.

In relation to other entities who have imported the goods from subject Indonesian exporters, the commission identified that they remain active in the Australian A4 copy paper market. However, these entities now source their inventory from either the Australian industry or non-subject exporters from Indonesia. In either instance, the Australian market continues to exhibit a demand for the goods from Indonesia.

A further relevant consideration that informs the likely continuation of exports from Indonesia is the price paid by Australian importers. The commission's price undercutting analysis in chapter 8.6.1 shows that the fully landed and anti-dumping duty inclusive price of the goods imported from Indonesia undercut Paper Australia's prices in 2021.

The commission considers that the price sensitive nature of the A4 copy paper market is sufficient to incentivise Australian customers to seek out supply of cheaper subject goods from Indonesian exporters such as RAK.

¹³⁵ Table 8 to Confidential Attachment 1 refers.

¹³⁶ Table 1 to worksheet 8.4.4 in Confidential Attachment 10.

¹³⁷ <https://www.accc.gov.au/media-release/accc-will-not-oppose-australian-papers-proposed-acquisition-of-edwards-dunlop-office-products>

The commission is satisfied it is likely that exports of the subject goods from Indonesia will continue.

8.4.5 Are exports from Thailand likely to continue or recur?

The commission's analysis of the data in Table 21 indicates that imports subject to measures from Thailand reduced by around 50% immediately after 2015. Following this reduction, exports from Thailand continued throughout the period 2017 to 2021.

The commission's analysis of quarterly import volumes in the period 1 January 2015 to 30 September 2021 at Figure 14 illustrates the much higher import volumes prior to the imposition of anti-dumping measures in the June quarter of 2017. Since the imposition of measures, import volumes from Thailand have persisted for 17 consecutive quarters to 30 September 2021.

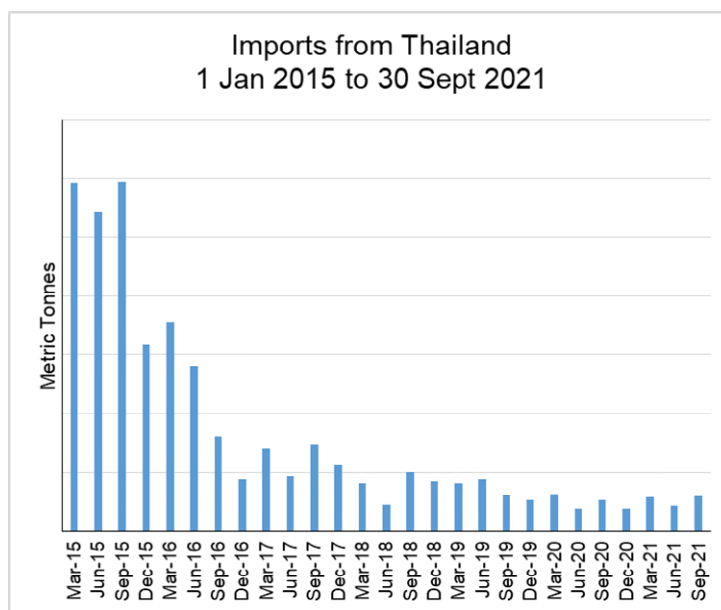


Figure 14 Imports from Thailand 2015 to 30 September 2021¹³⁸

The only cooperating exporter from Thailand in Review 551 was Double A. Having regard to the 2019 sales data reported by Double A in Review 551, the commission established that Double A's customers at that time continued to trade the goods on the Australian market and have likely continued to source their inventory from Double A.¹³⁹ The commission has not received information to the contrary.

In addition, the commission also found that the Australian customers listed in the sales data reported by Double A for Investigation 341 remain active in the Australian A4 copy paper market.¹⁴⁰

The following factors satisfy the commission it is likely that exports of the goods from Thailand will continue:

- import volumes from Thailand have persisted since measures were imposed
- importers of the goods from Thailand remain active in the Australian A4 copy paper market.

¹³⁸ Worksheet 'Thailand' in Confidential Attachment 9 refers.

¹³⁹ Table 1 to worksheet 8.4.5 in Confidential Attachment 10.

¹⁴⁰ Table 2 to worksheet 8.4.5 in Confidential Attachment 10.

8.4.6 Maintenance of distribution links

At the conclusion of Investigation 341, the Minister imposed measures in the form of an anti-dumping notice on all exporters of the goods from Brazil, China and Thailand. With the exception of Tjiwi Kimia, the Minister also imposed measures on all exporters from Indonesia. Further, the Minister imposed a subsidy notice on all exporters from China, with the exception of exports by Greenpoint and UPM-AP.

The cohort of major exporters of the goods who cooperated with Investigation 341 was comprised of the following entities.

- International Paper (Brazil)
- UPM-AP (China)
- Greenpoint (China)
- RAK (Indonesia)
- Pindo Deli (Indonesia)
- Indah Kiat (Indonesia)
- Tjiwi Kimia (Indonesia)
- Double A (Thailand)
- Phoenix Pulp & Paper (Thailand)

The commission further identified that uncooperative and all other exporters had sold the goods to Australian importers in quantities that were not insubstantial.¹⁴¹

Investigation 341 also received questionnaires from the following entities who had reported importing the goods relevant to the investigation:

- BJ Ball Pty Ltd
- Central National Australia
- Fuji Xerox Australia Pty Ltd (Fuji Xerox Australia)
- Jackaroo
- Paper Force (Oceania) Pty Ltd (Paper Force)
- UPM-Kymmene Pty Ltd (UPM-Kymmene)

In Review 551 the commission examined exports in the period 1 January 2019 to 31 December 2019. The commission received questionnaire responses from the following exporters:

- International Paper (Brazil)
- UPM (China)
- Greenpoint (China)
- RAK (Indonesia)
- Double A (Thailand)

The commission also received questionnaire responses from Jackaroo and Officeworks who declared importing the goods during the review period.

To assess the maintenance of exporter's distribution links to the Australian market, the commission has had regard to the information examined in Investigation 341 and Review 551, ABF importation data for the period 1 January 2015 to 30 September 2021 and RAK's REQ submitted to this inquiry.

¹⁴¹ Table 2 to worksheet 8.4.6 in Confidential Attachment 10.

The commission observed that the majority of the exporters identified during Investigation 341 have maintained their distribution links to the Australian market.¹⁴²

The commission also found that exporters had established trading links with new Australian customers after losing existing customers. This correlates with the switching behaviour exhibited by participants in the Australian market. In other cases, the parties involved in the trade of the goods from the subject country to Australia had not changed. However, the commission identified downstream customers for the goods differed in some cases.

The commission also established during Investigation No. 463 that certain other entities no longer import the goods, due to various market consolidations and acquisitions. As a result, high volume importers of the goods identified during Investigation 341 no longer exist or now exhibit much lower demand. Notwithstanding these changes, the Australian market continues to feature a small group of large customers and a significantly larger base of smaller but no less material customers for the goods and like goods.

The commission's pattern of trade analysis indicates that exporters from each of the subject countries have maintained distribution links into the Australian market. The analysis further revealed the entities who exported substantial volumes in the period prior to 2015 continue to market those goods in Australia. The commission considers these factors support a view that it is likely that exports from the subject countries will continue.

8.4.7 Excess production capacity of the subject exporters

The production capacity data outlined in Paper Australia's application relied on the RISI Fastmarket's 'Mill Asset Database'.¹⁴³ Paper Australia highlighted the following in respect of each subject exporter:

- UPM China has an installed capacity of 650,000 tonnes per annum (p.a.).
- International Paper from Brazil has an installed capacity of 675,801 tonnes p.a.
- RAK from Indonesia has an installed capacity of 640,000 tonnes p.a.
- Double A from Thailand has an installed capacity of 425,000 tonnes p.a.

The commission has assessed the ability of the subject exporters to service the Australian market by having regard to exporter questionnaires submitted in Review 551 and for this inquiry.

Compiling the production capacity data reported by exporters and comparing this to their reported production volumes, the commission estimates the subject exporters achieved capacity utilisation of between 65% and 95%.¹⁴⁴ The commission calculated capacity utilisation of between 61% and 85% using the RISI data supplied by Paper Australia.¹⁴⁵

¹⁴² Table 1 to worksheet 8.4.6 in Confidential Attachment 10

¹⁴³ 588 EPR Item No. 001, p.12.

¹⁴⁴ Column [G], Table 1 worksheet 8.4.7 to Confidential Attachment 10.

¹⁴⁵ Column [I], Table 1 worksheet 8.4.7 to Confidential Attachment 10.

The spare production volume capacity for any of the subject exporters was sufficient to supply between 37% and 208% of the Australian market in the 12 months ending 31 March 2021.¹⁴⁶

The commission has also identified that RAK's parent company, APRIL, plans to increase production at facilities operated by related party Riau Andalan Pulp and Paper (RAPP), which is co-located with RAK on the Indonesian island of Sumatra.¹⁴⁷

According to the information obtained by the commission, RAPP's pulp production will increase to 5.8 million tonnes. APRIL's corporate website stated RAPP's pulp production capacity was 2.8 million tonnes.¹⁴⁸ The commission considers it reasonable that RAPP diverts its additional pulp output to related party paper producer RAK, and permits RAK to produce higher volumes of A4 copy paper. This satisfies the commission that RAK would continue to possess the necessary resources to supply the Australian market.

The commission further observed that the spare production capacity amongst the subject exporters would be sufficient to meet the demand requirements for each of the major Australian customers or a collective of smaller second tier customers.¹⁴⁹

8.4.8 Summary

The commission is satisfied that should the measures expire, exports from the subject countries are likely to continue on the basis that:

- imports have been identified in respect of each country in each year since the measures were imposed in April of 2017
- the goods produced and exported by the subject exporters continue to be sold on the Australian market at prices which are highly competitive
- exporters have maintained and/or developed new distribution links to the Australian market
- the Australian market customer base includes entities that have historically purchased the goods from the subject exporters and may likely do so again at those larger historical volumes
- exporters appear to possess excess production capacity to supply their existing Australian customers or the requirements for new Australian customers.

8.5 Will dumping and subsidisation continue or recur?

In assessing the likelihood of whether dumping and subsidisation will continue or recur, the Manual outlines a number of relevant factors.

The Manual further outlines that the inquiry may gather facts relevant to whether dumping and subsidisation will resume. Such information may include exporters' dumping and subsidy margins, the volume of exports before and after the measures were imposed, the

¹⁴⁶ Column [K], Table 1 worksheet 8.4.7 to Confidential Attachment 10.

¹⁴⁷ <https://www.eco-business.com/news/paper-giant-aprils-expansion-plan-alarms-environmentalists/> (viewed 16 November 2021).

¹⁴⁸ <https://www.aprilasia.com/en/about-us/our-operations>, (viewed 16 November 2021)

¹⁴⁹ Table 2 worksheet 8.4.7 to Confidential Attachment 10.

effect of the measures, the level of dumping compared with the level of measures, and any change in those measures (e.g. as a result of a review).¹⁵⁰

The commission considers its examination of the relevant factors will vary depending on the nature of the goods and the market where those goods are sold.¹⁵¹ No one factor can necessarily provide decisive guidance. The following analysis therefore examines a range of factors that the commission considers relevant to this inquiry to assess the likelihood of dumping and subsidisation continuing or recurring in relation to A4 copy paper exported to Australia.

8.5.1 Analysis of dumping margins

Table 22 reproduces the dumping margins outlined in Chapter 7 of this report:

| Country | Exporter | Dumping margin |
|-----------|---------------------|----------------|
| Brazil | Sylvamo | 8.1% |
| | All other exporters | 8.1% |
| China | UPM-AP | 3.2% |
| | Greenpoint | 10.0% |
| | All other exporters | 3.0% |
| Indonesia | RAK | 59.7% |
| | All other exporters | 59.7% |
| Thailand | Double A | 0.9% |
| | All other exporters | 0.9% |

Table 22 Dumping margins established for exports of the goods

With the exception of goods exported by RAK from Indonesia, the dumping margins determined for the goods exported to Australia by exporters from Brazil, China, and Thailand reflect the variable factors determined in Review 551.

Verification of the questionnaire response submitted by RAK for the purpose of this inquiry established the level of dumping associated with its exports in the period 1 July 2020 to 30 June 2021 was 59.7%. The commission considers this rate is relevant to the category of 'all other exporters' from Indonesia.

Changes in export prices over time

Table 23 details the change in FOB export prices in the period covering CYs 2019 to 2021. Prices in 2021 reflect imports up to 30 September 2021. The base year 2019 relies on verified FOB prices determined by the commission in Review 551.

Except for Indonesia, Australian import declarations were the source of FOB prices in 2020 and 2021. Prices for export from Indonesia in 2021 are from the REQ submitted by RAK for the purpose of this inquiry.

¹⁵⁰ The Manual, p.137 refers.

¹⁵¹ Ibid.

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| Country | Exporter | 2019 | 2020 | 2021 |
|-----------|---------------------------|------|------|------|
| Brazil | Sylvamo | 100 | 98 | 86 |
| China | Greenpoint ¹⁵² | 100 | 109 | |
| China | UPM | 100 | 101 | 91 |
| Indonesia | RAK ¹⁵³ | 100 | | 59 |
| Thailand | Double A | 100 | 90 | 81 |

Table 23 Index of change in FOB export price (\$/MT)¹⁵⁴

The commission's analysis of export prices at FOB terms found that prices since 2019 have reduced in the case of all subject exporters.

Country of origin domestic like goods prices

An assessment of dumping in its most basic form involves a comparison between the export prices of goods, usually at FOB terms, and domestic prices of goods that are like to those which are exported. As the relationship between export and domestic price informs whether dumping is likely, the commission considers the price of like goods in each exporter's country of origin is a relevant consideration.

The following outlines the commission's assessment of the likely change in each subject country's domestic selling prices for like goods. The commission's assessment relies on the following information about the domestic market in each subject country's domestic market:

- sales data obtained in prior cases
- market price data relevant to the region in which exporters originate
- information regarding movements in known cost drivers
- data provided in Paper Australia's application
- domestic sales reported by RAK in its REQ for this inquiry.

Examination of domestic price movements: Brazil

In Investigation 341, the commission found the level of dumping for the goods exported by Sylvamo was 2.9%. In Review 551, the commission determined that the dumping margin relevant to exports by Sylvamo in 2019 was 25.7%. Application of the lesser duty rule and an operative NIP reduced this to 8.1%.

Table 23 revealed International Paper's export price in 2021 was a reduction on the price that its current dumping margin is determined.

Citing higher input costs for pulp, energy and labour, Paper Australia's application for the inquiry contends that global prices for uncoated woodfree (UCWF) cut paper sheet have increased since the original investigation. Paper Australia contends that prices in Brazil would have exhibited a similar trend.

¹⁵² Greenpoint did not export the goods in 2021.

¹⁵³ Price information for the last six months of 2020 is included in the weighted average price for 2021.

¹⁵⁴ Table 10 in worksheet 'PU Analysis' to Confidential Attachment 15.

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In lieu of contemporaneous price information for the Brazilian domestic copy paper market, Paper Australia provided a calculation that it considered representative of the monthly global average prices for UCWF cut paper in the period December 2015 to April 2021.¹⁵⁵

Paper Australia's global average UCWF cut paper price calculation relies on price information sourced from Fast markets RISI Pulp and Paper Industry Intelligence (RISI). The average price is an aggregate of prices in 9 markets across South America (inclusive of Brazil), Europe, the USA and South East Asia. Paper Australia's global average price also included a RISI data series for UCWF cut paper in 75 to 95 gsm for Brazil.

Table 24 shows changes in the following price series

- Sylvamo's FOB export price and its likely domestic price
- Brazil UCWF cut paper 70 to 75 gsm; and
- RISI Global Average (as calculated by Paper Australia).

| Price Series | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 |
|---------------------------------------|------|------|------|------|------|------|------|
| RISI Global Average | 100 | 100 | 104 | 116 | 112 | 105 | 108 |
| Brazil UCWF | 100 | 120 | 122 | 135 | 120 | 118 | 121 |
| Sylvamo Domestic Price ¹⁵⁶ | 100 | | | | 129 | 127 | 130 |
| Sylvamo FOB Export Price | 100 | 87 | 87 | 110 | 107 | 105 | 92 |

Table 24 Index of change in price series (International Paper Brazil)¹⁵⁷

Table 24 shows the RISI global average price calculated by Paper Australia and the Brazil UCWF price series followed a similar trend however the fluctuations between the two were markedly different.

The Brazil UCWF price series suggests that the Brazilian domestic market underwent a sharp price increase after 2015 and with the exception of 2018 appears to have remained at a similar level through to 2021. International Paper's 2019 domestic price displays a trend that is comparable to the Brazil UCWF price series.¹⁵⁸

The commission considers it reasonable that the trend in the Brazil UCWF price series after 2019 informs the likely domestic price of Sylvamo's like goods during 2020 and 2021.

By applying the trend in the Brazil UCWF price in 2020 and 2021, the commission estimates that Sylvamo's domestic prices in these periods were likely similar to 2019 prices. In comparison, Sylvamo's export price reduced after 2019.

The commission considers the divergence observed between Sylvamo's domestic and export price since 2019 indicates dumping of its exports is likely.

The commission further considered the following factors to inform if dumping of the goods from Brazil is likely to continue:

- prevailing prices in the Australian market
- International Paper's domestic market sales

¹⁵⁵ Paper Australia Application Confidential Attachment 4

¹⁵⁶ Domestic price information for 2016 to 2018 was not available.

¹⁵⁷ Table 2 to worksheet 8.5.1.1 in Confidential Attachment 10.

¹⁵⁸ Domestic prices for International Paper for 2015 and 2019 rely on its sales listings examined in Investigation 341 [2015] and Review 551 [2019].

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- International Paper's Australian sales profitability.

The commission has established that the prevailing price received by suppliers to the Australian A4 copy paper market has essentially remained unchanged for several years. Prices since 2015 have generally been lower rather than higher. The trend in Paper Australia's like goods prices in Table 25 demonstrates this point.

| Entity Name | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
|-----------------|------|------|------|------|------|------|
| Paper Australia | 100 | 98 | 95 | 95 | 103 | 101 |

Table 25 Paper Australia Index of Unit Selling Price Variation

The commission's price undercutting analysis at chapter 8.6.1 revealed the fully landed import price for goods exported by Sylvamo in 2021 undercut the Australian industry's price. It also revealed the price of International Paper's goods were comparable to the price payable on imports from the other subject countries.

The elimination of the dumping margin associated with Sylvamo's exports in 2021 would likely require an FOB price increase that would impose a premium on its goods over other suppliers. The commission considers an increase of the amount necessary to eliminate dumping would likely render the goods from Brazil uncompetitive in the highly price sensitive Australian copy paper market.

To assess an elimination of dumping through a decrease in Brazilian domestic prices, the commission has had regard to the 2020 Annual Performance Summary Report released by International Paper Company, who was the US based parent company of Sylvamo in Brazil at the time.

International Paper Company reported its Brazilian operation's sales of uncoated paper generated operating profit of 16% and 13% for 2019 and 2020 respectively.¹⁵⁹ The commission further observed in data for Review 551 that domestic A4 copy paper sales in 2019 appeared to be materially relevant to Sylvamo's economic performance.¹⁶⁰

The commission estimates it is unlikely that Sylvamo would implement the necessary reduction in its domestic prices to eliminate dumping in relation to its already profitable Australian exports.¹⁶¹ The profit margin on its Australian sales may permit further price reductions to attract customers.

The long-term prevailing price of A4 copy paper in the Australian market supports that exporters from Brazil will be required to set their prices to below that of their domestic markets. Since the commission considers the necessary changes in either export price or domestic prices are unlikely to occur, it is likely that dumping of the goods from Brazil will continue.

Examination of domestic price movements: China

Review 551 found dumping had occurred in relation to exports from China. To assess the likelihood of a continuation of dumping by exporters from China, the commission has examined the trends relevant to exports by UPM.

¹⁵⁹ [International Paper Company Annual Report 2020, p.30 \(viewed 27 October 2021\).](#)

¹⁶⁰ 588 EPR Item No. 032, Section GP6 to Confidential Attachment 1.

¹⁶¹ Table 8 to worksheet 8.5.1.2 in Confidential Attachment 10

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Table 23 revealed UPM's export price in 2021 was a reduction on the price that its current dumping margin is determined. In Review 551 the commission found that UPM's pulp purchase price closely followed the trend in the market prices for pulp imported from its major pulp supplying countries.¹⁶² UPM's domestic prices were sufficient to recover the full cost of production inclusive of movements in pulp price.

The commission therefore considers that the observed movements in pulp price informs the likely change in UPM's domestic prices. To assess whether dumping of exports from China is likely to continue or recur the commission has compared the relationships between the two price series outlined in Table 26.

| Price Series | 2019 | 2020 | 2021 |
|-------------------------------|------|------|------|
| Change in Pulp Price | 100 | 88 | 133 |
| UPM FOB Export Price (AUD/MT) | 100 | 101 | 91 |

Table 26 Index of change in price series (UPM)¹⁶³

The commission observed the two key pulp price benchmarks relevant to UPM's pulp purchases in Table 26 increased in 2021 compared to 2019.

In Review 551 the commission found that UPM's CTMS figures reflected the prices it paid its pulp suppliers and its domestic prices were higher than total unit CTMS. As the two pulp price series relevant to UPM's production of A4 copy paper have increased since 2019, the commission considers it reasonable that UPM's domestic prices have also increased. Domestic selling price data for China provided in Paper Australia's application corresponded with the commission's estimation.¹⁶⁴ Paper Australia's data indicated that domestic prices in China have not decreased since 2019.

In contrast, UPM's FOB export price decreased in 2021 compared to 2019. The commission considers the divergence observed between UPM's domestic and export price since 2019 indicates dumping of its exports is likely.

In UPM-AP's submission at EPR 024 (page 5) it contends there was no decline in price for its exports from China. UPM-AP provided sales data for 2019 to 2021 in support. The commission observed that UPM-AP's sales data was denominated in USD. This information confirmed that prices had not changed. However, when converted to AUD, UPM-AP's price was found to have reduced.¹⁶⁵

To assess whether dumping of the goods from China may continue the commission has similarly considered the factors relied on to assess exports from Brazil. The commission's price undercutting analysis in chapter 8.6.1 revealed that the fully landed import price for goods exported by UPM-AP in 2021 undercut the Australian industry but were comparable to the price payable on imports from the other subject countries.

Noting the long-term trend in the prevailing price of copy paper in Australia, the commission considers an increase in export price **sufficient** to eliminate dumping of UPM goods would likely render the price of those exports uncompetitive in the Australian market.

¹⁶² Tables 1 and 2 to worksheet 8.5.1.2 in Confidential Attachment 10.

¹⁶³ Table 3 to worksheet 8.5.1.1 in Confidential Attachment 10.

¹⁶⁴ Paper Australia Application Confidential Attachment 1

¹⁶⁵ 588 EPR, Item No. 024, p.5.

Alternatively, the commission has considered the likelihood of a decrease in UPM's domestic prices in order to eliminate dumping on its Australian exports. In support of this, the commission has examined the relative importance of UPM's domestic market sales and the profitability of those sales as examined in Review 551.

In Review 551, the commission found that UPM's OCOT profit margin was comparable to the domestic price reduction that would be necessary to eliminate continued dumping. Raw material expenses at the time were lower than 2021 levels.

The increasing pulp costs shown in Table 26 leads the commission to conclude that the OCOT profit margin observed in Review 551 has likely remained similar or possibly reduced. The commission also observed in Review 551 that UPM's domestic sales of A4 copy paper is one of its key markets. The commission considers it unlikely that UPM would sacrifice profits in a key market by reducing domestic prices with object of eliminating the level of dumping associated with its Australian exports.

The commission's observation regarding the price of UPM's exports in the Australian market found they are competitively price compared to other suppliers. The commission therefore considers it reasonable there would be no incentive for UPM to increase its export prices by an amount that would be sufficient to eliminate the likely level of dumping, which appears to have increased since Review 551. This is not be construed as meaning that it would not increase its prices. Rather, any increase will likely be insufficient.

A submission from UPM-AP after publication of SEF 588 disagrees with the previous statements because of a price increase it attempted to secure in an unsuccessful 2021 price offer.¹⁶⁶ The commission reviewed the price and compared this to the upward trend in pulp expenses shown in Table 26. The price increase was materially less than the increase in pulp and thus the likely increase in its domestic like goods prices.¹⁶⁷ The commission considers this means UPM-AP's 2021 price offer reflects a dumped price.

The commission considers an elimination of dumping on goods from China would require a change in either export price or domestic prices. However, the commission has assessed the necessary changes in either price is unlikely to be sufficient to eliminate dumping. The commission considers it likely that dumping of the goods from China will continue.

Examination of domestic price movements: Indonesia

Review 551 found dumping had occurred in relation to exports from Indonesia. To assess the likelihood of a continuation of dumping by exporters from Indonesia, the commission has examined information provided by RAK for the purpose of this inquiry. The commission's examination of exports from Indonesia by RAK found it had dumped the goods in the period 1 July 2020 to 30 June 2021.

In 2019, the fully landed import price of the goods exported by RAK was at the higher end of the price range for goods imported from all other subject countries. The price of RAK's exports did not undercut Paper Australia's sales.

However, in the period since 2019, the commission's price undercutting analysis at chapter 8.6.1 shows the fully landed import price of RAK's goods has reduced. The fully

¹⁶⁶ 588 EPR Item No. 024, p.5.

¹⁶⁷ Column 'Increase', Table 8 in worksheet 8.6.1.2 to Confidential Attachment 10.

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landed import price of goods exported by RAK undercut Paper Australia's prices and was comparable to imports from China and Brazil.

Relying on information provided in its REQ to Investigation 341, Review 551 and this inquiry, Table 27 illustrates the long-term trend in the relationship between RAK's domestic and export prices.¹⁶⁸ Since the sale of the good exported by RAK involved related party intermediary AFEM, the commission has presented the change in price at each stage in the supply chain.

| Price Series | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 |
|--------------------------|------|------|------|------|------|------|------|
| RAK Domestic Price | 100 | | | | 130 | | 109 |
| RAK Export Price to AFEM | 100 | | | | 96 | | 65 |
| AFEM Export Price | 100 | | | | 124 | | 90 |

Table 27 Index of change in price series (AFEM/RAK Indonesia)¹⁶⁹

Table 27 shows that RAK's price to AFEM reduced after 2019. RAK's domestic exhibited a similar a downward trend. However, the change in export price was greater than the change in domestic prices. The commission considers the change in RAK's export price is likely a response to the lower and longer-term price trend in the Australian A4 copy paper market as illustrated Table 26.

The change in RAK's export and domestic prices corresponds with the dumping margin established for RAK in this inquiry, which is higher than the margin determined in Review 551. The most recent dumping margin determined for RAK represents the third such examination of RAK's exports. The commission found dumping of the goods by RAK in all three cases.

To eliminate the dumping of the goods from Indonesia, the commission considers it reasonable that the FOB price of those goods would need to increase. However, a price increase of the necessary magnitude would likely to see those goods priced out of the Australian market. The commission therefore considers an increase in export price, sufficient to eliminate dumping, is unlikely.

Having regard to the available information, the commission considers it likely that dumping of the goods from Indonesia will continue.

Examination of domestic price movements: Thailand

The commission determined that dumping of the goods exported from Thailand had occurred in Review 551. In the case of Double A, REP 551 determined its dumping margin was 0.9% after having regard to the lesser duty rule and the operation of the NIP. However, the actual dumping margin was 30.8%. Double A has also been the pre-dominant supplier of the goods from Thailand. The commission therefore considers observations in relation to its export are relevant to this inquiry.

¹⁶⁸ No price information was available 2017 and 2019. Prices for the last six months of 2020 are included in the weighted average price for 2021.

¹⁶⁹ Table 4 to worksheet 8.5.1.1 in Confidential Attachment 10.

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To assess the likelihood of a continuation of dumping of goods from Thailand the commission has had regard to the following data shown in Table 28.¹⁷⁰

- Double A's export and domestic prices reported in its REQ to Investigation 341 and Review 551
- ABF import data relating to imports from Thailand
- Thai domestic price data included in Paper Australia's application.¹⁷¹

The commission considers Paper Australia's Thai market domestic price information preferable in the assessment of exports from Thailand as this data:

- was specific to the Thai market
- was for like goods of the relevant specification sold by subject exporters from Thailand
- reflected Thai market customers in a level of trade comparable to Australian customers
- was accurate when compared to publically available information.¹⁷²

| Price Series | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 |
|-----------------------------|------|------|------|------|------|------|------|
| Paper Australia Thai Market | 100 | 103 | 101 | 101 | 101 | 101 | 101 |
| Double A Domestic Price | 100 | | | | 100 | | |
| Double A FOB Export Price | 100 | | | | 120 | 109 | 98 |

Table 28 Index of change in price series (Double A Thailand)¹⁷³

Table 28 shows that Thai domestic prices have been relatively flat in the period 2015 to 2021. Based on this information the commission considers it reasonable that the historical long-term trend in Thai domestic prices is likely to continue.

Comparing the domestic price trends in Thailand and Double A's export prices in Table 28 the commission highlights Double A's export price in 2021. This price represents a reduction on the price observed for 2019. Double A likely dumped its exports in 2021 on the basis that Thai domestic prices in 2021 were similar to 2019.

Having regard to Paper Australia's domestic price data for Thailand, and the commission's observations of prices in the Australian market at Table 25, there appears to have been only minor variation between these markets in recent years. It also appears that the retail price of like goods in Thailand are comparable to Australian prices.¹⁷⁴

Eliminating the dumping margin on goods from Thailand would require a price decrease on sales of like goods in Thailand or a contrasting increase in the FOB export price. However, the commission considers it reasonable that the long-term price trends observed for the Thai and Australian markets rules out either outcome as a possibility. The commission reiterates that the actual level of dumping identified for goods from Thailand was 30.8%.

¹⁷⁰ Data for certain periods was not available to the commission.

¹⁷¹ Paper Australia Application Confidential Attachment 3

¹⁷² <https://shoponline.tescolotus.com/groceries/en-GB/shop/miscellaneous/stationary/paper/copy-paper> (viewed 30 November 2021).

¹⁷³ Table 5 to worksheet 8.5.1.1 in Confidential Attachment 10.

¹⁷⁴ Based on 2021 exchange rates for TBH and AUD.

The commission's analysis of price trends in the Australian and Thai markets supports the conclusion it is likely that dumping of the goods from Thailand will continue.

8.5.2 Anti-dumping actions in other jurisdictions

Paper Australia's application refers to anti-dumping measures imposed by the governments of Mexico, Pakistan and the USA. The measures imposed by these other jurisdictions relates to imports from the subject countries.

The commission's examination of the measures applying on imports of the goods into Mexico, Pakistan and the USA (as at November 2021) found the information in Paper Australia's application was generally accurate. However, in relation to imports into the USA from China, the maximum level of tariff is 149% rather than the 84.05% stated by Paper Australia. In relation to Indonesia, the USA found that the likely continuation or recurrence of dumping would be in the magnitude of up to 17.46%.

The commission's examination of the measures imposed by the governments of Mexico, Pakistan and the USA found that these measures similarly apply to the subject exports of the goods to Australia.

Having regard to the trend in the volume of imports examined in chapter 8.4.1 the commission considers that measures imposed by other jurisdictions such as Mexico, Pakistan and the USA, have not necessarily led to a corresponding increase of goods exported to Australia from the subject countries.

It its submission at EPR 014, Sylvamo explains that its exports of the goods to Pakistan have remained relatively similar since measures were imposed on imports of the goods into Pakistan in 2018.¹⁷⁵ Sylvamo further explains that its exports to the USA are not material because of its related party producer supplies that market and it has not exported the goods to Mexico in recent years. Sylvamo provided sales information in support of its submission.

Sylvamo's submission supports the commission's observation that the imposition of measures by other jurisdictions has not led to increased exports to Australia from Brazil. The same applies to exports from China and Indonesia. Measures on the goods exported to Pakistan from China and Indonesia and the USA are higher than the measures applying to Australian imports. However, this has not led to an increase in exports to Australia from either country.¹⁷⁶

In relation to measures in other jurisdictions, AFEM also made the submission at EPR 007. AFEM's submission was in relation to matters concerning an apparent omission of information from Paper Australia's application.¹⁷⁷ Chapter 2.1.1 outlines the commission's consideration of AFEM's submission regarding the initiation phase of the inquiry.

Based on the available information the commission considers that the imposition of measures in other jurisdictions has had no noticeable effect on the factors of competition in the Australian market, particularly in terms of price and volume.

¹⁷⁵ 588 EPR Item No. 014, p.4.

¹⁷⁶ <https://ntc.gov.pk/wp-content/uploads/2018/04/Corrigendum-Final-Deter-in-Paper-Investigation-42.pdf>

¹⁷⁷ 588 EPR Item No. 007, p.14.

8.5.3 Level of subsidisation

Measures in the form of a countervailing duty notice currently applies to exporters in the category of non-cooperative entities from China. In Review 551 the commission determined a subsidy margin of 7.0% for exporters in this category.

The subsidy margin for non-cooperative entities in Review 551 was determined on the basis of all facts available and having regard to reasonable assumptions pursuant to section 269TAACA. The commission's enquiries in Review 551 included inviting the GOC to complete a questionnaire seeking information relevant to the amount of countervailable subsidy received in respect of the goods exported to Australia. The commission did not receive a response from the GOC. Further, the commission did not receive information from any other entities relevant to section 269TAACA(2)(b). The commission therefore assessed the level of subsidisation in Review 551 to be the amount determined during Investigation 341, which did receive cooperation from the GOC.

Table 29 lists the subsidy programs that Investigation 341 found be countervailable in respect of the goods exported to Australia from China. Review 551 countervailed the same programs.

| 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 |
| 19 | Award for pollution sources facility maintenance | Financial grant |
| 20 | Subsidy for flue-gas desulfurization (FGD) project | Financial grant |

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| No. | Program | Subsidy type |
|-----|--|-----------------|
| 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 29 Countervailed Subsidy Programs

8.5.4 Analysis of subsidy programs

At the outset of this inquiry, the commission invited the GOC to submit a questionnaire to aid in assessing the level of subsidisation relevant to the goods exported to Australia. The commission did not receive a response from the GOC or any other entities relevant to section 269TAACA(2)(b).

In the absence of responses from parties relevant to the countervailing duty notice, the commission has had regard to the following information to inform whether goods exported by entities in the non-cooperative category are likely subsidised:

- the subsidy investigation findings outlined in REP 341
- Australian importation data
- GOC questionnaire response to Investigation 341

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- REP 341 Confidential Attachment 2 – Calculation of subsidy margins
- information provided to the WTO by the GOC in its August 2021 *New and Full Notification Pursuant to Article XVI:1 of the GATT 1994 and Article 25 of the Agreement on Subsidies and Countervailing Measures* (G/SCM/N/372/CHN).
- Annual reports published by Chinese producers of A4 copy paper
- the commission's previous investigations into subsidies provided to Chinese exporters.

In REP 341 the commission received questionnaire responses from the following entities who the commission identified as exporters of the goods from China.

- Asia Symbol and Greenpoint
- Shandong Chenming Paper Holdings Limited (Shandong Chenming)¹⁷⁸
- UPM China
- Yueyang Forest & Paper Co., Ltd. (Yueyang Forest).¹⁷⁹

In addition to the entities listed above the commission's subsidy investigation findings in REP 341 had regard to interim and annual reports, for the following two Chinese producers:

- Nine Dragons Paper (Holdings) Limited (Nine Dragons)¹⁸⁰ and
- Shandong Sun Paper Industry Joint Stock Co., Ltd.¹⁸¹

Shandong Chenming and Yueyang Forest were subsequently determined non-cooperative entities due to issues in connection with their questionnaire responses.

Although the subsidy notice does not apply to exports by Greenpoint and UPM-AP, the information reported by these entities in Investigation 341 was utilised in determining the level of subsidisation for exporters in the non-cooperative entity category in REP 341.¹⁸²

An examination of the annual reports presented in the REP 341 subsidy calculation indicated that Nine Dragons, Shandong Chenming and Yueyang Forest received subsidies relating to the following programs:

- Program 6 (Nine Dragons and Yueyang Forest)
- Program 7 (Shandong Chenming and Yueyang Forest)
- Program 12 (Shandong Chenming)

Within the cohort of non-cooperative entities who have exported to Australia in the period 2015 to 2021, the commission has observed the following:

- In the period examined for Investigation 341 (i.e. CY 2015), most exports originated from either Shandong Chenming or Yueyang Forest or entities known to be associated with the export of their goods.
- There is no record of exports supplied by either Shandong Chenming or Yueyang Forest following 2016.

¹⁷⁸ <http://www.chenmingpaper.com/indexen.html>

¹⁷⁹ <http://www.yypaper.com/>

¹⁸⁰ <http://www.ndpaper.com/en/business/printandwritepaper.php>

¹⁸¹ <https://www.sunpapergroup.com/en/list-34-1.html>

¹⁸² Confidential Attachment 11 refers.

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- The names of the supplier entities for exports in the period since 2016 suggest that these parties were engaged in trading of goods rather than manufacturing.¹⁸³

The commission also observed that countervailing duty has been payable on imports of the goods in every year since measures were imposed. This implies that those imports originated from an exporter subject to the subsidy notice.

In relation to import declarations, the supplying entities appeared to be involved in trading of the goods. It was therefore not possible to determine the identity of the manufacturer. However, the commission's search of publically available information confirmed that all 6 entities listed above continue to produce and market A4 copy paper.

The GOC's questionnaire response to Investigation 341 reported 26 entities, which it identified as manufacturers of A4 copy paper in China.¹⁸⁴ The list contained 13 entities that were located in the same province as the six entities listed above.

To assess the existence of the subsidies countervailed in REP 341, and in lieu of a GOC questionnaire response to this inquiry, the commission has had regard to the GOC's 27 August 2021 notification to the WTO Committee on Subsidies and Countervailing Measures for the period 2019 to 2020 (the WTO notification). The commission considers this information is relevant for assessing if it is likely that subsidisation will continue in relation to exports from China.

The title page of the GOC's WTO notification contains the following statement

"The following notification constitutes China's new and full notification of information on programmes granted or maintained at the central and sub-central government level during the period from 2019 to 2020."

Having regard to the programs described in the GOC notification to the WTO, the commission considers it likely that the following 4 programs outlined in Table 30 are either identical or closely aligned to the programs countervailed in REP 341. The GOC classified these programs as being at the central government level.

| REP 341 No. | Program | Subsidy type | GOC 2021 Notification |
|-------------|--|-------------------------|-----------------------|
| 7 | Preferential Income Tax Program for High or New Technology Enterprises | Preferential tax policy | Program 3 |
| 8 | Preferential Income Tax Program for Comprehensive Utilisation Entitling Enterprise | Preferential tax policy | Program 11 |
| 9 | Tax Allowance for Special Equipment for Water and Energy-Saving Purchased by Enterprises | Preferential tax policy | Program 10 |
| 10 | VAT and Import Tariff Exemptions for Imported Equipment | Preferential tax policy | Program 32 |

Table 30 Relevant GOC 2021 Notified Subsidies¹⁸⁵

The GOC WTO notification did not appear to reference the other programs countervailed in Investigation 341.

¹⁸³ Table 1 in worksheet 8.5.4 to Confidential Attachment 10 refers.

¹⁸⁴ Confidential Attachment 12 refers.

¹⁸⁵ [GOC WTO Notification 27 August 2021, p.34.](#)

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However, having regard to the GOC's listing of A4 copy paper producers provided for Investigation 341 the commission observed the following;

- 7 entities had Foreign Invested Enterprise status. Two of the entities were Nine Dragons and Shandong Chenming.
- 15 entities, including Nine Dragons and Shandong Chenming, are located in the same province as other entities who the commission has previously established had received subsidies from provincial sub-level government under programs 12 to 38.¹⁸⁶

In addition, the commission has also examined annual reports released by Nine Dragons and Shandong Chenming for the period 2020 and 2021. Nine Dragons' 2020/21 annual report (for the period ending 30 June 2021) outlines the following:

- Note 20 reports other income received in the form of 50% refund of VAT for use of recycled paper as a raw material.
- Note 20 reports other income received titled 'subsidy income' however, the specific details surrounding the figure is not available.
- Note 24 reports the company paid a lower corporate income tax rate available to entities designated as High and New Technology Enterprises.¹⁸⁷

Shandong Chenming's 2020 Annual Report outlines the following in Section XIII:

- Note 58 to the financial statements discloses receipt of non-operating income described as 'government subsidy'
- Note 65 [General information of government grants] and Part 2 to Section XVI Other Material Matters report additional detail on government grants.
- The tax payable reported at Note 60 was equivalent to 12% of taxable income when the standard rate of company tax in China for the period was 25%.
- Table 1 in Note 61 to the financial statements reports cash income of 792 million RMB derived from government grants.¹⁸⁸

The commission considers it reasonable the available information supports that A4 copy paper producers in China will continue to have access to certain programs contained in the GOC's 2021 WTO notification and other programs identified in the records of known exporters of the goods. The commission considers organisations in this group are in the category of non-cooperative entities and have previously exported the goods Australia.

The commission notes no applications seeking a duty assessment or accelerated review have been received since the imposition of measures in 2017. The commission is therefore unable to make a positive finding that exports from non-cooperative entities are not subsidised.

On the basis of all facts available and having regard to reasonable assumptions about those facts the commission considers that subsidisation in respect of the goods exported to Australia from China by exporters in the non-cooperative entity category is likely to continue.

¹⁸⁶ Confidential Attachment 12 refers.

¹⁸⁷ Non-confidential Attachment 13 refers.

¹⁸⁸ Non-confidential Attachment 14 refers.

8.5.5 Summary

In view of the above analysis, the commission is satisfied there is sufficient evidence to conclude that:

- exports by the subject exporters have been dumped and this dumping is likely to continue and
- exports by the subject exporters from China have likely received countervailable subsidies and this subsidisation is likely to continue.

8.6 Will material injury continue or recur?

The *Ministerial Direction on Material Injury 2012* (the Direction) provides that injury from dumping and subsidisation need not be the sole cause of injury to the industry, where injury caused by dumping and subsidisation is material in degree.¹⁸⁹

The Direction further provides that the materiality of injury caused by a given degree of dumping or subsidisation can be judged differently, depending on the economic condition of the Australian industry suffering the injury. In considering the circumstances of each case, the commission must consider whether an industry that at one point in time is healthy and could shrug off the effects of the presence of dumped or subsidised products in the market, could at another time, be weakened by other events, suffer material injury from the same amount and degree of dumping or subsidisation.

The commission has therefore analysed the likely effect on price and volume in the current state that dumping and subsidisation of the exported goods continues and in an alternative scenario where the Minister does not secure the continuation of measures.

8.6.1 Likely effect on prices

To assess the likely effect on prices if measures were to expire the commission has had regard to the observed change in the price of goods using a price undercutting and other relevant information. The commission considers this evidence informs the **likely** effect of dumping on Australian industry's prices.

The price undercutting analysis at Figure 15 compares the landed value of exports from the subject countries (both inclusive and exclusive of anti-dumping duty) and Australian industry's prices in the period 2019 to 2021. The purpose of the undercutting analysis is to assess how the price of the goods imported from the subject countries would change, absent the measures.

The prices represented in Figure 15 are the weighted average price of all variations of copy paper covered by the notice. Interested parties have submitted that instead, the price undercutting analysis should demonstrate individual analysis of the various kinds of copy paper covered by the notice. To ensure fair comparison between the Australian industry's price and the price of the goods the commission considered whether the goods and like goods the subject of the analysis were comparable in terms of physical specification and the level of trade at which the goods and like goods are sold.

The following details the commission's observations.

¹⁸⁹ ADN No. 2021/024 refers

Brazil

Having regard to the Australian sales listing in Review 551 for Sylvamo's predecessor, International Paper, the commission found the weighted average prices of for two models it exported in 2019 varied to the weighted average for all sales by +2% and -1%.¹⁹⁰ Relying on the information examined at chapter 8.4.2, the commission found that exports from Brazil in 2021 were of the non-recycled 80 gsm grade. Sylvamo has not submitted information to the inquiry that counters this finding.

China

UPM-AP's sales data examined at chapter 8.4.3 demonstrated that its exports were non-recycled 80 gsm grade.¹⁹¹

Indonesia

RAK's sales listing provided for REP 551 indicated its exports in 2019 were of non-recycled 100gsm grade. RAK's sales examined for this inquiry indicated the majority of its exports in 2020/21 were of non-recycled 80 gsm.

Thailand

Data examined in the discussion at 8.4.5 revealed that the majority of imports from Thailand were of non-recycled 80 gsm grade.¹⁹²

Australian industry

The commission's analysis at 6.3.1 indicated that the majority of sales were of non-recycled 80 gsm grade.¹⁹³ Although the Australian industry also sold other grades of copy paper, the volume of these sales had no material influence on the weighted price of all sales.

Having regard the sales by exporters and the Australian industry, the commission considers the weighted average prices in the undercutting analysis reasonably reflect goods and like goods that are identical in the majority of cases. With the exception of sales from Indonesia in 2019 which were of 100 gsm. As the price undercutting analysis indicates, sales by RAK did not undercut the Australian industry in 2019.

The commission's price undercutting analysis also compares the prices at which the Australian industry sold like goods on delivered terms and the landed export prices paid by importers at an appropriate level of trade. The landed price of exports is relevant because this reflects the total cost an importer would incur to have those goods delivered to its destination from the port of arrival in Australia. The examples of price competition outlined further in this section establish that Australian industry and overseas copy paper producers compete for sales to Australian customers. The price undercutting analysis reflects the point in the supply chain, i.e. the level of trade, where Australian buyers of A4 copy paper exercise the option of sourcing from the Australian industry or an overseas producer.

¹⁹⁰ Confidential Attachment 1 to REP 551.

¹⁹¹ Confidential Attachment 2 to 588 EPR, Item No. 024.

¹⁹² Table 1 to worksheet 8.4.5 in Confidential Attachment 10.

¹⁹³ Worksheet 'Analysis' in Attachment GP4-B to Confidential Attachment 1 at EPR Item No. 015 refers.

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UPM-AP argued in its submission at EPR 024 that charges arising past the FOB point are not within its control and therefore the landed export prices for China cannot be used in the undercutting analysis. The FOB level export price is a component of the landed price as with other components. It is irrelevant as to who is responsible for which cost.¹⁹⁴

The commission is satisfied that the price undercutting analysis achieves the objective of fair comparison with respect to physical and commercial likeness between the exported goods and Australian industry's sales of like goods.

To illustrate the likely effect on prices in the event measures expire, the commission calculated landed export prices for two scenarios involving prices with and without anti-dumping duty. The commission then applied the price difference in each scenario to inform the likely effect on prices.

The landed price for exports from the subject exporters in each subject country has been determined as follows:

- export prices and other relevant importation costs reported in the questionnaire submitted by RAK for the purpose of this inquiry
- CIF values of verified export sales examined in Review 551
- verified importation expenses reported by importers in Review 551
- general, dumping and countervailing duty relevant to exporters from each subject country, either as reported in Review 551 or extracted from ABF import declarations and
- customs valuation reported in ABF declarations for the goods imported from Brazil, China and Thailand in 2020 and 2021.
- Additionally, the commission confirms that data for China does not include A4 copy paper of the kind which was the subject of a circumvention inquiry.¹⁹⁵ The ABF data used the DSN associated with exporters of the goods from China to filter out imports of the goods not relevant to the inquiry. This DSN does not apply the circumvention goods.
- Further, the commission compared the export quantities relied on the undercutting analysis to the sales data provided by UPM-AP in its submission at EPR 024.¹⁹⁶ The volumes for each dataset were comparable. This also confirmed that the undercutting analysis did not have regard to any circumvention goods.¹⁹⁷

¹⁹⁴ This addresses UPM-AP submission at EPR 024 on page 5 in relation to its concerns that the undercutting analysis includes goods not subject to measures.

¹⁹⁵ The decision to alter the notice to cover imports from China of less than 70 gsm was revoked on 11 August 2021. ADRP Report No. 133 refers.

¹⁹⁶ Ibid.

¹⁹⁷ This addresses UPM-AP submission at EPR 024 on page 5 in relation to its concerns that the undercutting analysis includes goods not subject to measures.

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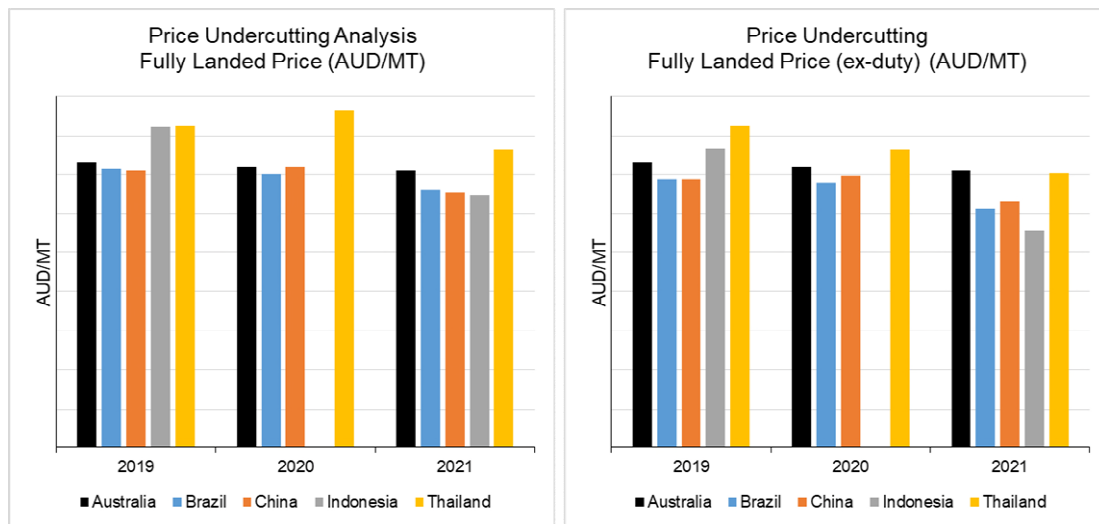


Figure 15 Price Undercutting Analysis¹⁹⁸

The results of the commission's price undercutting analysis shown in Figure 15 reveals the following in relation to the landed duty inclusive export price of the subject goods from each subject country

- imports from Brazil and China in 2019, 2020 and 2021 either undercut or were comparable to Australian industry's prices.
- imports from Indonesia undercut Australian industry's prices in 2021 and were the lowest amongst the subject exporters.
- although imports from Thailand did not undercut Australian industry's prices, the 2021 price was below the value of Australian industry's CTMS.

Figure 15 illustrates that duty free fully landed export prices for goods from all subject countries would have undercut Australian industry's prices in 2021. This provides an insight into the likely effect on prices if measures were to expire and dumping and subsidisation of the goods continued. The commission further notes that Australian industry's prices in the above periods were not sufficient to recover its CTMS (Figure 6 refers).

The undercutting observed in the period 2019 to 2021 is also similar to the relationship between the Australian industry's prices and landed export prices observed for Investigation 341. This led to the finding that dumping and subsidisation had caused material injury in the form of price depression amongst other things.

The commission's analysis of dumping margins at chapter 8.5.1 found it is likely that dumping of the goods will continue. Taking account of the divergence in the domestic and export prices relevant to the subject countries, the commission considers the margins determined for all subject exporters in Review 551 have likely increased.

The reducing FOB prices shown in Figure 16 further supports that dumping and the likely effect on prices continues. Figure 16 compares the FOB price of goods not subject to measures from Indonesia and imports from all other exporters from countries that are not subject to measures.

¹⁹⁸ Tables 1 and 6 in worksheet 'PU Analysis' to Confidential Attachment 15.

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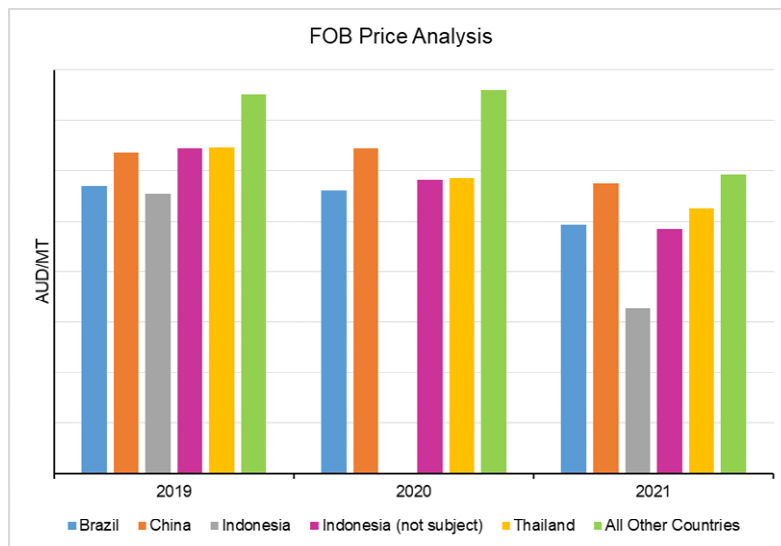


Figure 16 Imported goods FOB price analysis¹⁹⁹

The FOB price from all other countries not subject to measures did not undercut Australian industry's prices in 2019 and 2020 although in 2021 it appears that undercutting occurred.²⁰⁰ However, adding post exportation charges and importation costs eliminates the observed undercutting.

The commission's assessment of price effects has also had regard to the imports by Paper Australia in the period 2019 to 2021. Within this period most of Paper Australia's imports occurred in 2019. Relying on Paper Australia's sales information, the commission observed that a relatively small proportion of like goods sales was of imported inventory.²⁰¹ The commission found that the selling price of these imports was lower than Paper Australia's weighted average price of all like goods sales. However, sales of imported inventory did not appear to have a material effect on Paper Australia's prices generally.

In relation to Paper Australia's other imports, the commission observed these were not of a specification that is relevant to the description of goods subject to measures.

The commission considers the trend in the duty inclusive fully landed price of the subject goods shown in Figure 15 validates the Australian industry's claim it has been required to sell like goods at prices that are comparable to the price of dumped goods. The similarity in Australian industry's prices and the landed duty inclusive price of the goods from the subject countries illustrates the Australian industry's description of price effects caused by dumped goods.

As a further example of the price competition faced by the Australian industry, the commission refers to the supply of paper to Officeworks that initially discussed at chapter 8.4.3 regarding a likelihood of exports from China. Paper Australia informed the commission it once again secured the supply to Officeworks from late 2021 onwards after agreeing to offer prices that were lower than the UPM-AP price offer in 2021.²⁰²

¹⁹⁹ Table 2 in worksheet 'PU Analysis' to Confidential Attachment 15.

²⁰⁰ The confidential version of the FOB price undercutting analysis depicted in Figure 16 refers.

²⁰¹ Table 4 in worksheet 8.6.1.1 to Confidential Attachment 10.

²⁰² Item 1 in worksheet 8.6.1.2 to Confidential Attachment 10.

Notwithstanding that Paper Australia lowered its price to win the Officeworks business, the commission identified that this price was undercut by the fully landed price of UPM-AP's imports before Paper Australia was due to commence its supply to Officeworks.²⁰³ The commission further found that the price in Paper Australia's successful offer to Officeworks was comparable to the dumped prices in UPM-AP's unsuccessful offer.²⁰⁴

The above evidence confirms Paper Australia's claim that it is required to reduce prices in response to the availability of dumped goods.²⁰⁵

In its submission (at EPR 024) UPM-AP asserts its unsuccessful 2021 price offer to Officeworks represented a substantial price increase due to underlying increases in pulp costs. The commission compared UPM-AP's prevailing price in 2021 to the price in the offer.²⁰⁶ It is alleged price increase was materially lower than the 45% increase in pulp costs shown in Table 26. The commission also established that UPM-AP's unsuccessful 2021 offer to Officeworks reflected dumped prices. The commission considers UPM-AP offer of dumped goods supports the view that a continuation of dumping is likely.

In correspondence to UPM-AP, Officeworks cites the anti-dumping measure itself as one of the reasons why it switched its source of supply to Paper Australia. The commission considers the Officeworks' disclosure regarding the measures is relevant to a consideration of what would likely happen if the measures expired. UPM-AP suggested higher shipping costs were the reason for the Officeworks decision.²⁰⁷

However, absent the measures, the commission considers such increases could be offset through lower export prices.

In its response to the UPM-AP submission (at EPR 024), Paper Australia has highlighted that the increase in shipping expenses will likely return to lower levels upon an improvement in global trading conditions.²⁰⁸

In its response to Paper Australia's comments on shipping expenses, UPM-AP contends at EPR 034 that the statutory test requires consideration of trends in current factors and an assessment of the likely course of those trends in the reasonably foreseeable future.²⁰⁹

UPM-AP's submission relies on the concept of events happening in a reasonably foreseeable future. It does not establish that continued dumping and injury caused by it is necessarily unlikely. Rather, it continues with the theme put forward in its prior submission at EPR 024.²¹⁰ The commission outlines its consideration of UPM-AP's position at chapter 8.7.2 to this report.

²⁰³ 2021, Table 6 in worksheet 8.6.1.2 to Confidential Attachment 10.

²⁰⁴ Table 8 in worksheet 8.6.1.2 to Confidential Attachment 10.

²⁰⁵ This addresses UPM-AP submission at page 4 to EPR 024 where it disputes its 2021 price offer was used in the price effects analysis.

²⁰⁶ Column 'Increase', Table 8 in worksheet 8.6.1.2 to Confidential Attachment 10.

²⁰⁷ UPM-AP provided information that it claims represented shipping expenses however it did not qualify the relevance of such expenses in the context of exports to Australia.

²⁰⁸ 588 EPR, Item No. 032.

²⁰⁹ 588 EPR, Item No. 034, p.4.

²¹⁰ 588 EPR, Item No. 024, p. 3.

The commission considers the above discussion demonstrates that the continued availability of dumped and subsidised goods from the subject exporters will likely prevent Paper Australia increasing its prices if the measures were to expire.

As the commission considers that dumping and subsidisation of the goods will likely continue, it is a necessary implication that the subject goods will continue to effect the price at which all suppliers to the Australian market may sell their goods. If the measures expired, the commission considers this would likely lead to further price reductions offered by those suppliers.

8.6.2 Likely effects on volumes

The commission has established that the market for A4 copy paper is price sensitive. Above all other factors, price appears to be the most important consideration in purchasing decisions. The commission considers that factors affecting price may therefore explain the likely effect on volume. Two such factors affecting price are the cost of selling paper into the Australian market and the observed contraction in the size of the Australian market after 2015.

The commission's discussion on demand at chapter 5.2.3 outlines the various reasons why demand for A4 copy paper has reduced. One reason is the increased level of digitisation of communications and record keeping in developed economies, otherwise described as 'technological change' in submissions by certain interested parties.²¹¹

The commission considers it reasonable that some suppliers may exit the Australian market if prices are not sufficient to provide a return on cost. Alternatively, reduced demand for copy paper may also lead to lower prices that could then render the Australian market unattractive for suppliers.

A change in the circumstances relevant to each of the above factors may have an effect on volumes. Changes could include higher prices or lower cost, one such cost being the anti-dumping measures.

Figure 17 illustrates two trends in the Australian market:

- the market share held by suppliers to the Australian market before and after implementation of measures and
- a comparison between the Australian industry's prices and the size of the Australian market. The charts uses Australian industry price, on the basis it is likely representative of the market generally.

²¹¹ 588 EPR, Item No. 021, p.5.

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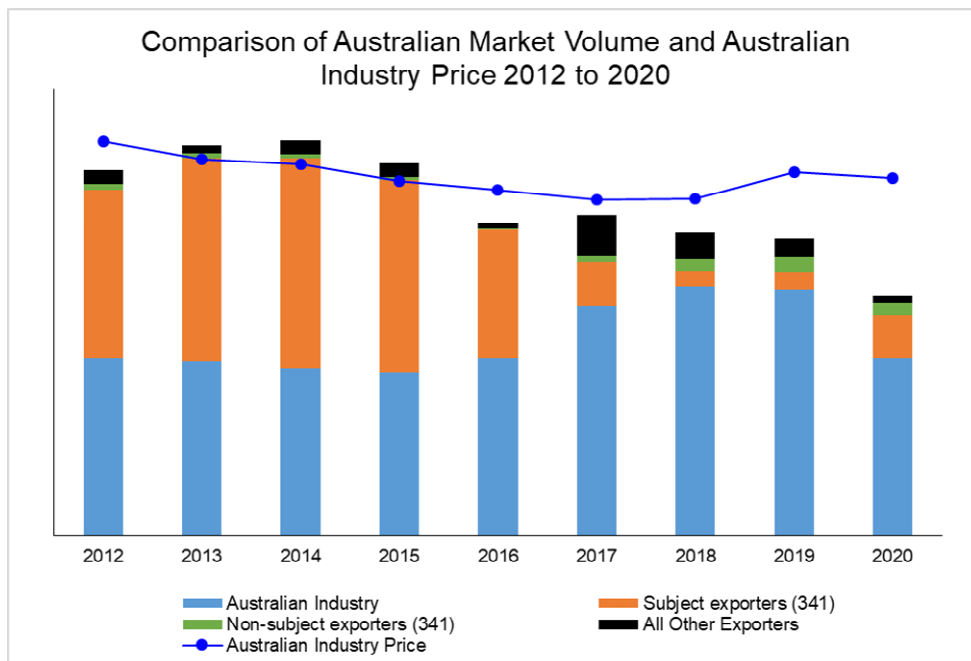


Figure 17 Australian market size 2012 to 2020²¹²

The trends in Figure 17 show that imports from the subject exporters reduced after 2015. The reducing import volumes from the subject exporters coincided with the following events

- a contraction in the Australian market following 2015 and
- implementation of anti-dumping measures, in the form of two PADs of September 2016 and November 2016, prior to the formal dumping and subsidy notices in April 2017.

However, the trend in Australian industry's price does not support that the contracting market necessarily led to price decreases. Prices were already decreasing before the market contraction in 2015. Further, prices throughout 2019 and 2020 increased despite further contraction in the market.

To gauge whether it may have been the implementation of measures or the contracting market that led to a reduction in exports from the subject countries, the commission has had regard to the trend in Table 31. Table 31 compares the change in sales volume achieved by Australian industry, the subject exporters and the total Australian market. Based on this information, the commission observed the following:

- The Australian market contracted in 2016 and remained at similar levels throughout 2017, 2018 and 2019.
- Imports from the subject exporters initially declined in 2016 and further declined in 2017 following the implementation of measures.
- Australian industry's sales increased after 2015 despite the market undergoing a contraction.

²¹² Table 6 and 12 in worksheet '588' to Confidential Attachment 1 refers.

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| Market Segment | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
|-------------------------|------|------|------|------|------|------|
| Australian Industry | 100 | 108 | 141 | 152 | 150 | 108 |
| Subject exporters | 100 | 67 | 22 | 8 | 9 | 23 |
| Total Australian Market | 100 | 84 | 86 | 81 | 81 | 64 |

Table 31 Index of change in sales volume

The commission considers the trend shown in Table 31 demonstrates the effect on import volumes after implementation of anti-dumping measures. Notwithstanding the market contraction after 2015, demand for A4 copy paper remained, albeit at lower levels. The rate of market contraction was less than the reduction in sales by the subject exporters.

It further appears that the Australian industry met the continued demand in the absence of supply from overseas producers and by doing so increased its sales volumes. The commission considers it reasonable that the implementation of measures led to reduced sales from the subject exporters as it caused those goods to become more expensive, and thus undesirable, in the price sensitive Australian copy paper market.

Having regard to the likely effect on prices discussed in chapter 8.6.1, the commission considers this would render duty free imports from the subject countries a viable and cheaper alternative to Australian industry's prices. This being the case, volumes from the subject exporters would likely increase if measures expired.

Whilst the reduced size of the Australian market would constrain the potential volume exporters may supply, one likely outcome may reflect the market share held by the subject exporters in the period before implementation of measures. It is in this context the Australian industry would likely lose market share and sales volume if measures expired.

The commission considers the likelihood of the above outcome occurring is reinforced by the finding that the key purchasing consideration for Australian customers is price. The somewhat homogeneous nature of A4 copy paper sold into the Australian market suggests that Australian customers are less concerned with the brand of paper or certain specifications such as the level of recycled content. The commission's examination of retail price found 0% recycled and 100% recycled paper sell for similar prices, even though 100% recycled paper costs more to produce.²¹³ Examination of suppliers' sales data found that most paper sold into the Australian market is of the 0% recycled specification.

Submissions to the commission from interested parties outline that the large market share held by the Australian industry does not warrant the continuation of measures.²¹⁴ None of the submissions provided evidence that exports from the subject countries would not continue or if they did, the dumping of those goods would not continue.

Notwithstanding interested party claims regarding the Australian industry's potential market share, the commission has found the Australian industry experienced a reduction in its sales volumes whilst measures were in place. The reduction in sales volume was due to customers switching their source of supply to subject exporters.

The commission cites the change in sales to one of Australian industry's customers in the period 2018 to 2020. After receiving a lower price offer from a subject exporter in China

²¹³ www.officeworks.com (viewed 11 November 2021).

²¹⁴ 588 EPR Item Nos. 004 and 008.

the customer switched its supply away from Australian industry in 2020. The effect of this transaction led to a material reduction in Australian industry's sales to the relevant customer compared to 2019 volumes.²¹⁵

Relative to the Australian industry's total sales in 2020, the broader effect of losing the above sales volume led to a reduction in overall sales volume compared to 2019. The Australian market analysis at Figure 2 illustrates the effect on the Australian industry's sales. The commission's analysis observed that Australian industry's sales volume in 2020 declined whilst import volumes from China increased.

The above changes in sales volume occurred within the context of a contracting Australian market. Market contraction is therefore a relevant factor. However, Australian industry's loss of sales to the Chinese subject exporter affected its economic condition in respect of sales volume more than the contraction in the market.

Having regard to entities who imported the goods prior to the implementation of measures in 2017, the commission observed that these entities continue to participate in the Australian A4 copy paper market. The commission's examination of the quantities purchased by these entities provides a further indication of the likely effect on the Australian industry's volumes if measures were to expire.²¹⁶ That is, Australian industry would likely experience a reduction in sales volume and market share.

The commission considers the Australian industry's ability to retain certain customers is largely contingent on customers paying prices that are comparable to the prices available from the subject exporters.

The lower price of the subject goods would likely avail customers to move their source of supply away from the Australian industry in the circumstance that measures expired. A resulting change in the market share held by various suppliers would likely also follow.

The commission has observed that certain Australian customers who imported copy paper before the implementation of measures continue to trade. The commission considers it reasonable that these entities may revert to sourcing their inventory from the subject exporters if the measures expired.

Based on the volumes of sales observed for 2020, any one of the subject exporters would individually possess the ability to supply each large Australian customer or a cohort of smaller customers. The likely effect of this being that Australian industry would experience a decline in its sales volumes and market share.

8.6.3 Is injury from dumping and subsidisation likely to be material?

In order to assess materiality of injury the commission examined the economic condition of the Australian industry in the period since 2015, when injury caused by dumping of the goods was identified, and since the implementation of measures in 2017.

The commission observed that the Australian industry experienced an increase in sales volume and market share in the 5 year period 2016 to 2020. However, the following factors offset these improvements:

- increased per unit CTM
- only marginal improvements in price
- deteriorating profit and profitability.

²¹⁵ Table 7 in worksheet 8.6.1.2 to Confidential Attachment 10.

²¹⁶ Table 6 in worksheet 8.4.6 to Confidential Attachment 10.

In relation to continued material price injury, the commission cites the undercutting analysis in chapter 8.6.1 and instances where the Australian industry lost sales volume to subject exporters who undercut its price. The commission found that the Australian industry has been required to lower its prices to win back customers from exporters of dumped goods. This evidence supports that the availability of dumped and subsidised exports from the subject countries continues to prevent the Australian industry from being able to increase its prices.

The commission acknowledges that the Australian industry has achieved increased sales volume, market share and revenue since the implementation of measures in April 2017. These improvements were in part due to the combined effect of the Australian industry's acquisition of a competitor's paper business and the implementation of measures on exports from the subject countries.

Despite such improvements however, the Australian industry has still experienced a loss of sales volume, market share and sales revenue in connection with the importation of dumped goods. The commission found that the loss of sales volume to an exporter of dumped goods was greater than the impact of a contracting Australian market. The discussion in chapter 8.6.2 refers.

To illustrate the materiality of price injury if measures were to expire, the commission cites the analysis of fully landed export prices in Figure 15. The commission considers that a reduction in Australian industry's price to the landed export price absent of anti-dumping duty would constitute further price injury. It is reasonable that the Australian industry would respond to the lower price level of imported goods in order to remain competitive and maintain sales volumes. Price offer evidence discussed in 8.6.2 provide examples of the Australian industry's response to the offer of cheaper and dumped goods.

The Australian industry response to lower prices would likely lead to further material injury by requiring it to accept reduced prices and revenues. The consequence of this would lead to less profit and contribute to a material deterioration of the Australian industry's economic condition. A deterioration in these factors is likely to worsen the Australian industry's economic condition in relation to the other economic factors (chapter 6.6 refers) that are in part a function of price and profit.

The commission has also considered the alternative scenario where the Australian industry was unable to decrease prices in order to compete with the prices of the goods in the event that the measures expire. In this scenario, the commission considers it would likely lead to the Australian industry experiencing a material reduction in market share, sales volume and sales revenue. The commission further considers it reasonable that a contracting market in and of itself could also contribute to a reduction in sales volume and revenue. However, the continued availability of lower priced dumped and subsidised goods would exacerbate the effect of any market contraction.

The commission therefore considers the expiration of the measures would lead, or would be likely to lead, to a continuation of dumping and subsidisation, and material injury.

8.6.4 Submissions received in relation to materiality

In a 7 September 2021 submission from Jackaroo regarding whether material injury is likely to continue or recur, it argues that imports from Brazil are non-injurious for the following reasons:²¹⁷

²¹⁷ 588 EPR Item No. 008, p.2

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- prior to and after measures were imposed, the volume of Jackaroo's imports from Brazil have historically been in negligible volumes and held a small percentage of Australian market share.
- higher import volumes in 2015 and 2016 were the outcome of Jackaroo securing the contract to supply customers in lieu of Paper Australia and certain exclusivity arrangements that prevented Paper Australia supplying Jackaroo's customer.
- imposition of measures in other countries has not resulted in an excess of production capacity such that it could be re-directed to the Australian market.
- Australian made copy paper is not like to its exports are of a non-standard 90 gsm weight and possess brand specific attributes.
- packaging of the paper reams is fully recyclable.
- a 2021 agreement struck between Paper Australia and a major Australian purchaser will see the volume of future imports drastically reduced.
- Jackaroo's Australian selling price of the goods from Brazil does not undercut the price of the Australian industry's like goods.

Jackaroo made a further submission on 8 September 2021 containing information concerning Australian industry's foreseeable sales volumes.²¹⁸

Jackaroo's second submission relies on the existence of the 2021 agreement struck between Paper Australia and a major Australian purchaser. Jackaroo also discusses the same point in its first submission of 7 September 2021 at EPR 008.

Sylvamo's submission on 8 October 2021 raises points similar to those discussed by Jackaroo.²¹⁹ Sylvamo contends that its exports from Brazil are non-injurious for the following reasons:

- the volumes of its exports are in negligible volumes.
- imposition of measures in other countries has not resulted in an excess of production capacity such that it could be re-directed to the Australian market.
- Australian made copy paper is not like to its exports of a non-standard 90 gsm weight and possesses brand specific attributes.
- packaging of the paper reams is fully recyclable.

The commission outlines the following in response to the claims put in the submissions by Jackaroo and Sylvamo.

Jackaroo has cited exclusivity arrangements in Paper Australia's supplier agreements in the period circa 2015. Presumably, Jackaroo's submission is arguing that the increased imports from Brazil in 2015 and 2016 were an isolated event and unlikely to recur.

The commission's price undercutting analysis in REP 341 found that the goods exported by Sylvamo in 2015 had undercut Australian industry's prices and were comparable to the fully landed price of the goods supplied from the other subject countries.

Rather than being because of Paper Australia's contractual arrangements at the time, the commission considers the low price of the goods from Brazil reasonably explains why Sylvamo and Jackaroo secured increasing volumes in 2015 and 2016.

Having regard to ABF data the commission has examined historical trade flows from Brazil in the period 1 January 2015 to 30 September 2021 at Figure 18. By identifying the importing entity, the commission has also included data to highlight the change in the

²¹⁸ 588 EPR Item No. 009, p.2

²¹⁹ 588 EPR Item No. 014, p.2

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pattern of trade relating to Brazilian exporters whose volumes were lost to an exporter from Indonesia.

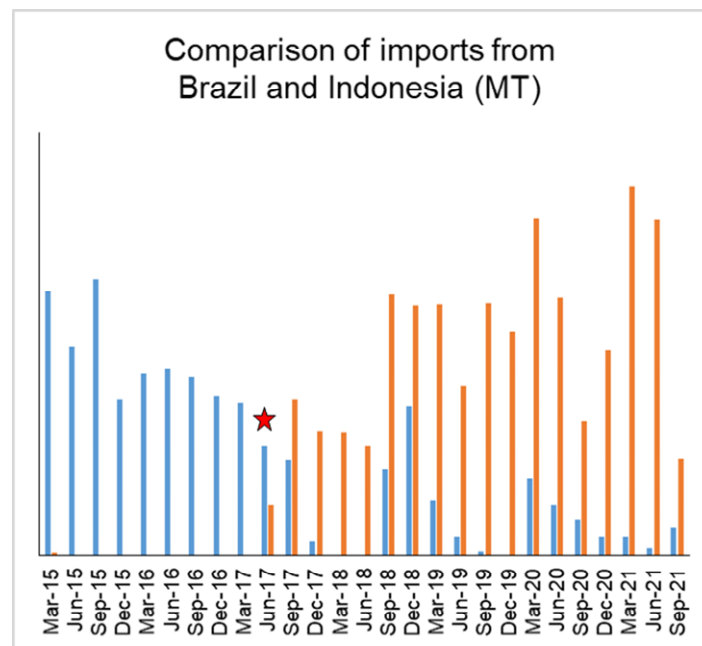


Figure 18 Imports from Sylvamo 2015 to 30 Sept 2021²²⁰

Although Jackaroo submits reasons why its volumes in 2015 and 2016 may have increased, it is silent on why exports from Brazil reduced dramatically after 2017.

The commission's pattern of trade analysis in Figure 18 confirms Sylvamo's Australian customer switched supply shortly after the imposition of measures in April 2017 [denoted by the red star]. It is reasonable to infer that the importer of the goods switched its source of supply to a non-subject exporter from Indonesia to avoid the incremental cost of anti-dumping duty that became payable on imports from Brazil.

Notwithstanding that imports from Brazil have decreased significantly since measures were imposed, the commission remains satisfied that material injury is likely to continue or recur for the following reasons:

- contractual arrangements cited in Jackaroo's submission no longer operate in the supply of copy paper to the Australian market.
- there are Australian customers who require copy paper in a volume that is similar to the amounts exported from Brazil prior to the imposition of measures.
- exporters from Brazil possess sufficient spare capacity to supply Australian customers.
- dumping of exports from Brazil continue to undercut the price of Australian industry's price.
- exports from Brazil compete alongside like goods sold by Australian industry.
- the commission's examination of publically available information confirmed that exports from Brazil are of the same specification as Australian industry's products.
- the Australian market analysis depicted at Figure 17 shows that the Australian industry has never held a market share of the level predicted by Jackaroo.
- the commission's examination of Paper Australia's contemporaneous contractual terms makes it unlikely that Paper Australia would continue to hold a near 100%

²²⁰ Worksheet 'Brazil' in Confidential Attachment 9 refers.

share of the Australian market in the long term and render exports unlikely to continue, whether from Brazil or any other country.

8.7 Assessment of submissions not examined in SEF 588

8.7.1 RAK and AFEM

AFEM submits at EPR 021 that the expiration of the measures will not and cannot lead to, or be likely to lead to, material injury that the measures are intended to prevent. The basis of AFEM's position relies on the Australian industry's unprofitability since 2017 and the effect of further contraction in the Australian market. AFEM outlines that this injury would continue regardless of whether measures were in place or not and the measures have not prevented injury.

AFEM's submission overlooks the finding that its related party exporter of the goods from Indonesia, RAK, continues to dump the goods and undercut the Australian industry's prices. The commission has further found the dumping margin for the goods exported by RAK has increased significantly to 59.7% compared to RAK's current margin of 13.8%.²²¹ The commission also observed that the prices of the goods from RAK decreased between 2019 and 2021. AFEM has not explained why this occurred although it appears to be in contrast to its claims that its exports would not be likely to cause injury.²²²

AFEM claims that the essential question for the Australian industry is whether or not it wishes to compete profitably in the global A4 copy paper market. The commission notes that the focus of this inquiry is to assess what would likely happen if measures expired on goods imported into the Australian market.

AFEM attributes the Australian industry's economic condition to technological change and market contraction. The commission considered the impact of these factors and concluded the impact of market contraction, brought about by factors such as technological change, was less than the effects brought about by importation of dumped goods.²²³ The reduction in exports by RAK is far greater than any Australian market contraction. In relation to AFEM's statement on the prevention of injury, the commission does not consider the test in section 269ZHF(2) requires assessing the effectiveness of the measures. Rather, it requires the Commissioner to examine the likelihood of certain events occurring if the measures were to expire.

APRIL's submission in response to SEF 588 raises a range of issues relating to the findings in chapter 8 of SEF 588. The following summarises the issues raised in APRIL's submission. Some of the issues are a repeat of the same issues APRIL raises in its prior submission to the inquiry.

- Section 3.1 - The statute requires consideration of section 269TAE(2A)
- Section 3.2 - Price undercutting should be attributable to dumping.
- Section 3.2 - An analysis of the likely effect on volume is not relevant.
- Section 3.3 - Dumping and the ability of Paper Australia to increase price are not related.
- Section 3.4 - A proper assessment of the Australian copy paper market has not been undertaken.

²²¹ As amended by ADRP Report No. 138.

²²² Chapter 8.5.1 refers.

²²³ Chapter 8.6.2 refers.

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- Section 3.5 - Conclusions cannot be drawn on the likely occurrences once the measures expire.
- Section 3.5 - The SEF does not explain or establish why expiration of measures would likely lead to volume injury (section 3.5).
- Section 3.6.1 - Technological change rather than export of the goods at dumped prices is the cause of the Australian industry's price injury.
- Section 3.6.2 - The commission's conclusion at materiality at chapter 8.6.3 to SEF 588 constitutes 'mere assertion unsupported by facts'.
- Section 4 - The Minister ought to consider whether the continuation of the measures is in the national interest pursuant to section 269ZHG.

The following outlines the commission's consideration of the matters raised in each section of APRIL's submission at EPR 027.

Section 3.1 - The application of section 269TAE(2A) is not statutorily required as part of an inquiry into the economic condition of the Australian industry. The commission notes this section of the Act only relates to mandatory considerations relating to the causation analysis required as part of a dumping and or subsidy investigation.

Section 3.2 - The undercutting analysis performed at chapter 8.6.1 of SEF 588 and in this report relies on the price of the dumped goods as the starting point. Added to this are other costs that importers or exporters will incur to bring those goods into Australia. The overall cost to import the goods will fluctuate according the level of dumping. The undercutting analysis therefore takes account of the dumping relevant to exports of the goods.

Section 3.2 – The commission consideration the analysis of likely sales volume and market share injury is relevant to the assessment required by section 269ZHF(2). Sales volume and market share go directly to the Australian industry's ability to generate revenue and utilise production assets.

Section 3.3 – The commission disagrees with APRIL's submission regarding its contention that dumping has not caused price depression. The price effects analysis at chapter 8.6.1 and the examples of price competition within that analysis demonstrate Paper Australia has reacted to the price of dumped imports or price offers for goods which would likely be dumped.

Section 3.4 – Due to the non specific nature of APRIL's position it is not possible to directly address this part of its submission. The commission can however refer to the assessment of the Australian market at Chapter 5 and the analysis of sales volumes and the prices of imported goods discussed throughout Chapter 8. In particular, chapter 8.6.1 includes a discussion on a likely change in prices in the absence of measures and provides examples where the Australian industry has responded to the lower price of dumped goods.

Section 3.5 – The commission addresses the increase in the Australian industry's sales volumes after acquiring a competitor's paper business. The discussion at chapter 8.6.2 also outlines the commission assessment on likely volume effects if measures expired. The commission disagrees with APRIL's proposition that the Australian industry's increasing sales was due to its acquisition of a competitor's paper business. Rather, the commission considers there is a strong coincidence between implementation of measures and the relatively short period after this in which imports from the subject exporters reduced.

Section 3.6.1 – The commission addresses the relationship between a change in demand (technological change as put by APRIL) for A4 copy paper and the Australian market in response to APRIL's prior submission at EPR 021 and in chapter 8.6.2.

Section 3.6.2 – The commission respectively disagrees with APRIL’s assessment regarding the commission’s conclusion on materiality of injury. The discussion at chapter 8.2 outlines the commission’s approach to an assessment regarding a likelihood of certain events occurring. The discussion in chapter 8.6.3 outlines the likely outcome in relation to a range of economic factors if the measures expired.

Section 4 - APRIL cites section 269ZHG as the basis for its argument that the Minister retains the power to consider any other matters the Minister considers relevant. One such matter being whether a continuation of measure is in the national interest. Section 269ZHF(3)(b) outlines the Commissioner may have regard to any other matter the Commissioner considers to be relevant to the inquiry in making recommendations in a report to the Minister. Similarly, the Minister may have regard to any other information that he considers relevant when deciding whether to continue measures.

Although APRIL urges the inquiry to take account of the national interest, there is no obligation for the Commissioner to do so. There is also no express power in Australia’s domestic legislation that authorises the Minister to take into account the national interest or otherwise conduct a public interest test before continuing measures.

8.7.2 UPM-AP

The following summarises the issues raised in UPM-AP’s submission at EPR 024:

- the Commissioner should recommend the dumping duty notice cease to apply to its exports.
- the Commissioner’s proposal to continue the measures by stating the commission’s finding are based on historical information “*to the exclusion of any serious evaluation of contemporaneous positive evidence of the present position...*”.²²⁴
- SEF 588 should have relied on the positive evidence relating to the 2021 decision by Officeworks to cease sourcing the goods from UPM in China and alternatively source its supply from Paper Australia.
- there is no reasonably foreseeable concurrence of events that would restore its competitive position in the Australian market.
- its exports are not likely to lead to a continuation or recurrence of material injury to the Australian industry.
- the assessment regarding the likelihood of future events occurring upon the expiration of measures must consider the timeframe within which such events might occur.
- SEF 588 contains numerous errors in relation findings about UPM-AP’s export prices and volumes.

UPM-AP’s submission seeks to introduce the concept of ‘within a reasonably foreseeable timeframe’ into the determination of dumping and injury under the statutory test in section 269ZHF(2).

In support of its contention, UPM-AP claims the circumstances surrounding the loss of its Officeworks arrangement prevents it from restoring its position in the Australian market within a reasonably foreseeable future. The ‘future’ referred to by UPM-AP is the period of time following expiration of measures on 19 April 2022.

²²⁴ 588 EPR, Item No. 024, p.2.

UPM-AP have used the 'within a reasonably foreseeable timeframe' concept to promote their claims that the expiry of the measures will not likely lead to a continuation or recurrence of dumping and material injury.²²⁵

UPM-AP's sole reliance for its proposition are comments made by the WTO Appellate body in a case not involving Australia.²²⁶ The WTO Appellate body commented solely on a view expressed by the Panel that the words 'within a reasonably foreseeable timeframe' contained in the *US Tariff Act 1930* are not inconsistent with Article 11.3 of the Anti-Dumping Agreement. Relevantly, the WTO Appellate body then stated that;

*Article 11.3 does not establish any requirement for the investigating authority to specify the timeframe on which it bases its determination regarding injury.*²²⁷

UPM-AP's own submission endorses this when it states that neither the *Customs Act 1901* nor the Anti-Dumping Agreement specifies a timeframe to assess the potential likely future effects of the removal of measures.²²⁸ The commission is satisfied that there is no statutory requirement in section 269ZHF(2) to specify a timeframe regarding its determination of the likely continuation or recurrence of dumping and injury.

In addition to the commission's response in the above, UPM-AP's contention that there is no possibility it will export in the future is not accepted.²²⁹ As discussed in chapter 8.6.1, the operation of the measures was of relevance in the Officeworks decision. The commission considers this disclosure supports the expiry of the measures will likely lead to a resumption of exports by UPM-AP.

UPM-AP further argues that the commission's findings on future dumping are based solely on past history. The commission considers an observation of past trends is necessary for performing the statutory test in section 269ZHF(2). Chapter 8.6.1 outlines the commission's consideration of UPM-AP price offers for exports that would occur after the expiry of measures. These prices reflected dumped levels. This evidence contradicts UPM-AP's claim there is no probability that its goods will be dumped.²³⁰

UPM-AP's submission on material injury relies on accepting it is prevented from exporting to the Australian market in a reasonably foreseeable future. The commission interprets this as indicating UPM-AP will continue to export, however it is delayed in doing so until ocean freight expenses return to lower levels or there are no longer anti-dumping measure to contend with. UPM-AP is silent on whether it will stop dumping or undercutting the Australian industry's prices.

The commission again refers to the advice of Officeworks and its citation of the measures as a factor in its decision making. The commission considers this supports an importer would likely source dumped goods absent of measures. The commission has also

²²⁵ 588 EPR, Item No. 024, p. 3.

²²⁶ Appellate Body Report: US - Oil Country Tubular Goods Sunset Reviews p.360.

²²⁷ Ibid p.364.

²²⁸ 588 EPR, Item No. 024, p. 3.

²²⁹ 'Future Exports', 588 EPR Item No.024, p. 4.

²³⁰ 'Future Dumping', 588 EPR Item No.024, p. 4.

identified a cohort of Australian customers who could easily switch supplier. This is further evidence that imports of dumped goods is likely to recur or continue if measures expire.

The following outlines the relevant parts of this report where the commission addresses the range of matters that UPM-AP's submission characterises as errors in SEF 588.²³¹

- SEF 588 p.25 – chapter 5.3 and footnote 50 refer.
- SEF 588 p.55 – chapter 8.4.3 and footnote 131 refer.
- SEF 588 p.56 - chapter 8.4.3 and footnote 132 refer.
- SEF 588 p.64 Table 22 – chapter 8.5.1 and footnote 165 refer.
- SEF 588 p.67 – chapter 8.5.1 and footnote 165 refer.
- SEF 588 p.67 – chapter 8.6.1 and footnote 197 refer.
- SEF 588 p.68 – chapter 8.5.1 and footnote 166 refer.
- SEF 588 p.78 – chapter 8.6.1 refer.

In a further submission at EPR 034 UPM-AP provided information in response to Paper Australia's submission.²³² Paper Australia claimed that UPM-AP continued to export the goods.²³³ Paper Australia considers its observation counters UPM-AP's prior submission where it asserts there is no possibility it will export the goods in the future.²³⁴

The commission confirmed that the pattern of trade information in UPM-AP's submission at EPR 034 was accurate for showing the decline in its export volumes. However, the commission does not consider UPM-AP's submission at EPR 034 advances its prior arguments regarding the likelihood of its exports recurring in a reasonably foreseeable.²³⁵

8.7.3 Jackaroo

Jackaroo's submission to SEF 588 at EPR 026 raises many of the same issues it outlined in submissions received prior to publication of SEF 588. This includes claims that its imports are not likely to lead to a continuation of material injury due to the volume of its exports being immaterial, its pre-measures import volumes are unlikely to recur, and the product differentiation of its imports from Brazil do not impact the price of Australian industry's like goods. Chapter 8.6.4 of SEF 588 and this report outlines the commission's consideration of these matters.

In addition to the matters it has previously raised, Jackaroo claims that the commission's price undercutting analysis did not provide for fair comparison and further argues why there will not be a recurrence of historically larger export volumes from Brazil.

Price undercutting

Jackaroo has questioned the validity of the commission's price undercutting analysis at chapter 8.6.1 in SEF 588. Jackaroo claims the commission's analysis is defective because fair comparison was not undertaken for factors such as branding and specification differences.

To illustrate how branding and specification differences affect fair comparison, Jackaroo pointed to the difference in prices for sales of Paper Australia's brand of 100% recycled

²³¹ 'Export Pricing', 588 EPR Item No.024, pp. 4-6.

²³² 588 EPR Item No. 034, p.2.

²³³ 588 EPR Item No. 032.

²³⁴ 'Future Exports', 588 EPR Item No.024, p. 4.

²³⁵ 588 EPR, Item No. 024, p. 3.

paper and non-recycled paper by WINC Australia Pty Ltd (WINC). Whilst Jackaroo's observations on price seem to be accurate, the WINC citation is out of context because WINC does not stock imports from Brazil. The WINC prices cited by Jackaroo also relate to sales at level of trade where Australia industry and Jackaroo's Brazilian supplier are not competing. The commission does not consider the WINC information in Jackaroo's submission is relevant to the price undercutting analysis.

In an extension to its submission of 7 September 2021 at EPR 008 Jackaroo has again argued its imports are of a different specification to like goods produced by the Australian industry. Although Jackaroo's submission was initially addressed in the discussion at chapter 8.4.2 to SEF 588, and in this report, the commission outlines the following further consideration of Jackaroo's response to SEF 588.

The commission's examination of specification data shows the goods from Brazil and Australian industry's like goods are identical in all but one respect. Sylvamo's paper advertises the 'ColorLok' feature in HP paper. Paper Australia's Reflex Brand markets an 'Inkwise' feature. Both brands claim that these features improve the performance of their products.

Jackaroo's submission to SEF 588 maintains that the 'ColorLok' feature creates differentiation that means only owners of HP printers will purchase HP branded paper. Jackaroo's claim may accord with HP's recommendation to customers but it has not provided evidence that substantiates this is actually the case.

Product data issued by Paper Australia and HP both identify their papers are suitable for use in either inkjet or laser printers. This information does not support Jackaroo's product differentiation argument or its claim that use of its paper is exclusively by owners of HP printing devices. The commission remains satisfied that exports from Brazil are like to the goods sold by the Australian industry.

The commission's price undercutting analysis at chapter 8.6.1 provides further reasons why the commission considers the analysis achieves a fair comparison outcome.

Export volumes from Brazil

The commission points to correspondence between Officeworks and Chinese exporter UPM-AP for addressing Jackaroo's point regarding an increase in its imports from Brazil. The UPM-AP correspondence identifies the presence of the anti-dumping measure as a factor in a decision by Officeworks to switch its source of supply from UPM-AP in China to Paper Australia.

The commission considers the Officeworks reasoning supports that the expiry of measures will likely lead to recurrence of larger import volumes from Brazil. Put differently, the commission considers that the existence of the measure is discouraging Officeworks from sourcing imported goods. It is reasonable to conclude that Officeworks would likely have continued importing from China absent of the measure.

The commission also considers the significant reduction in imports from Brazil following the implementation of measures in the June quarter of 2017 is not a coincidence.

The commission has established that the importer of the goods from Brazil quickly switched to a source not subject to measures shortly after measures were imposed. Jackaroo has not disputed the commission's findings in SEF 588 that attributes a decrease in its imports to the imposition of measures. In much the same way that implementation of measures led to a decrease in exports from Brazil, the commission considers that the expiry of the measure would likely lead to an increase in exports.

Jackaroo has also used the ongoing investigation into imports from Indonesia by its prior customer, Completed Office Supplies (COS), as a basis for a claim that its imports from Brazil will not increase. However, it has not provided any evidence of how this outcome would transpire.

Regardless of what COS may or may not do, SEF 588 outlines that the commission found a sufficient cohort of Australian customers would likely avail themselves of cheaper imports in material volumes if measures expire.

The commission also found that customers are not necessarily required to source from the one manufacturer for a fixed term. The commission also found dumping of the goods exported from Brazil continues to undercut the price of the Australian industry. The commission is satisfied this remains the case. In these circumstances, the commission considers expiry of the measures would likely lead to a recurrence of larger volumes from Brazil.

8.7.4 Sylvamo

Sylvamo's submission of 18 January 2022 at EPR 028 covers the following issues:

- its exports returning to pre-measures volumes
- the differentiation of its exports compared to Australian industry
- the commission's approach to price undercutting analysis.

In relation to the first two points, SEF 588 addressed these matters in response to submissions received from Sylvamo and Jackaroo before publication of SEF 588. Chapter 8.6.4 in SEF 588 and in this report refers.

Sylvamo's comments on price undercutting cross over the matters raised in Jackaroo's submission of 12 January 2022 in response to SEF 588. The commission considers the response to Jackaroo's submission in chapter 8.7.3 and the information provided in chapter 8.6.1 addresses the matters raised in Sylvamo's submission.

8.7.5 Government of Brazil

The Government of Brazil (GOB) submission of 17 February 2022 at EPR 033 comments on price undercutting analysis in chapter 8.6.1. The GOB requests that the commission take steps to ensure the analysis observes differences between like goods and imported goods.

Submissions from Jackaroo and Sylvamo raise similar matters about price undercutting in their submissions. The commission considers the response to Jackaroo's submission in chapter 8.7.3 and the information provided in chapter 8.6.1 addresses the matters raised in the GOB submission.

8.8 Summary

The commission is satisfied that there is sufficient evidence to support a finding that:

- exports of the goods from the subject exporters are likely to continue
- it is likely that exports of the goods from the subject exporters continue to be dumped and in relation to China continue to be dumped and subsidised
- exports of dumped and subsidised goods continue to influence the price at which the Australian industry sells like goods
- exports of dumped and subsidised goods continue to impact the Australian industry's sales volume and market share and

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- it is likely that the Australian industry will experience material injury caused by dumped and subsidised exports of the goods in the absence of measures.

As a result, the commission is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of the material injury that the anti-dumping measures are intended to prevent.

9 NON-INJURIOUS PRICE

9.1 Finding

Having regard to the available information, the commission has determined that the NIP has changed in relation to exporters of the goods from Indonesia by RAK and the category of 'all other exporters'.

In respect of the goods exported to Australia 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 operative. As a result, the commission proposes that the Minister have regard to the desirability of specifying a lesser amount of duty but not apply the rule to exports of the like goods by RAK.

On the basis that the Commissioner is not recommending to alter the notice for exports from Brazil, China and Thailand, the NIP for exports from these countries also remains unchanged.

9.2 Applicable legislation

Section 269TACA defines the NIP as "the minimum price necessary to prevent the injury, or a recurrence of the injury" caused by the dumped goods, the subject of a dumping duty notice.

9.3 Calculation of the non-injurious price

Although not prescribed in legislation, the Manual outlines several methods for calculating the NIP.²³⁶ The commission generally derives the NIP by first establishing an unsuppressed selling price (USP) which the Australian industry might reasonably sell its product in a market unaffected by dumping.

The Manual sets out the commission's preferred approach to establishing the USP and observes the following hierarchy:

- industry selling prices at a time unaffected by dumping;
- constructed industry prices – industry CTMS plus profit; or
- selling prices of un-dumped imports.

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

9.4 Commission's assessment

In REP 551 the commission established a NIP for RAK and 'all other exporters' from Indonesia based on:

- a USP being the sum of Paper Australia's CTMS of like goods during the review period, plus a profit margin achieved in a period considered unaffected by dumping and

²³⁶ The Manual, p 106.

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- deductions from the USP relevant amounts for importer selling expenses and profits and post exportation costs.

For the purpose of this inquiry the commission has calculated a revised NIP for RAK from Indonesia by having regard to:

- Paper Australia's USP based on its submitted data for the period of inquiry
- ocean freight and marine insurance expenses reported in RAK's REQ
- importation expenses on relevant sales reported in RAK's REQ
- the most efficient selling, general and administration expense reported by importers of the goods in Review 551.

In respect of the goods exported to Australia 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 operative. Consistent with the variable factors assessed for the category of 'all other exporters' from Indonesia, the commission further finds that the NIP is greater than the normal value of those goods and therefore the NIP is not operative.

As a result, the Commissioner recommends that the Minister have regard to the desirability of specifying a lesser amount of duty, but need not do so, in accordance with section 8(5B) of the Dumping Duty Act in relation to all exports of the goods from Indonesia. In relation to exporters of the goods from all other subject countries, the Commissioner is not recommending the Minister alter the notice as it relates to those countries.

The calculation of the USP and NIP for Indonesia is contained in **Confidential Attachment 16**.

10 FORM OF MEASURES

10.1 Recommendations

Having established that dumping, subsidisation and material injury is likely to continue or recur if the anti-dumping measures are not continued, the Commissioner recommends that the Minister secure the continuation of the measures applying to the goods exported from Brazil, China, Indonesia and Thailand.

The Commissioner further recommends to the Minister that in continuing the measures:

- in relation to RAK from Indonesia, the dumping duty notice is altered to reflect the change in variable factors for its exports of the goods in the period 1 July 2020 to 30 June 2021.
- in relation to the category of 'all other exporters' from Indonesia, the dumping duty notice is altered to reflect the change in variable factors for exports of the goods from Indonesia to Australia in the period 1 July 2020 to 30 June 2021.
- in relation to all exports from the Brazil, China and Thailand, the dumping duty and countervailing duty notices remain unaltered.²³⁷
- the method for working out the amount of IDD on exports of the goods from Brazil, China, Indonesia and Thailand continues to utilise the combination of fixed and variable duty method.
- the method for working out the amount of ICD on exports of the goods from China continues to be calculated as a proportion of the export price method.

10.2 Current form of measures

The IDD applying to subject exporters from the subject countries is currently the combination of fixed and variable duty method. The ICD applying to exports of the goods from China by exporters in the category of 'non-cooperative entities' is currently the proportion of the export price method.

10.3 Forms of dumping duty available

The *Customs Tariff (Anti-Dumping) Regulation 2013* prescribes the following forms of dumping duty available to the Minister when imposing anti-dumping measures:

- fixed duty method (\$X per tonne);
- floor price duty method;
- combination of fixed and variable duty method; or
- ad valorem duty method (i.e. a percentage of the export price).²³⁸

The various forms of dumping duty all have the purpose of removing the injurious effects of dumping. However, certain forms of duty will better suit particular circumstances. In considering which form of duty to recommend to the Minister, the Commissioner will have regard to the published *Guidelines on the Application of Forms of Dumping Duty November 2013* (the Guidelines) and relevant factors in the market for the goods.²³⁹

²³⁷ Exports by Indah Kiat, Pindo Deli and Tjiwi Kimia from Indonesia are not subject to anti-dumping measures.

²³⁸ Section 5 of the *Customs Tariff (Anti-Dumping) Regulation 2013*.

²³⁹ Available on the Commission's website: [Guidelines on Forms of Dumping Duties](#)

10.4 Conclusion

The commission notes the initiation notice for this inquiry proposed to have regard to the variable factors determined in Review 551. Interested parties were able to exercise the option of submitting a questionnaire and the commission made such documents available at the case page on the commission's website.²⁴⁰ The Commission has not received submissions regarding the form of duty in continuing the measures.

The commission has therefore considered the following in relation to continuing the current form of measures:

- the Guidelines
- the circumstances identified in REP 551 at chapter 7.2
- the information available to the commission for this inquiry.

The commission considers the circumstances relevant to selection of the combination of fixed and variable duty method of anti-dumping measures in REP 551 remain present amongst exporters and importers of the subject goods. Such considerations include complex company structures between related parties and the low level of product complexity associated with the goods.

As a result, the commission considers that the available information does not form reasonable grounds to implement an alternative form of measure. Particularly in the circumstance that the factors relied on in REP 551 appear to remain in the present case.

The Commissioner therefore recommends that the Minister:

- continue the current form of measures in relation to both the dumping and countervailing duty notices.
- alter the dumping duty notice to the extent it relates to RAK and the category of 'all other exporters' from Indonesia.
- not alter the notice for all other subject exporters from Brazil, China and Thailand.

Table 32 summarises the recommended effective rates of IDD and ICD.

| Country | Exporter | Interim dumping duty | | Interim countervailing duty | |
|-----------|---|---|--------------------|-----------------------------|---------------------|
| | | Duty method | Effective IDD rate | Duty method | Effective ICD rate |
| Brazil | Sylvamo Exports Ltda | Combination of fixed and variable duty method | 8.1% | Not applicable | |
| | All other exporters | | 8.1% | | |
| China | UPM Asia Pacific Pte Ltd | | 3.2% | Not applicable | |
| | Greenpoint Global Trading (Macao Commercial Offshore) Ltd | | 10.0% | | |
| | All other exporters | | 3.0% | Proportion of export price | 7.0% ²⁴¹ |
| Indonesia | PT Riau Andalan Kertas | | 59.7% | Not applicable | |
| | All other exporters (except Indah Kiat, Pindo Deli and Tjiwi Kimia) | | 59.7% | | |

²⁴⁰ [Case Page - Continuation Inquiry No. 588](#)

²⁴¹ Exports from China by Greenpoint and UPM-AP are not subject to the subsidy notice.

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| Country | Exporter | Interim dumping duty | | Interim countervailing duty | |
|----------|------------------------------------|----------------------|--------------------|-----------------------------|--------------------|
| | | Duty method | Effective IDD rate | Duty method | Effective ICD rate |
| Thailand | Double A (1991) Public Company Ltd | | 0.9% | Not applicable | |
| | All other exporters | | 0.9% | | |

Table 32 Summary of recommended effective interim dumping and countervailing duty

11 RECOMMENDATIONS

On the basis of the reasons contained in this report, and in accordance with section 269ZHF(2), the Commissioner is satisfied that the expiration of the current measures applicable to A4 copy paper exported to Australia from:

- Brazil
- China
- Indonesia (except by Indah Kiat, Pindo Deli and Tjiwi Kimia) and
- Thailand

would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and material injury that the current measures are intended to prevent.

The Commissioner recommends the Minister declare:

- pursuant to section 269ZHG(1)(b), that he has decided to secure the continuation of the anti-dumping measures relating to A4 copy paper exported to Australia from Brazil, China, Indonesia and Thailand.

The Commissioner recommends the Minister determine:

- in accordance with section 269ZHG(4)(a)(i), that the dumping notice continues in force after 19 April 2022 (the specified expiry day) in relation to all exports of A4 copy from **Brazil, China and Thailand**;
- in accordance with section 269ZHG(4)(a)(iii), that the dumping duty notice continues in force after 19 April 2022 (the specified expiry day), but that, after that day the notice has effect, in relation to exports by **RAK** and ‘**all other exporters**’ from **Indonesia** (except by Indah Kiat, Pindo Deli and Tjiwi Kimia), as if the Minister had fixed different specified variable factors relevant to the determination of duty, as specified in **Confidential Attachments 5 to 8 and 16**, and **Chapter 7** and **9** of this report;
- in accordance with section 269ZHG(4)(a)(i), that the countervailing duty notice continues in force after 19 April 2022 (the specified expiry day) in relation to exports of A4 copy paper from **China** (except by Greenpoint and UPM-AP);
- in accordance with section 269TAAD(4), and for the purpose of working out the cost of goods and determining 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 ordinary course of trade, the amounts for the cost of production or manufacture of the goods produced by **RAK** in **Indonesia** and the administrative, selling and general costs associated with the sale of those goods are as set out in **Confidential Attachment 6**;
- being satisfied that section 269TAB(1)(b) applies, the **export price** of the goods exported to Australia from **Indonesia** by **RAK** is the price at which the goods were sold by AFEM to a person who is not an associate of the importer less the prescribed deductions, as set out in **Confidential Attachment 5** and **Chapter 7** of this report;
- being satisfied that section 269TAB(1)(c) applies, the **export price** of the goods exported to Australia from **Indonesia** by **RAK** having regard to all the circumstances of the exportation, as set out in **Confidential Attachment 5** and **Chapter 7** of this report;

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- in accordance with section 269TAB(3), **export prices** for the category of '**all other exporters**' from **Indonesia** having regard to all relevant information, as set out in **Confidential Attachment 5** of this report;
- in accordance with section 269TAC(1), being satisfied that like goods are sold in the ordinary course of trade for home consumption in **Indonesia** in sales that are arms length transactions by **RAK**, that the **normal value** of the goods exported to Australia from Indonesia by RAK, is the price paid or payable for like goods, as adjusted in accordance with section 269TAC(8) to ensure that the normal value of the goods so ascertained is properly comparable to the export price of the goods, as set out in **Confidential Attachment 7** and **Chapter 7** of this report;
- in accordance with section 269TAC(6), **normal values** for the category of '**all other exporters**' (except by Indah Kiat, Pindo Deli and Tjiwi Kimia) from Indonesia having regard to all relevant information, as set out in **Confidential Attachment 7** and **Chapter 7** of this report;
- having applied section 269TACB(2)(a) and in accordance with section 269TACB(1), the dumping margins for all exporters from Indonesia in respect of A4 copy paper exported to Australia is the difference between the weighted average export prices of A4 copy paper and the weighted average of corresponding normal values, as set out in **Confidential Attachment 8** and **Chapter 7** of this report;
- in accordance with section 8(5) of the Dumping Duty Act, that the IDD payable on the goods exported to Australia from **Indonesia** is an amount which will be worked out in accordance with the combination of fixed and variable duty method pursuant to section 5(2) of the *Customs Tariff (Anti-Dumping) Regulation 2013*;

The Commissioner recommends the Minister be satisfied:

- in accordance with section 269TAB(3), sufficient information has not been furnished and is not available, to enable the export price of A4 copy paper exported to Australia from Indonesia by uncooperative exporters, to be determined under section 269TAB(1);
- in accordance with section 269TAC(6), sufficient information has not been furnished and is not available to enable the normal value of A4 copy paper exported to Australia from **Indonesia** by the category of '**all other exporters**' (except by Indah Kiat, Pindo Deli and Tjiwi Kimia) to be ascertained under the preceding provisions of section 269TAC (other than section 269TAC(5D));
- in accordance with sections 269TAAD(1) and for the purpose of determining normal value, as set out in **Confidential Attachments 7** and **Chapter 7** of this report;
 - like goods were sold by **RAK** in **Indonesia** in sales that were arms length transactions in substantial quantities during an extended period for home consumption in **Indonesia** at a price less than the cost of such goods; and
 - that the exporters were unable to recover the cost of such goods within a reasonable period.

The price paid for these goods has been taken not to have been paid in the ordinary course of trade for the purpose of determining normal value.

The Commissioner recommends that the Minister direct:

- pursuant to section 269TAC(8), that, as the **normal value** of the goods exported to Australia is the price paid or payable for like goods sold in **Indonesia**, the **normal**

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value for **RAK** is to be adjusted for specified differences between like goods and the export price of the goods exported to Australia, as set out in **Confidential Attachment 7** and **Chapter 7** of this report.

12 APPENDICES AND ATTACHMENTS

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| Confidential Attachment 2 | Australian Industry Injury Analysis (CTMS, price, profit) |
| Confidential Attachment 3 | Australian Industry Injury Analysis (Other Economic Factors) |
| Confidential Attachment 4 | RAK Related Party Supplier Financials (chapter 7.4.6) |
| Confidential Attachment 5 | RAK Export Price |
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| Confidential Attachment 9 | ABF Import Data (1 Jan 2015 to 30 Sept 2021) |
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| Non-Confidential Attachment 13 | Nine Dragons 2021 Annual Report |
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