

ADRP Conference Summary

2017/55A 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. Remittal of matter for reconsideration by the Anti-Dumping Review Panel (Review Panel)

Panel Member	Jaclyne Fisher (Panel Member)
Review type	Review of Minister's decision
Date	18 January 2019
Participants	Justin Wickes (Anti-Dumping Commission), Roman Maevsky (Anti-Dumping Commission), [REDACTED] (Percival Legal representing Fuji Xerox Australia(FXA)), [REDACTED] and [REDACTED] (Minter Ellison representing UPM AP).
Time opened	11.30 am AEDT
Time closed	12.23 pm AEDT

Purpose

The purpose of this conference is to obtain further information in relation to the resumption of the review (Review Panel Report No 55) in relation to UPM Asia Pacific Pte Ltd (UPM AP) as ordered by the Federal Court on 8 October 2018. It relates to A4 Copy Paper exported from the People's Republic of China (China) by UPM AP. This reconsideration report is now referred to as ADRP Report No 55A.

The conference is being held pursuant to s.269ZZHA of the *Customs Act 1901* (the Act) for a review of a Minister's decision. In particular, it is noted that s.269ZZHA(2) prescribes that the Review Panel may have regard to 'further information' to the extent that it relates to 'relevant information' and conclusions reached at the conference based on the relevant information.

In the course of the conference, the Review Panel may ask participants to clarify an argument, claim or specific detail contained in the party's application, submission or in relation to the Anti-Dumping Commission (ADC) Reinvestigation Report (dated 11 December 2017). This conference is not a formal hearing of the review and is not an opportunity for parties to argue their case before me.

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The Review Panel may only have regard to information provided at this conference as it relates to relevant information within the meaning of s.269ZZK(6) of the Act and any conclusions reached at this conference based on that relevant information. Information that relates to some new argument not previously put in an application or submission is not something that the Review Panel has regard to and is therefore not reflected in this conference summary. The Review Panel is seeking further information from the ADC at this conference.

The Review Panel reminded participants that the same arrangements as detailed at the conferences on the 11 December and 20 December 2018 apply to this conference. Namely, that the reconsideration should be undertaken in accordance with the powers of the Review Panel as outlined in Division 9 of Part XVB of the Act (Review by Review Panel).

A confidential summary will be provided to participants within one working day of the conference. Responses as to accuracy and confidentiality should be provided to the Secretariat within one working day. The summary is not a full version of the transcript of the conference but rather a summary of the main points of further information discussed. A non-confidential version of this conference summary will be placed on the Review Panel website following confirmation by the participants that it is accurate and does not contain any confidential information

I requested that the answers to questions be framed to address further information in respect of relevant information.

To the extent that any party to the conference identifies there is confidential information that needs to be provided to the Review Panel, this will be done on confidential basis and needs to be raised prior to the commencement of a discussion. I note that FXA has indicated that Mr [REDACTED] and Mr [REDACTED] can participate at this conference on the basis that any confidential FXA information discussed will be respected by Minter Ellison.

Discussion

The specific information that the Review Panel sought in this conference relates to the export price and the calculation of the deductive export price. At various points during the conference, I reminded participants that answers should be given only to the extent that information was relevant and not already referred to in their applications or submissions to

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the Review Panel or to information provided at the conferences of 11 December 2018 and 20 December 2018.

Export Price and arms length transactions:

1. Could the ADC please provide me with the respective volumes of sales (by percentage) by source, by FXA during the investigation period.

The ADC indicated the following percentages of sales by FXA during 2015:

██████████
██████████
██████████

(FXA confidential sales information)

2. Could the ADC confirm whether its analysis of 'sales at a loss' was based on the information contained in the FXA Part B spreadsheet titled Cost to Import and Sell (that is sampled shipments) or is there further analysis for all sales by FXA during 2015?

The ADC confirmed that its finding of 'sales at a loss' was based on the above-mentioned spreadsheet as well as the monthly profit and loss verified at the importer visit and the 2015 Profit and Loss statement information (provided as an attachment to the submission dated 3 June 2016).

3. Could the ADC advise whether it undertook any analysis of whether the FXA sales made of ██████████ (FXA confidential sales information) were also made at a loss.

The ADC indicated that it had not examined all individual domestic sales by FXA from every source, however the Profit and Loss monthly information indicated that monthly sales were at a loss which included all FXA sales (inclusive of products from all sources). The one transaction verified (and included in the Part B spreadsheet mentioned above) appeared to have a higher cost to import and sell than the average quarterly selling price throughout 2015 for this supplier. The ADC advised it is not possible to confirm whether all individual sales from this supplier were at a loss. Product sourced from ██████████ (FXA

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confidential importer information) were in relatively small volumes and information about these costs could not be separately identified. It was noted that these prices were higher than from other sources.

Mr [REDACTED] advised that to properly compare FXA's selling prices of UPM AP and [REDACTED] products (FXA confidential sales information), the latter unit selling price had to be modified by a factor of [REDACTED] to account for the difference in pages per ream between the 75 and 80 gsm products. Applying this modification resulted in FXA's selling price for [REDACTED] products being lower than its price for UPM AP products.

Information used in the deductive export price calculation:

4. Could the ADC advise whether there is an error in the deductive export price calculation, given the cost to import and sell spreadsheet (Part B) for the [REDACTED] shipment has had a [REDACTED] (when it is a [REDACTED] shipment) (FXA confidential financial and importation information).

The ADC advised that the [REDACTED] had been incorrectly included but as this did not form part of the expenses used in the deductive export price it would not have an impact. However, the inclusion of the [REDACTED] is incorrect. It is a very minor amount and would have an insignificant impact on the deductive export price. It can be easily corrected. (FXA confidential financial and importation information).

5. Could FXA advise if it has been able to confirm the amount of SGA ([REDACTED]) provided in the response to the importer questionnaire is correct as requested at the 20 December 2018 conference.

FXA advised that the staff member who had prepared the original response to the ADC no longer works with FXA. FXA had been attempting to track the calculation of this information but had been unable to do so.

The Review Panel advised that the SGA ([REDACTED]) had been provided by FXA in its response to the importer questionnaire. The Review Panel referred to the discussion at the conference, held on the 11 December 2018, where the SGA

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percentages shown in the FXA 2015 Profit and Loss Statement were discussed. It appears that the FXA importer questionnaire response which dealt specifically with the cost to import and sell figures were derived for this particular purpose. Whereas, the 2015 Profit and Loss Statement figures provide the information in different groupings for accounting purposes and include pre and post importation expenses in different categories to that requested by the ADC in the importer questionnaire.

6. Could the ADC clarify the statement in the verification report relating to the need to modify the SGA given the FXA percentage (submitted in the importer questionnaire) had been calculated on total revenue but it should have been based on net revenue. The deductive export price calculation had included the SGA percentage from the importer questionnaire.

The ADC advised that the officer who had undertaken this work had left but the notes of the meeting revealed that SGA should have been as a percentage of the net revenue rather than the total revenue. However, this percentage was not calculated, and the ADC used the figure provided by FXA (from the importer questionnaire) in its calculations. The ADC indicated that if it had used the adjusted figure this would have had the effect of increasing the SGA percentage marginally and lowering the deductive export price further.

Mr [REDACTED] indicated that no profit should have been included in the deductive export price calculation given no Ministerial direction had been issued and FXA sales had been at a loss. The Review Panel indicated that information on this issue had already been provided at the 11 December 2018 conference.

The ADC advised that the following information is confidential to importers other than FXA and was supplied to the Review Panel when FXA and UPM AP left the conference.

7. Does the ADC have the Selling, General and Administration expenses (SGA) of other importers of A4 copy paper for comparison purposes, if so, can these please be provided?

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The ADC indicated that there were a range of different selling arrangements (trade differences) between importers.

There was one other importer who operated in a similar manner to FXA in 2015. This importer's SGA was based on a per tonne rate and when converted to percentage of revenue ranged between [REDACTED]. (confidential importer financial information).

Other importers' SGA were as follows:

[REDACTED] [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]
[REDACTED]
[REDACTED]

(Confidential importer SGA amounts/percentages).

Jaclyne Fisher
Review Panel Member
Anti-Dumping Review Panel