

Subject: **Continuation Inquiry into Anti-Dumping Measures. Australia. A4 copy paper.**

1. The Government of Brazil (GBR) presents its compliments to the Government of Australia and thanks for the opportunity to express its views on matters regarding the ongoing review of the definitive anti-dumping measure applied against imports of A4 copy paper from Brazil and other origins.

1. Background

Received: 17 February 2022

2. The anti-dumping measures 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 following consideration of Anti-Dumping Commission Report No. 341 (REP 341).

3. On 2 July 2021, the Commissioner of the Anti-Dumping Commission (the Commission) initiated an inquiry into whether the continuation of anti-dumping measures applying to certain A4 copy paper exported to Australia from the Federative Republic of Brazil (Brazil) and other origins was justified.

4. 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, relevant to the determination of duty, following consideration of Anti-Dumping Commission Report No. 551 (REP 551) on 7 June 2021.

5. On December 17, 2021, the Statement of Essential Facts Report No. 588 (SEF 588) set out the findings and conclusions on which the Commission proposed to base its recommendations to the Minister for Industry, Energy and Emissions Reduction regarding whether the continuation of the anti-dumping measures applying to A4 copy paper exported to Australia from Brazil and other origins was justified.

6. According to chapter 10.4 of said Report, the Commission preliminarily proposed to the Minister the maintenance of the current form of measures in relation to dumping duty notices and not to alter the dumping duty notice for all subject exporters from Brazil.

2. Undercutting Analysis

7. The GBR is of the view that the comparative undercutting analysis described in SEF 588 was not clear as to whether it provided for a fair comparison of comparable products in the market.

8. The Commission's price undercutting analysis at chapter 8.6.1 distinctly stated that the undercutting analysis compared the prices at which the Australian industry sold like goods and the landed prices paid by importers at an appropriate level of trade. However, it was silent regarding how the matching of comparable model control code (MCCs) was taken into consideration.

9. The Panel in *China – Broiler Products* pointed out that in a price effect analysis under Article 3.2, an investigating authority was required to compare prices at the same level of trade. The Panel stated that the fact that products were considered to be "like" would not necessarily suffice to ensure price comparability for purposes of Article 3.2:

*"Where the products under investigation are not homogenous, and where various models command significantly different prices, the investigating authority must ensure that the product compared on both sides of the comparison are sufficiently similar such that the resulting price difference is informative of the 'price undercutting', if any, by the imported products. For this reason, for the price undercutting analysis to comply with Articles 3.1/15.1 and 3.2/15.2 may well require the investigating authority to perform its price comparison at the level of product models. In a situation in which it performs a price comparison on the basis of a 'basket' of products or sales transactions, the authority must ensure that the groups of products or transactions compared on both sides of the equation are sufficiently similar so that any price differential can reasonably be said to result from 'price undercutting' and not merely from differences in the composition of the two baskets being compared. Alternatively, the authority must make adjustments to control and adjust for relevant differences in the physical or other characteristics of the product."*¹ (Italics added).

10. The SEF 588 Report merely indicated that the landed price for exports from Brazil was determined through "customs valuation reported in ABF declarations for the goods imported from Brazil"². Next, the Report asserted that the results of the commission's price undercutting analysis revealed that the landed export price of the subject goods imports from Brazil in 2019, 2020 and 2021 either undercut or were comparable to Australian industry's prices.

11. On that account, it can be inferred that the Commission simply employed weighted averages for domestic and export prices. Considering that the Brazilian exports were of MCCs classified to 80-N and 90-N only, the use of a single weighted average price results in the distorted undercutting levels observed for exports from Brazil.

12. Another example of imprecision is the comparison of a domestic average price including recycled paper products manufactured by the Australian industry and an export price containing no recycled content when there are significant price differences between recycled and non-recycled paper in the Australian market.

3. Request

13. In light of the aforementioned reasons, the Government of Brazil respectfully requests the Australian Anti-Dumping Commission to reconsider its undercutting analysis by matching comparable MCCs and to ensure that its findings are based on meaningful and accurate analysis.

¹ Panel Report, *China – Broiler Products*, para. 7.483.

² SEF 588 Report p. 78