Australian Government
Anti-Dumping Review Panel

Application for review of a Ministerial decision

Customs Act 1901 s 269ZZE

This is the approved[1] form for applications made to the Anti-Dumping Review Panel (ADRP) on or after 2 March 2016 for a review of a reviewable decision of the Minister (or his or her Parliamentary Secretary).

Any interested party[2] may lodge an application for review to the ADRP of a review of a ministerial decision.

All sections of the application form must be completed unless otherwise expressly stated in this form.

Time

Applications must be made within 30 days after public notice of the reviewable decision is first published.

Conferences

You or your representative may be asked to attend a conference with the Panel Member appointed to consider your application before the Panel gives public notice of its intention to conduct a review. Failure to attend this conference without reasonable excuse may lead to your application being rejected. The Panel may also call a conference after public notice of an intention to conduct a review is given on the ADRP website. Conferences are held between 10.00am and 4.00pm (AEST) on Tuesdays or Thursdays. You will be given five (5) business days' notice of the conference date and time. See the ADRP website for more information.

Further application information

You or your representative may be asked by the Panel Member to provide further information to the Panel Member in relation to your answers provided to questions 10, 11 and/or 12 of this application form (s269ZZG(1)). See the ADRP website for more information.

Withdrawal

You may withdraw your application at any time, by following the withdrawal process set out on the ADRP website.

If you have any questions about what is required in an application refer to the ADRP website. You can also call the ADRP Secretariat on (02) 6276 1781 or email adrp@industry.gov.au.

[1] By the Acting Senior Member of the Anti-Dumping Review Panel under section 269ZY *Customs Act 1901*.
[2] As defined in section 269ZX *Customs Act 1901*.

PART A: APPLICANT INFORMATION

1. **Applicant's details**

Applicant's name: **Greenpoint Global Trading (Macao Commercial Offshore) Limited ("Greenpoint")**

Address: **Avenida Doutor Mario Soares s/n Edificio Finance and IT Centre of Macau, Macau**

Type of entity (trade union, corporation, government etc.): **Corporation**

2. **Contact person for applicant**

Full name: **Elvis Wang**

Position: **Director**

Email address: **elvis_wang@asiasymbol.com**

Telephone number: **+853 2871 5365**

Please note that all communications in relation to this application are requested to take place with and through Greenpoint's legal representatives. For contact details please refer to Part E of this application.

3. **Set out the basis on which the applicant considers it is an interested party**

Pursuant to Section 269ZZC of the *Customs Act* 1901 ("the Act") a person who is an interested party in relation to a reviewable decision may apply for a review of that decision. The reviewable decision in this case relates to an application made to the Commissioner under Section 269TB requesting that the Minister publish a dumping duty notice. Under Section 269T of the Act an *"interested party"* for the purpose of that kind of a reviewable decision is defined as including, amongst others, any person who is or is likely to be directly concerned with the importation or exportation into Australia of the goods the subject of the application; any person who has been or is likely to be directly concerned with the importation or exportation into Australia of like goods; and any person who is or is likely to be directly concerned with the production or manufacture of the goods the subject of the application or of like goods that have been, or are likely to be, exported to Australia.

Greenpoint is an exporter to Australia of the goods to which the decision relates, namely A4 copy paper manufactured by Asia Symbol Paper (Guangdong) Co., Ltd in China. Greenpoint is thus an *"interested party"* for the purposes of the Act and this application.

4. **Is the applicant represented?**

Yes ☑ **No**

If the application is being submitted by someone other than the applicant, please complete the attached representative's authority section at the end of this form.

It is the applicant's responsibility to notify the ADRP Secretariat if the nominated representative changes or if the applicant become self-represented during a review.*

PART B: REVIEWABLE DECISION TO WHICH THIS APPLICATION RELATES

5. Indicate the section(s) of the Customs Act 1901 the reviewable decision was made under:

☑ Subsection 269TG(1) or (2) – decision of the Minister to publish a dumping duty notice

☐ Subsection 269TH(1) or (2) – decision of the Minister to publish a third country dumping duty notice

☐ Subsection 269TJ(1) or (2) – decision of the Minister to publish a countervailing duty notice

☐ Subsection 269TK(1) or (2) decision of the Minister to publish a third country countervailing duty notice

☐ Subsection 269TL(1) – decision of the Minister not to publish duty notice

☐ Subsection 269ZDB(1) – decision of the Minister following a review of anti-dumping measures

☐ Subsection 269ZDBH(1) – decision of the Minister following an anti-circumvention enquiry

☐ Subsection 269ZHG(1) – decision of the Minister in relation to the continuation of anti-dumping measures

6. Provide a full description of the goods which were the subject of the reviewable decision

The goods the subject of the reviewable decision were:

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 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).

7. Provide the tariff classifications/statistical codes of the imported goods

The goods are classified to tariff subheading 4802.56.10, statistical code 03 and statistical code 09 of Schedule 3 to the Customs Tariff Act 1995.

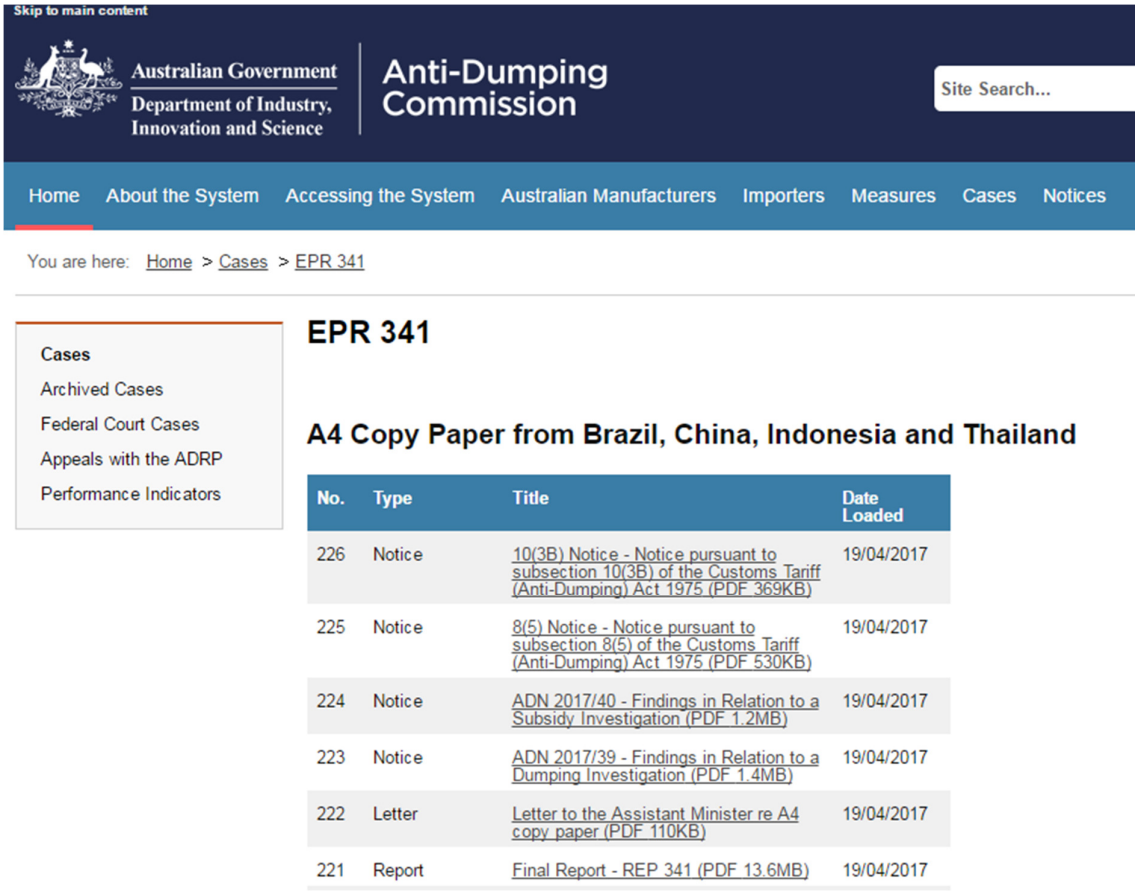
8. Provide the Anti-Dumping Notice (ADN) number of the reviewable decision

If your application relates to only part of a decision made in an ADN, this must be made clear in Part C of this form.

2017/39

9. Provide the date the notice of the reviewable decision was published

The reviewable decision was dated 18 April 2017 but was not published until 19 April 2017, as evidenced by the following which has been extracted from the Anti-Dumping Commission website (see "Date Loaded"):



Attach a copy of the notice of the reviewable decision (as published on the Anti-Dumping Commission's website) to the application

See Attachment A

PART C: GROUNDS FOR THE APPLICATION

If this application contains confidential or commercially sensitive information, the applicant must provide a non-confidential version of the grounds that contains sufficient detail to give other interested parties a clear and reasonable understanding of the information being put forward.

Confidential or commercially sensitive information must be marked '**CONFIDENTIAL**' (bold, capitals, red font) at the top of each page. Non-confidential versions should be marked '**NON-CONFIDENTIAL**' (bold, capitals, black font) at the top of each page.

For lengthy submissions, responses to this part may be provided in a separate document attached to the application. Please check this box if you have done so: ☒

See Attachment B, in respect of which confidential and non-confidential versions have been provided.

10. Set out the grounds on which the applicant believes that the reviewable decision is not the correct or preferable decision.

11. **Identify what, in the applicant's opinion, the correct or preferable decision (or decisions) ought to be, resulting from the grounds raised in response to question 10.**

12. **Set out the reasons why the proposed decision provided in response to question 11 is materially different from the reviewable decision.**

    Do not answer question 12 if this application is in relation to a reviewable decision made under subsection 269TL(1) of the Customs Act 1901.

PART D: DECLARATION

The ~~applicant~~/the applicant's authorised representative *[delete inapplicable]* declares that:

- The applicant understands that the Panel may hold conferences in relation to this application, either before or during the conduct of a review. The applicant understands that if the Panel decides to hold a conference *before* it gives public notice of its intention to conduct a review, and the applicant (or the applicant's representative) does not attend the conference without reasonable excuse, this application may be rejected;
- The information and documents provided in this application are true and correct. The applicant understands that providing false or misleading information or documents to the ADRP is an offence under the *Customs Act 1901* and *Criminal Code Act 1995*.

Signature: 

Name: **Charles Zhan**

Position: **Associate**

Organisation: **Moulis Legal**

Date: **19 May 2017**

PART E: AUTHORISED REPRESENTATIVE

This section must only be completed if you answered yes to question 4.

Provide details of the applicant's authorised representative

Full name of representative:	**Charles Zhan**
Organisation:	**Moulis Legal**
Address:	**6/2 Brindabella Circuit** **Brindabella Business Park** **Canberra International Airport** **Australian Capital Territory** **Australia 2609**
Email address:	**charles.zhan@moulislegal.com**
Telephone number:	**+61 2 6163 1000**

Representative's authority to act

A separate letter of authority may be attached in lieu of the applicant signing this section

See Attachment C.

The person named above is authorised to act as the applicant's representative in relation to this application and any review that may be conducted as a result of this application.

Signature:……..

(Applicant's authorised officer)

Name:

Position:

Organisation

Date: / /

PUBLIC RECORD

Australian Government
Department of Industry, Innovation and Science

Anti-Dumping Commission

Customs Act 1901 – Part XVB

A4 Copy Paper

Exported from the Federative Republic of Brazil, the People's Republic of China, the Republic of Indonesia and the Kingdom of Thailand

Findings in relation to a dumping investigation

Public notice under subsections 269TG(1) and (2) of the Customs Act 1901

Anti-Dumping Notice (ADN) 2017/39

The Commissioner of the Anti-Dumping Commission (the Commissioner) has completed the investigation into the alleged dumping of A4 Copy Paper 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).

The goods:

The goods the subject of the investigation (the goods) are:

> *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 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 goods:

> *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.*

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

- 4802.56.10, statistical code 03; and
- 4802.56.10, statistical code 09.

These tariff classifications and statistical codes may include goods that are both subject and not subject to this investigation. The listing of these tariff classifications and statistical codes are for convenience or reference only and do not form part of the goods description.

The goods are not subject to customs duty if exported from China, Indonesia and Thailand and are subject to 5 per cent customs duty if exported from Brazil.

The Commissioner reported his findings and recommendations to me in *Anti-Dumping Commission Report No. 341* (REP 341). REP 341 outlines the investigation carried out and recommends the publication of a dumping duty notice in respect of the goods. I have considered REP 341 and accepted the Commissioner's recommendations and reasons for the recommendations, including all material findings of fact or law on which the Commissioner's recommendations were based, and particulars of the evidence relied on to support the findings. This report is available at www.adcommission.gov.au.

The method used to compare export prices and normal values to determine whether dumping has occurred and to establish the dumping margin for the exporters listed below was to compare the weighted average of export prices with the weighted average of corresponding normal values over the investigation period pursuant to subsection 269TACB(2)(a) of the *Customs Act 1901* (the Act).

Particulars of the dumping margins determined and how normal values and export prices were established under the Act are specified in the table below.

Country	Exporter	Export Price	Normal Value	Dumping Margin
Brazil	International Paper do Brasil Ltda	269TAB(1)(a)	269TAC(1)	2.9%
	Uncooperative and all other exporters	269TAB(3)	269TAC(6)	2.9%
China	UPM (China) Co., Ltd	269TAB(1)(a) 269TAB(1)(b)	269TAC(1)	34.4%
	Asia Symbol (Guangdong) Paper Co., Ltd	269TAB(1)(a)		3.1%
	Uncooperative and all other exporters	269TAB(3)	269TAC(6)	34.4%
Indonesia	PT Indah Kiat Pulp & Paper Tbk	269TAB(1)(c)	269TAC(2)(c)	35.4%
	PT Pindo Deli Pulp and Paper Mills			38.6%
	Riau Andalan Kertas			12.6%
	Uncooperative and all other exporters (except Pt Pabrik Kertas Tjiwi Kimia Tbk)	269TAB(3)	269TAC(6)	45.1%
Thailand	Double A (1991) Public Company Ltd	269TAB(1)(a)	269TAC(1)	13.4%
	Phoenix Pulp & Paper Public Co., Ltd			18.1%
	Uncooperative and all other exporters	269TAB(3)	269TAC(6)	23.2%

I, CRAIG LAUNDY, Assistant Minister for Industry, Innovation and Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science,[1] have considered, and accepted, the recommendations of the Commissioner, the reasons for the recommendations, the material findings of fact on which the recommendations are based and the evidence relied on to support those findings in REP 341.

I am satisfied, as to the goods that have been exported to Australia, that the amount of the export price of the goods is less than the normal value of those goods and because of that, material injury to the Australian industry producing like goods would or might have been caused if security had not been taken. Therefore under subsection 269TG(1) of the Act, I DECLARE that section 8 of the *Customs Tariff (Anti-Dumping) Act 1975* (the Dumping Duty Act) applies to:

(i) the goods; and

(ii) subject to section 45 and subsection 269TN(2) of the Act, like goods that were exported to Australia from China and Thailand for home consumption on or after 30 September 2016, which is when the Commonwealth took securities following the Commissioner's Preliminary

[1] On 19 July 2016, the Prime Minister appointed the Parliamentary Secretary to the Minister for Industry, Innovation and Science as the Assistant Minister for Industry, Innovation and Science. For the purposes of this decision the Minister is the Parliamentary Secretary to the Minister for Industry, Innovation and Science.

Affirmative Determination (PAD) published on 29 September 2016 under section 269TD of the Act, but before the publication of this notice; and

(iii) subject to section 45 and subsection 269TN(2) of the Act, like goods that were exported to Australia from Brazil and Indonesia for home consumption on or after 7 November 2016, which is when the Commonwealth took securities following the Commissioner's PAD published on 4 November 2016 under section 269TD of the Act, but before the publication of this notice.

I am also satisfied that the amount of the export price of like goods that have already been exported to Australia is less than the amount of the normal value of those goods, and the amount of the export price of like goods that may be exported to Australia in the future may be less than the normal value of the goods and because of that, material injury to an Australian industry producing like goods has been caused. Therefore under subsection 269TG(2) of the Act, I DECLARE that section 8 of the Dumping Duty Act applies to like goods that are exported to Australia after the date of publication of this notice.

This declaration applies in relation to all exporters of the goods and like goods from Brazil, China, Indonesia (except Pt Pabrik Kertas Tjiwi Kimia Tbk) and Thailand.

The considerations relevant to my determination that dumped goods have materially injured the Australian A4 Copy Paper industry are the size of the dumping margins, the effect of dumped imports on prices in the Australian market in the form of price undercutting and the consequent impact on the Australian industry including:

- loss of sales volume;
- price suppression;
- price depression;
- reduced profits and profitability; and
- reduced revenue from A4 copy paper.

In making my determination, I have considered whether the Australian industry is being injured by a factor other than the exportation of dumped goods, and I have not attributed injury due to other factors to the exportation of those dumped goods.

Interested parties may seek a review of this decision by lodging an application with the Anti-Dumping Review Panel, in accordance with the requirements in Division 9 of Part XVB of the Act, within 30 days of the publication of this notice.

Particulars of the export prices, non-injurious prices and normal values of the goods (as ascertained in the confidential tables to this notice) will not be published in this notice as they may reveal confidential information.

Clarification about how measures and securities are applied to 'goods on the water' is available in ACDN 2012/34, available at www.adcommission.gov.au.

REP 341 and other documents included in the public record may be examined at the Anti-Dumping Commission office by contacting the case manager on the details provided below. Alternatively, the public record is available at www.adcommission.gov.au.

Enquiries about this notice may be directed to the case manager on telephone number +61 3 8539 2447, fax number +61 3 8539 2499 or email at operations2@adcommission.gov.au.

Dated this 18th day of April 2017

CRAIG LAUNDY
Assistant Minister for Industry, Innovation and Science
Parliamentary Secretary to the Minister for Industry, Innovation and Science

19 May 2017

In the Anti-Dumping Review Panel

Application for review
A4 copy paper exported from Brazil, China, Indonesia and Thailand

Greenpoint Global Trading (Macao Commercial Offshore) Ltd

Introduction

By way of an application to the Anti-Dumping Commission ("the Commission") dated 24 February 2016, Paper Australia Pty Ltd ("Australian Paper") applied for an anti-dumping investigation into imports of certain A4 copy paper ("A4 copy paper") from Brazil, China, Indonesia and Thailand, and a countervailing investigation in relation to the same from China and Indonesia.

In response to that application, the Commission initiated the subject anti-dumping and countervailing

investigation in respect of the subject A4 copy paper exported from the subject countries on 12 April 2016.

On 18 April 2017, the Commission terminated the countervailing investigation in so far as it related to the exports of the applicant in this review application, namely our clients Greenpoint Global Trading (Macao Commercial Offshore) Ltd ("Greenpoint") and Asia Symbol Paper (Guangdong) Co., Ltd ("Asia Symbol") (treated by the Commission as a single entity).[1]

On 19 April 2017, at the conclusion of the investigation, the Assistant Minister and Parliamentary Secretary to the Minister for Industry, Innovation and Science ("the Parliamentary Secretary") made a decision to impose dumping duties on the A4 copy paper exported to Australia from, *inter alia*, China.[2]

Specifically, the Parliamentary Secretary decided to publish notices in relation to the A4 copy paper exported from China under Sections 269TG(1) and (2) of the *Customs Act 1901* ("the Act").[3] These notices had the effect of imposing dumping duties on exports from exporters to which they applied, including Greenpoint.

Greenpoint is an exporter of A4 copy paper manufactured by its affiliated company Asia Symbol, who is a Chinese manufacturer of A4 copy paper.[4] As noted in Report 341:

> *Due to the close structural and commercial relationship between Asia Symbol and Greenpoint, the Commission has treated Asia Symbol and Greenpoint as a single entity and the exporter (hereafter referred to as Asia Symbol).*[5]

Accordingly, Greenpoint and Asia Symbol are presently subject to those notices with respect to exports of A4 copy paper from China manufactured by Asia Symbol.

Greenpoint seeks review by the Anti-Dumping Review Panel ("the Review Panel"), under Sections 269ZZA(1)(a) and 269ZZC, of the decision (or decisions) made by the Parliamentary Secretary to

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1 ADN 2017/220

2 Based on the recommendations contained in Anti-Dumping Commission Report No. 341, dated 17 March 2017 ("Report 341").

3 A reference in this Application to "the Act", or to a "Section", "Subsection" or "Subparagraph" is a reference to a Section, Subsection or Subparagraph of the Act, unless otherwise specified.

4 References to our client or clients in this application are equally references to both companies, unless the context otherwise requires.

5 Report 341, at page 44

impose dumping measures against our client's exports of the A4 copy paper to Australia, as outlined in this application.[6]

In this application, Greenpoint submits that the Parliamentary Secretary, on the recommendation of the Commission, erred in the calculation of normal value. Specifically, the ground of review relates to the Commission's approach towards discounts and rebates that were provided by Asia Symbol in its domestic sales of the like goods for the purpose of ascertaining normal value. These discounts and rebates are simply one aspect of working out the price of the subject goods – meaning that the price of the subject goods is "net" of those discounts and rebates. We submit that there is no legal or factual justification to consider that the price for normal value purposes is not the "net" price. Nor is there any justification to start with a "net" price, and then to add back the discounts and rebates as an upwards adjustment to the normal value.

In short, we say that the Commission has inflated Greenpoint's normal value either by not using the domestic sales price, or by making an adjustment to the domestic sales price which is unsupportable.

We now address the requirements of both the form of application that has been approved by the Senior Member of the Review Panel under Section 269ZY, and of Section 269ZZE(2), in relation to Greenpoint's grounds of review, being those requirements not already addressed within the text of the approved form itself, which Greenpoint has also completed and lodged with the Review Panel.

10 Grounds – the normal value was not calculated correctly

Set out the grounds on which the applicant believes that the reviewable decision is not the correct or preferable decision

(a) Procedural background

The Commission verified the information provided by our clients in their Exporter Questionnaire responses on-site in Guangzhou (Asia Symbol) and Macao (Greenpoint) during the period of 7 to 12 September 2016.

The Commission's verification report for Greenpoint and Asia Symbol ("the verification report") was

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[6] Greenpoint notes that the Parliamentary Secretary, in relation to the parallel subsidisation investigation, decided to publish notices in relation to A4 copy paper exported from China under Sections 269TJ(1) and (2) of the Act. However, the subsidisation investigation was earlier terminated in so far as it related to Greenpoint. Greenpoint is not subject to those notices. The Parliamentary Secretary's decision to publish these notices is not the subject of this review application.

provided to us by email on 1 December 2016. In that verification report the Commission advised that it had determined a dumping margin with respect to the subject goods exported by Greenpoint, which after minor corrections was decided by the Commission to be 3.1%.

Importantly, at section 7.1 of the *"Adjustment"* section of the verification report, the Commission advised that it had *"added back" "discounts and rebates"* afforded to Asia Symbol's domestic customers into Asia Symbol's domestic sales prices. The approach adopted by the Commission is summarised in the verification report as follows:

> *The verification team has applied the exporter's calculated discount and rebate amounts by deducting the amounts from the invoice price for the purpose of ascertaining a net price to test sales for OCOT under subsection 269TAAD. These amounts have been added back for the purpose of ascertaining normal value, as the evidence does not support a downwards adjustment to normal value in these particular circumstances as described above.*[7]

We take it from this that the Commission accepted that Asia Symbol's prices were the net amounts charged to its customers in the domestic market, but formed the view that the discounts and rebates that had been "netted-out" of the gross prices needed to be added back. The explanation is confusing because the last part of the second sentence states that the evidence does not support a *downwards* adjustment, whereas the first sentence suggests that the price in the domestic sales was the *net price* (as it must be), and because the second sentence quite clearly states that the rebates and discounts were *added back*.

The Statement of Essential Facts in the investigation ("SEF 341") was published on 9 December 2016. We would point out that this was only a week after we had received the verification report, even though the verification had taken place three months previously.

We lodged a submission with the Commission in response to both the verification report and SEF 341 on 29 December 2017 ("the SEF submission"). This submission clearly and comprehensively sets out our client's position with regard to the discounts and rebates, and much of this application for review refers to and relies upon that submission.

The Commission did not accept our client's submissions with respect to the discounts and rebates, and the dumping margin determined with respect to our clients in the Final Report ("Report 341"), and as accepted by the Minister, remained at 3.1%.

The explanation given by the Commission in Report 341 regarding the calculation of the normal value for

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[7] Verification report, at page 12.

our client proceeded as follows:

> *6.8.3.3 Normal Values*
>
> *Normal values for exported models were determined under subsection 269TAC(1) based on domestic sales of comparable models in the ordinary course of trade.*
>
> *6.8.3.4 Adjustments*
>
> *In order that the matters set out in subsection 269TAC(8) would not affect the comparison of normal values and export prices the Commission made the following adjustments:*

Adjustment Type	*Deduction/addition*
Domestic inland freight	*Less an amount for domestic inland freight*
Export inland freight	*Add an amount for export inland freight*
Domestic credit	*Less an amount for domestic credit*
Export credit	*Add an amount for export credit*
Domestic packaging	*Less domestic packaging expenses*
Export packaging	*Add an amount for export packaging*
Domestic selling expenses	*Less an amount for domestic selling expenses*
Export selling expenses	*Add an amount for export selling expenses*

Table 7: Summary of adjustments

We would note that the paragraphs and the table extracted above do not make clear what price was used for normal value purposes (whether it was the actual price paid, being the net price, or the invoice price *before* discounts and rebates were credited) nor do they refer to the adding back of domestic discounts and rebates as an upward adjustment to the normal value.

(b) How did the Commission explain its finding in the Report?

At part 6.8.4.2 of Report 341 the Commission touches upon the points advanced by our client in its SEF submission. The Commission there states the following:

> *Based on evidence provided by Asia Symbol, including invoices and bank statements, it is clear that the price paid or payable on domestic sales of like goods did not include any amount of the sales discount submitted by Asia Symbol. No evidence was provided to substantiate that the stated discounts were paid. The Commission did verify, however, that amounts for discounts were recorded in its accounting records. Asia Symbol stated that none of these amounts related*

> *to sales of the goods to Australia and that they related to domestic sales. Asia Symbol also stated at the verification visit that these discounts were all quantity based.*
>
> *Noting that the amounts are recorded in Asia Symbol's records as expenses relating to like goods sold domestically, the Commission treated these as an expense when undertaking the ordinary course of trade test in accordance with section 269TAAD and deducted, along with the other costs, a calculated per tonne amount for discounts. The price paid or payable, based on evidence submitted, has not been inflated and has not had any amounts added to it and has not been adjusted upwards as claimed by Asia Symbol.*

Taking the first point made by the Commission – *"that the price paid or payable on domestic sales of like goods did not include any amount of sales discount"* – we can say that this is absolutely correct and hardly revelatory. The discounts and rebates were applied through **[CONFIDENTIAL TEXT DELETED – commercial arrangement regarding provision of discount and rebate]**. In any country's anti-dumping language, that net price – *being the price paid* - was the price for normal value purposes.

Further, we do not know what the Commission intends to convey by way of the sentence *"[n]o evidence was provided to substantiate that the stated discounts were paid"*. This is an oxymoron. The discounts and rebates were not "paid" by the customers because they were **[CONFIDENTIAL TEXT DELETED – commercial arrangement regarding provision of discount and rebate]**. And certainly Asia Symbol **[CONFIDENTIAL TEXT DELETED – commercial arrangement regarding provision of discount and rebate]**, and the sentence would be a nonsense if it were to be understood in that context.

The Commission's other comments in the second paragraph above are also erroneous. Firstly, the discounts and rebates were not recorded as expenses, as said by the Commission. **[CONFIDENTIAL TEXT DELETED – accounting method].** Secondly, the price payable was quite clearly adjusted upwards by the amount of discounts and rebates, and any statement to the contrary is either misguided or mischievous.

(c) Discounts and rebates should not have been added to work out the normal value

Our first submission, therefore, is that the Commission should have used the actual price paid by Asia Symbol's customers as the basis for Asia Symbol's normal value. This was *"the price paid or payable for like goods sold in the ordinary course of trade for home consumption in the country of export in sales that are arms length transactions by the exporter"*. These are the words of Section 269TAC(1) of the Act. We respectfully repeat or client's primary position in the SEF submission that:

> *…it must be recognised that the provision of discounts and rebates in the domestic market is part and parcel of the way prices are determined and how sales are made in that market. The price for normal value purposes must be either the discounted and rebated price, or the sales discounts must be recognised as a domestic selling expense to be adjusted downward from the*

> *full/undiscounted sales price for comparison purposes. For Australian sales, [CONFIDENTIAL TEXT DELETED – sales arrangement]. Both Greenpoint's Australian customer and Asia Symbol's domestic customers are at the same level of trade. The sales are priced differently – with or without discounts and rebates, and higher or lower - because one sale is made in the Chinese domestic market, to Chinese customers, and the other is made to the Australian market, to the Australian customer. In other words, these are differences in the markets themselves. By ignoring, or upwardly adjusting for, the domestic sales discounts, the Commission is creating an "abnormal" value rather than a "normal" one.*

Respectfully, we submit that our client's domestic sales prices, on a net basis, are the normal value, subject only to the adjustments referred to in Table 7 of Report 341 (as extracted above) and no others. Discounts and rebates are generated by different market conditions in different countries, and create *price* differences accordingly. They are not different *costs* of making sales in different markets, which are thereby available for adjustment. The correct position is, therefore, that the net price is the basis for our client's normal value, being the discounted and rebated price, being the price paid for like goods by Asia Symbol's domestic customers in the ordinary course of trade. Discounts and rebates are neither a correct nor an appropriate item for adjustment purposes. Were that not to be the case, then every different circumstance of *price* would need to be taken into account as an adjustment for comparing domestic and export prices. Taken to its illogical conclusion, this would mean that the two prices – domestic and export - would always end up being the same.

Notwithstanding, we now take the Review Panel to the second part of the analysis, which is to consider what the Commission did do with respect to the discounts and rebates in its determination of Asia Symbol's normal value, and to establish that it has not been done correctly in any case.

(d) Discounts and rebates, as a claimed adjustment to normal value, have not been determined correctly

The approach adopted by the Commission is best understood by having reference to the dumping margin calculation spreadsheets that were provided to us with the verification report just prior to the publication of SEF 341. We explain how the calculation was performed by the Commission as follows:

- in the Commission's worksheet entitled *"D sales"*, which was used for determining which domestic sales were in the ordinary course of trade ("OCOT") under Section 269TAAD, the *"Net price paid"* as reported under Column AT of that worksheet was worked out by deducting the discount and rebate amount at Columns V and W from the *"Gross invoice value RMB"* at Column U;
- the *"Net price paid"* was then compared to the *"CTMS for month"* and *"CTMS for Yr"* for the purposes of performing the OCOT text, and the *"Net price paid"* amounts were then used as the

basis for normal value;

- the *"D sales"* worksheet, which also functions as the worksheet for normal value calculations, picks up the adjustment factors as listed in section 6.8.3.4 of Report 341 either as *"Add"* or *"Deduct"* adjustment amounts;
- despite the fact that the discount and rebate amount is not mentioned as an adjustment in Table 7 of Report 341, the discount and rebate amount is also picked up in the relevant part of the *"D sales"* worksheet, as part of the *"Add"* (upward) adjustments under Column BG, which is entitled *"Discounts and rebates (quantity based on domestic sales)"*.

Clearly, then, the normal value has been determined by adding the discount and rebate amount to the normal value. Whatever else the Commission might say in its various attempts to explain or defend its position cannot mask that reality.

We now turn to an examination of the reason given for this upward adjustment, in order to assist the Review Panel in testing its validity.

At section 7.1 of the verification report, the Commission advised as follows:

> *7.1 Discounts and Rebates*
>
> *The exporter submitted calculated amounts for discounts and rebates to apply to and adjust downwards the domestic price. At the verification, the exporter submitted that these amounts were all quantity based for all goods sold domestically. At the verification it was also noted that amounts used in the calculation for sales rebates were accrued amounts recorded in the exporter's accounting information system and also included amounts relating to sales of products that were not like goods.*
>
> *The verification team considers that, where a quantity discount or rebate is generally granted on domestic sales and substantially the same quantities have been sold to Australia, a quantity adjustment may be equal to the discount or rebate generally granted on the comparable domestic sales. However, where the export sales quantities are less than the quantities sold on the exporter's domestic market, normal value may be based on the lesser discount, as would apply to that lesser quantity, or no discount.*
>
> *It is noted that the export quantity sold is significantly less than the domestic quantity sold. Additionally, no evidence was submitted to support that the quantity discount or rebates generally granted on domestic sales of the comparable models would apply at such quantity that was sold to Australia.*
>
> *The verification team has applied the exporter's calculated discount and rebate amounts by deducting the amounts from the invoice price for the purpose of ascertaining a net price to test sales for OCOT under subsection 269TAAD. These amounts have been added back for the purpose of ascertaining normal value, as the evidence does not support a downwards adjustment to normal value in these particular circumstances as described above.*

Accordingly, we assume that the Commission formed the view, although it is not expressly stated, that the price paid in the domestic market - because it involved the offering and crediting of discounts and rebates, and the export price of the goods - were *"modified in different ways by… circumstances of the sales to which they relate"*, as per Section 269TAC(8)(c) of the Act. The basis for this view, as stated by the Commission in section 7.1 of the verification report, was that the quantity of purchases required to be achieved by a customer on the domestic market to obtain the discount and rebate amount was not achieved by the Australian customer.[8]

However this is not true, and requires us to revisit the information and submissions provided to the Commission during the investigation in substantiation of our client's position. In the SEF submission, we stated the following:

> *7 Thirdly, we take note of the Commission's comment that the basis for adding back the sales discounts was due to the perception that these discounts were only allowed to customers because of the quantity of the sales to those customers. This represents a misunderstanding and mischaracterisation of the sales discounts offered by Asia Symbol to its domestic customers. The Commission's comment is simply inaccurate. As was stated in our clients Exporter Questionnaire ("EQ") response, and as was presented during the verification, Asia Symbol provides sales discounts to cover various arm's-length selling arrangements with customers, including:[9]*
>
> *[CONFIDENTIAL TEXT DELETED – types of discounts]*
>
> *[CONFIDENTIAL TEXT DELETED – type of discounts]*
>
> *8 It is important to note that the first of these, namely the sales discounts under [CONFIDENTIAL TEXT DELETED – type of discounts], were available and were provided by Asia Symbol [CONFIDENTIAL TEXT DELETED – sales discounts arrangements and policy]. That part of the sales discounts was based on [CONFIDENTIAL TEXT DELETED – discount policy] – including in the case of the same type as was exported to Australia – and had nothing to do with the quantity sold.*
>
> *9 As evidence of this, we provide Asia Symbol's official sales discount policy document as was in effect in 2015 (see Attachment 1 [CONFIDENTIAL ATTACHMENT]). [CONFIDENTIAL TEXT DELETED – sales discounts arrangements and policy] Accordingly it is incorrect to say that these pre-agreed sales discounts would not apply to a customer in the domestic market who purchased the same volume of copy paper as purchased by [CONFIDENTIAL TEXT DELETED – Australian customer].*
>
> *10 For [CONFIDENTIAL TEXT DELETED – details of GUC] exported to Australia, [CONFIDENTIAL TEXT DELETED – applicable sales discounts for domestic market], the relevant rebate for [CONFIDENTIAL TEXT DELETED – product type] applies.*
>
> *11 To further demonstrate these facts, we provide examples of domestic contracts stating*

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8 **[CONFIDENTIAL TEXT DELETED – Australian sales]**

9 See Greenpoint and Asia Symbol Exporter Questionnaire response, at page 25.

the agreed rebate and discount for customers who purchased similar or smaller volumes than [CONFIDENTIAL TEXT DELETED – Australian customer]. We draw attention to these facts:

a) *Attachment 2 [CONFIDENTIAL ATTACHMENT] is a contract with [CONFIDENTIAL TEXT DELETED – domestic customer] which states that the customer will enjoy [CONFIDENTIAL TEXT DELETED – discount provided] discount/rebate for all purchases if the customer buys [CONFIDENTIAL TEXT DELETED – sales terms] (ie, combined sales discounts of [CONFIDENTIAL TEXT DELETED – number]% under the agreement). This volume is comparable to (slightly more than) the volume of the GUC exported to [CONFIDENTIAL TEXT DELETED – Australian customer] by Greenpoint.*

b) *Attachment 3 [CONFIDENTIAL ATTACHMENT] is a contract with [CONFIDENTIAL TEXT DELETED – domestic customer], who was given the [CONFIDENTIAL TEXT DELETED – sales term], which is a type "B" product, in the same product type category as the GUC exported to Australia (ie, combined sales discounts of [CONFIDENTIAL TEXT DELETED – number]% under the agreement). This volume is comparable to (slightly less than) the volume of the GUC exported to [CONFIDENTIAL TEXT DELETED – Australian customer] by Greenpoint.*

c) *Attachment 4 [CONFIDENTIAL ATTACHMENT] is a contract with [CONFIDENTIAL TEXT DELETED – domestic customer], who was given the same combined sales discounts of [CONFIDENTIAL TEXT DELETED – number]% as under the Attachment 3 contract, for the purchase of [CONFIDENTIAL TEXT DELETED – sales terms], type "B" product. This volume is less than half of the volume of the GUC exported to [CONFIDENTIAL TEXT DELETED – Australian customer].*

d) *As another example, in the sample set of domestic sales document provided as Attachment 14 to the EQ response, the customer purchased a large range of product, [CONFIDENTIAL TEXT DELETED – sales terms and discounts arrangements].*

12 *Asia Symbol notes that the focus at the verification was in relation to whether these sales discounts were indeed provided with respect to the domestic sales of like goods, and the accuracy of the amount reported. There was no discussion with our client and ourselves about the thinking of the Commission, and certainly no suggestion that these sales discounts would be unfavourably adjusted as has now been explained in the verification report. The matter was only brought to our attention upon receipt of the verification report, which we received for the first time on 1 December 2016, which was only one week before the SEF was published. This is therefore the first chance we have had to clarify this matter in the context of the Commission's concerns.*

13 *In light of the above, and as an alternative to Asia Symbol's primary view that the entirety of the sales discounts should be deducted in working out the price paid and not be used as an upwards adjustment (as to which, see paras 5 and 6 above), we submit that the part of the upward adjustment that is not volume based must be reversed. This is because it must be accepted that the first [CONFIDENTIAL TEXT DELETED – number]% of the sales discounts on domestic sales of the like goods [CONFIDENTIAL TEXT DELETED – discounts policy] is not volume-related and was paid on the same product as was exported to Australia. This part of the sales discounts is not related to the*

reasoning offered by the report for the upwards adjustment, because it has nothing to do with the quantity purchased by the customer.

14 *Insofar as volume is a relevant consideration in the Commission's mind, we reiterate that Asia Symbol's customers in China were afforded the sales discounts based [CONFIDENTIAL TEXT DELETED – discount policy] when the volume sold to them was comparable or even smaller than that sold to [CONFIDENTIAL TEXT DELETED – Australian customer]. This is demonstrated by the sales discounts policy itself and by the examples provided above at para 11. Those domestic customers are at the same level of trade as [CONFIDENTIAL TEXT DELETED – Australian customer].*

15 *In summary, it is true that sales discounts were provided by Asia Symbol under sales agreements applicable to the investigation period which stipulated a target volume for each kind of goods the customer contracted to buy from Asia Symbol during the agreed period (usually within the calendar year). However the [CONFIDENTIAL TEXT DELETED – discount policy and sales terms] were not dependent on the volume purchased.*

16 *The amount of the sales discounts was reported in the EQ response by way of calculating a per tonne amount for each transaction, regardless of whether the sales discount was related to [CONFIDENTIAL TEXT DELETED – type of discounts]. The totals of the discounts and rebate columns in the EQ response amount to [CONFIDENTIAL TEXT DELETED – number]% of the total gross invoice value. As we have now established, the [CONFIDENTIAL TEXT DELETED – number]% is applicable to [CONFIDENTIAL TEXT DELETED – like goods exported to Australia].*

[CONFIDENTIAL TEXT DELETED – other type of discounts]

17 *Additionally, and as noted in the Commission's margin calculation spreadsheet itself, the amount that it used as an upwards adjustment (based on the perception that it was entirely quantity-based) was RMB[CONFIDENTIAL TEXT DELETED – number]. It must be recognised that the other three types of expenses are typical marketing expenses that have nothing to do with volume. They very ordinarily and very normally constitute a downward adjustment to normal value (if not already taken into account in the domestic price). There is no reason to reject them from consideration as a downward adjustment. A breakdown of the relevant accounts was included in Asia Symbol's EQ response and explained at the verification.*

Report 341 rejected these submissions based on the following findings:

The Commission's policy is to allow adjustments for a quantity discount where it is established that the quantity sold has an effect on price comparability. It is noted that the volumes sold domestically by Asia Symbol are substantially higher than those exported to Australia. Based on the information provided, the discounts applied to domestic customers would have not been available if Asia Symbol had sold similar quantities to that exported to Australia during the investigation period.

In relation to Asia Symbol's claim that not all of the amounts recorded for discounts are quantity based, the Commission notes that this information was not submitted to the Commission at the verification visit. The Commission has however taken into consideration the new information provided in Asia Symbol's post-verification submission. The submission included a document for the year 2015 detailing its "rebate scheme" and three contracts with three respective domestic customers for the year 2015 detailing quantity thresholds in order for the customer to achieve either a discount for the quarter or an annual discount. The rebate scheme document had three

> *parts. Two parts relate solely to quantity and volume based discounts and the other part relates to product or brand based discounts. The Commission notes that none of the brands listed are the same product code that Asia Symbol exported to Australia and that no evidence has been provided that these brands are even like goods. It is also noted from this document that none of the quantity thresholds listed to achieve a given percentage discount, either monthly or annually, were reached by Asia Symbol's Australian sales of the goods during the period.*
>
> *Regarding the three contracts, the Commission notes that the documents are in Chinese with minimal English annotations, and Asia Symbol's submission erroneously states that discounts are achieved on all purchases. The tables in the documents provided demonstrate that in order for the percentage to apply, then a certain quantity must be reached. Firstly for quarterly volumes and secondly for the yearly volume. Additionally, the submission does not demonstrate what products or actual sales that these applied to and which targets by which customers were achieved.*
>
> *The Commission considers that treatment of Asia Symbol's discounts and rebates was correct in SEF 341, as the Australian volumes did not reach the equivalent domestic volumes. Asia Symbol's subsequent submission has confirmed this. Additionally, adequate evidence has not been provided to support Asia Symbol's new claims that some of the amounts recorded as discounts relate to product discounts. Further, Asia Symbol's proposed method to reduce the unit (per tonne) discount is flawed, as it does not take into consideration actual transactions, nor is there any evidence of what sales the product discount would apply to.*

At the outset, we point out that the Commission's response only addresses the **[CONFIDENTIAL TEXT DELETED – type of discount]** as explained in paragraphs 8 to 16 of the SEF submission cited above. It has not responded to the issues concerning the other types of discounts as explained in paragraphs 7 and 17 of the submission.

We now address the Commission's opinions with regard to the **[CONFIDENTIAL TEXT DELETED – type of discount]** in turn.

Firstly, we refer to the Commission's comments as follow:

> *The rebate scheme document had three parts. Two parts relate solely to quantity and volume based discounts and the other part relates to product or brand based discounts. The Commission notes that none of the brands listed are the same product code that Asia Symbol exported to Australia and that no evidence has been provided that these brands are even like goods. It is also noted from this document that none of the quantity thresholds listed to achieve a given percentage discount, either monthly or annually, were reached by Asia Symbol's Australian sales of the goods during the period.*

The Commission's comments acknowledge that the discount/rebate scheme[10] *"had three parts"* –

[10] The term "rebate" and "discount" have been used interchangeably by Asia Symbol, however it was called "rebate" in the policy document attached to the post-SEF submission.

referring to the three criteria set out in the policy document.[11] However the Commission appears to reject the applicability of the first part, the *non-quantity* based criteria, on the basis that *"none of the brands listed are the same product code that Asia Symbol exported to Australia and that no evidence has been provided that these brands are even like goods"*. This statement is incorrect and baseless.

We refer, again, to paragraphs 10 and 11 of our SEF submission, which are fully extracted above. For convenience, we repeat those paragraphs below:

> *10 For [CONFIDENTIAL TEXT DELETED – details of GUC] exported to Australia, [CONFIDENTIAL TEXT DELETED – applicable sales discounts for domestic market], the relevant rebate for [CONFIDENTIAL TEXT DELETED – product type] applies.*
>
> *11 To further demonstrate these facts, we provide examples of domestic contracts stating the agreed rebate and discount for customers who purchased similar or smaller volumes than [CONFIDENTIAL TEXT DELETED – Australian customer]. We draw attention to these facts:*
>
> *a) Attachment 2 [CONFIDENTIAL ATTACHMENT] is a contract with [CONFIDENTIAL TEXT DELETED – domestic customer] which states that the customer will enjoy [CONFIDENTIAL TEXT DELETED – discount provided] discount/rebate for all purchases if the customer buys [CONFIDENTIAL TEXT DELETED – sales terms] (ie, combined sales discounts of [CONFIDENTIAL TEXT DELETED – number]% under the agreement). This volume is comparable to (slightly more than) the volume of the GUC exported to [CONFIDENTIAL TEXT DELETED – Australian customer] by Greenpoint.*
>
> *b) Attachment 3 [CONFIDENTIAL ATTACHMENT] is a contract with [CONFIDENTIAL TEXT DELETED – domestic customer], who was given the [CONFIDENTIAL TEXT DELETED – sales term], which is a type "B" product, in the same product type category as the GUC exported to Australia (ie, combined sales discounts of [CONFIDENTIAL TEXT DELETED – number]% under the agreement). This volume is comparable to (slightly less than) the volume of the GUC exported to [CONFIDENTIAL TEXT DELETED – Australian customer] by Greenpoint.*
>
> *c) Attachment 4 [CONFIDENTIAL ATTACHMENT] is a contract with [CONFIDENTIAL TEXT DELETED – domestic customer], who was given the same combined sales discounts of [CONFIDENTIAL TEXT DELETED – number]% as under the Attachment 3 contract, for the purchase of [CONFIDENTIAL TEXT DELETED – sales terms], type "B" product. This volume is less than half of the volume of the GUC exported to [CONFIDENTIAL TEXT DELETED – Australian customer].*
>
> *d) As another example, in the sample set of domestic sales document provided as Attachment 14 to the EQ response, the customer purchased a large range of*

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[11] As referred to in paragraph 9 of the extract from our SEF submission above, the rebate policy document was Attachment 1 to that submission.

> *product, [CONFIDENTIAL TEXT DELETED – sales terms and discounts arrangements].*

[underlining supplied]

As shown above, Greenpoint explained the brands involved in each of those sample contracts, and identified the ones (in the example, the **[CONFIDENTIAL TEXT DELETED – product type]** brand)[12] which are classified in the same **[CONFIDENTIAL TEXT DELETED – product type]** type product as the **[CONFIDENTIAL TEXT DELETED – product type]** grade product exported to Australia. Further, the Commission had already accepted that the relevant sales were of the same type, consistent with the information that our clients had already provided to the Commission. For example, for the contract provided as Attachment 3 to the SEF submission, involving the sales of **[CONFIDENTIAL TEXT DELETED – product type]** brand, the relevant sales can be identified in Asia Symbol's domestic sales listing in the EQ response, and in the Commission's dumping margin calculation spreadsheet. The Commission will then find the sales of **[CONFIDENTIAL TEXT DELETED – product type]** brand product[13] to that particular customer fall within the same model product code of **[CONFIDENTIAL TEXT DELETED – product code]** as the A4 copy paper exported by Greenpoint to Australia during the investigation period. Indeed, if the Commission had any further doubt as to whether *"the brands listed [were] the same product code that Asia Symbol exported to Australia"*, it could have asked our clients to further demonstrate (even if, on our view, that would have been entirely unnecessary, because this had already been demonstrated) or it could have simply checked the information that had already been provided in the Exporter Questionnaire response and verified at the premises of Asia Symbol and Greenpoint.

We reject the comment that *"no evidence has been provided that these brands are even like goods"*. This ignores the detailed explanation in paras 7 to 11 as repeated above, and the list of brands provided in the product code description in Attachment 10 of the Exporter Questionnaire response.

We express the most serious concerns with regard to the statement that the brands might not *"even [be] like goods"*. This questions the entire basis of our client's participation in this investigation and

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12 **[CONFIDENTIAL TEXT DELETED – product type]**

13 It should be noted that, as established and agreed by the Commission, for the purpose of the investigation, brand is not identified as part of the 8 digits product code used to match exported products with domestic sales of like goods, as reported under the "Model" column in the Domestic Sales listing. However the brand information can still be checked by reference to **[CONFIDENTIAL TEXT DELETED – product code details]** product code provided under the "Product code" column. The description of the code is provided in Attachment 10 of Greenpoint's EQ response. In this instance, the **[CONFIDENTIAL TEXT DELETED – product code details]**.

contradicts every scintilla of evidence, information and submission we provided to the Commission. Therefore there can be no question as to whether the brands were like goods. These are the goods that were advanced to the Commission in our client's Exporter Questionnaire as the like goods. They were accepted by the Commission as like goods for every other purpose of the investigation. The clear advice and evidence of the rebate policy is that it is in relation to sales of cut-sized copy paper, and that it applied equally to all cut-sized paper.

Secondly, we note the Commission's comments that

> *Asia Symbol's submission erroneously states that discounts are achieved on all purchases. The tables in the documents provided demonstrate that in order for the percentage to apply, then a certain quantity must be reached. Firstly for quarterly volumes and secondly for the yearly volume. Additionally, the submission does not demonstrate what products or actual sales that these applied to and which targets by which customers were achieved.*

and

> *The Commission considers that treatment of Asia Symbol's discounts and rebates was correct in SEF 341, as the Australian volumes did not reach the equivalent domestic volumes. Asia Symbol's subsequent submission has confirmed this.*

These statements simply ignore the clear advice provided in the SEF submission, the relevant parts of which we now repeat:

> *9 As evidence of this, we provide Asia Symbol's official sales discount policy document as was in effect in 2015 (see Attachment 1 [CONFIDENTIAL ATTACHMENT]). [CONFIDENTIAL TEXT DELETED – sales discounts arrangements and policy] Accordingly it is incorrect to say that these pre-agreed sales discounts would not apply to a customer in the domestic market who purchased the same volume of copy paper as purchased by [CONFIDENTIAL TEXT DELETED – Australian customer].*
>
> *…*
>
> *14 Insofar as volume is a relevant consideration in the Commission's mind, we reiterate that Asia Symbol's customers in China were afforded the sales discounts based [CONFIDENTIAL TEXT DELETED – discount policy] when the volume sold to them was comparable or even smaller than that sold to [CONFIDENTIAL TEXT DELETED – Australian customer]. This is demonstrated by the sales discounts policy itself and by the examples provided above at para 11. Those domestic customers are at the same level of trade as [CONFIDENTIAL TEXT DELETED – Australian customer].*
>
> *15 In summary, it is true that sales discounts were provided by Asia Symbol under sales agreements applicable to the investigation period which stipulated a target volume for each kind of goods the customer contracted to buy from Asia Symbol during the agreed period (usually within the calendar year). However the [CONFIDENTIAL TEXT DELETED – discount policy and sales terms] were not dependent on the volume purchased.*
>
> [underlining supplied]

The rebate policy states clearly that volume is only a consideration for **[CONFIDENTIAL TEXT**

DELETED – discount policy]:

[CONFIDENTIAL TEXT DELETED – discount policy table]

Accordingly, **[CONFIDENTIAL TEXT DELETED – discount policy]**. This is the key message explained in paragraph 9 of our SEF submission as cited above. This point is further demonstrated through the example contracts referred to in paragraphs 11(b), (c) and (d), which show that **[CONFIDENTIAL TEXT DELETED – discount policy]**. The Australian customer, who purchased **[CONFIDENTIAL TEXT DELETED – number]** MT in the period of investigation, would have received that **[CONFIDENTIAL TEXT DELETED – discount policy]** had it been located in China.

Lastly, we refer to this comment:

> *Additionally, adequate evidence has not been provided to support Asia Symbol's new claims that some of the amounts recorded as discounts relate to product discounts. Further, Asia Symbol's proposed method to reduce the unit (per tonne) discount is flawed, as it does not take into consideration actual transactions, nor is there any evidence of what sales the product discount would apply to.*

We respectfully submit that these criticisms are unspecific, unsubstantiated, and baseless, and must be rejected by the Review Panel. These were not *"new claims"*, and we reject the pejorative nature of that expression in the context in which it has been used by the Commission.

In paragraph 12 of its SEF submission, our client clearly stated the following:

> *Asia Symbol notes that the focus at the verification was in relation to whether these sales discounts were indeed provided with respect to the domestic sales of like goods, and the accuracy of the amount reported. There was no discussion with our client and ourselves about the thinking of the Commission, and certainly no suggestion that these sales discounts would be unfavourably adjusted as has now been explained in the verification report. The matter was only brought to our attention upon receipt of the verification report, which we received for the first time on 1 December 2016, which was only one week before the SEF was published. This is therefore the first chance we have had to clarify this matter in the context of the Commission's concerns.*

Nothing could have prepared our client for the outcomes in the verification report, because the information provided by our client did not and does not permit the factual findings and the legal interpretations that were arrived at by the Commission. Our client was not presenting new claims, it was simply providing clarification and support for matters that had already been presented to and verified by the Commission, being matters which our client had no expectation would be challenged or treated in an unlawful way.

Despite that, we did provide the "corrective" (we use that word advisedly, because there should have

been no need to undertake such a correction) information that we fully expected would have such a "corrective effect", as explained above.

11 Correct or preferable decision

Identify what, in the applicant's opinion, the correct or preferable decision (or decisions) ought to be, resulting from the grounds raised in response to question 10

Based on the first ground addressed under 10(c) above, we submit that the correct or preferable decision is that the Minister should work out the normal value under Section 269TAC(1) of the Act in a way that fully reflects the discounts and rebates in the domestic market. By "fully reflects", we mean that the net price should be used without adjustment for discounts and rebates, or if the gross price is to be used then they must be recognised as a domestic selling expense to be adjusted *downwards* from the gross price for comparison purposes. On this basis, the normal value should be reduced, generating a **[CONFIDENTIAL TEXT DELETED – margin]**.

Alternatively, in any case, the correct normal value must at least take into account Asia Symbol's domestic rebates and discounts which were not high-volume dependent. On this basis, the normal value should also be reduced, generating **[CONFIDENTIAL TEXT DELETED – margin]**. We respectfully refer the Review Panel to paras 16 to 19 of the SEF submission, which explained in detail how corrections to the normal value and dumping margin calculation should be made.

On this basis the investigation with respect to our client's exports should have been terminated, and the Review Panel should accordingly recommend to the Minister that the Section 269TG(1) and (2) notices should be revoked as against our client.

12 Material difference between decisions

Set out the reasons why the proposed decision provided in response to question 11 is materially different from the reviewable decision

As mentioned in 11 above, the proposed decision will lead to a reduction of Greenpoint's dumping margin to at least a *de minimis* level. As stated, on this basis the notice will need to be revoked as against our client. This difference between the *status quo* and this outcome is material.

Conclusion and request

The decision to which this application refers is a reviewable decision under Section 269ZZA of the Act.

Where references are made to the Commission and its recommendations, it is those recommendations which were accepted by the Parliamentary Secretary and form part of the reviewable decision that our client seeks to have reviewed.

Greenpoint is an interested party in relation to the reviewable decision.

Greenpoint's application is in the approved form and has otherwise been lodged as required by the Act.

We submit that Greenpoint's application is a sufficient statement setting out its reasons for believing that the reviewable decisions are not the correct or preferable decisions, and that there are reasonable grounds for that belief for the purposes of acceptance of its application for review.

This application contains confidential and commercially sensitive information. An additional non-confidential version, containing sufficient detail to give other interested parties a clear and reasonable understanding of the information is included as an Attachment to the application.

The correct or preferable decision that should result from the grounds that Greenpoint has raised in the application, and their individual effect on the outcome of each, are dealt with in 10 and 11 above.

Accordingly, being fully compliant with the requirements of the Act, Greenpoint requests the Review Panel to undertake the review of the reviewable decision, as requested by this application, under Section 269ZZK of the Act.

The Review Panel is requested to recommend to the Parliamentary Secretary that, in accordance with Section 269ZZM the reviewable decision (being the decision to publish notices under Sections 269TG(1) and (2)) be revoked insofar as the Parliamentary Secretary decided to publish those notices in relation to A4 copy paper exported by Greenpoint and Asia Symbol.

Lodged for and on behalf of Greenpoint Global Trading (Macao Commercial Offshore) Ltd

Charles Zhan
Associate

Moulis Legal

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08 May 2017

Anti-Dumping Review Panel
c/- Legal, Audit and Assurance Branch
Department of Industry, Innovation and Science
GPO Box 2013
Canberra City
Australian Capital Territory 2601

Dear Review Panel

Application for review of Ministerial decision to publish dumping duty notice A4 copy paper from Brazil, China, Indonesia and Thailand

Greenpoint Global Trading (Macao Commercial Offshore) Limited ("Greenpoint") is a company that is directly concerned with the manufacture in China and the exportation to Australia of the abovementioned goods.

We confirm that we have retained the law firm of Moulis Legal to represent the interests of Greenpoint, and represent the interests of companies related to Greenpoint in relation to exports from China, for the purposes of our application to the Review Panel in respect of the abovementioned decision, and for the review that is initiated as a consequence of that application.

Please give Moulis Legal the same assistance and consideration in relation to the provision of information and cooperation in this matter as you would Greenpoint itself.

The lead contact person at Moulis Legal is Charles Zhan. His email address is charles.zhan@moulislegal.com, and he can be contacted by telephone on +61 2 6163 1000. Please contact him directly with any inquiries.

Yours faithfully

Elvis Wong