



ADRP Conference Summary

2019/102 A4 Copy Paper exported from Austria, Finland, the Republic of Korea, the Russian Federation and the Slovak Republic.

Panel Member	Paul O'Connor
Review type	Review of Minister's Decision: A4 Copy Paper exported from Austria, Finland, the Republic of Korea, the Russian Federation and the Slovak Republic
Date	Tuesday 4 June 2019
Participants	Matthew Williams, Director, Tim King, Investigator and Savita Kapoor, Senior Legal Counsel, Anti-Dumping Commission
Time opened	10:00 AEST
Time closed	11:00 AEST

Purpose

The purpose of this Conference was to obtain further information in relation to the review before the Anti-Dumping Review Panel (ADRP) in relation to A4 Copy Paper exported from Austria, Finland, the Republic of Korea, the Russian Federation and the Slovak Republic.

The Conference was held pursuant to s 269ZZHA of the Customs Act 1901¹ (the Act) for a review of a Minister's decision.

In the course of the Conference, I may have asked parties to clarify an argument, claim or specific detail contained in the party's application or submission. The Conference was not a formal hearing of the review and was not an opportunity for parties to argue their case before me.

I have only had regard to information provided at this Conference as it relates to relevant information (within the meaning of section 269ZZK(6) of the Act). Any conclusions reached at this Conference are 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 ADRP has regard to and is therefore not reflected in this Conference summary.

¹ All legislative references are to the *Customs Act 1901*, unless otherwise stated.



Discussion

1. Some days prior to the Conference, the Review Panel, through the Secretariat, provided the Anti-Dumping Commission (Commission) with a number of questions seeking clarification of the contents of the following:
 - REP 463;
 - the Applications to the Review Panel; and
 - other documentation.
2. At the opening of the Conference, the Commission Representatives were invited to make an opening statement and respond to the questions posed.
3. The Commission Representatives indicated, they had been recently allocated to the Review and did not form part of the team who had investigated and written REP 463. Accordingly, the Representatives were still at the stage of reviewing the evidence and gaining a proper understanding of the relevant findings in the Report and the evidence behind those findings. The Representatives acknowledged, REP 463 reflected a complex and detailed analysis had occurred.
4. The Commission Representatives expressed an intention to lodge a submission with the Review Panel, which would include responses to the questions posed. The Commission Representatives expressed a preference to reserve answering the questions in Conference, so as to avoid inadvertently misleading or misrepresenting to the Review Panel action taken by the investigation team.
5. The Review Panel acknowledged the Commission Representatives' position and welcomed their willingness to provide a submission. Nevertheless, the Review Panel requested the Conference proceed and that the Commission Representatives respond to the extent that they were able, in an attempt to narrow some of the issues and clarify matters of fact. The Commission Representatives indicated their willingness to proceed on that understanding.
6. The Commission Representatives noted REP 463, when considering Mondi's future imports, referred to the word likely. The Commission Representatives stated, for revocation investigations the applicable legal test focused on the likely continuation or recurrence of dumping and material injury. However, with respect to the legal test applicable to the imposition of measures, under section 269TG(2), the focus was



upon the Minister's satisfaction that further or future imports may be exported to Australia at prices less than their normal values. The relevant test was therefore 'may export at dumped prices' rather than upon the likelihood of such an occurrence.

7. The Commission Representatives stated, the relevant test or threshold [i.e. may] under section 269TG(2) was less than a likelihood threshold and that "may" suggested the "possibility" of dumped exports was sufficient. The Commission Representatives undertook to elaborate on this distinction in the formal submission.
8. In response to a question suggesting that Mondi's exports had been concentrated in the first half of the investigation period, the Commission Representatives advised, Mondi had exported in each of the four quarters of the investigation period, and on a weighted average basis, Mondi's exports in each quarter, were dumped and that verified information supported this finding. The Commission Representatives advised they had data available on an annual, quarterly and transaction basis for Mondi's exports for the investigation period. The Commission Representatives noted that Mondi had ceased exporting in 2018, therefore REP 463 addressed the possibility of Mondi exporting in the future.
9. The Commission Representatives indicated that they would review how data had been presented in graphs/tables both in REP 463 and in Mondi's Application to the Review Panel.
10. The Commission Representatives noted the emphasis of Mondi's Application seemed to be upon its export price behaviour, but the Commission Representatives noted it was important to also consider what was happening to its normal values throughout the investigation period.
11. Discussion also focused upon the contents of Australian Paper's supply agreements or contracts with their customers. The Applicants argue that prevailing import prices were but a factor relevant to any reviews of those arrangements and suggested the Commission gave pre-eminence or undue weight to import pricing, discounting the relevance of other factors such as product mix and supply costs and timing.
12. The Commission Representatives responded indicating that it was not uncommon for such agreements to contain triggers for reviews throughout the term of the agreement and that import prices could be a trigger for such reviews.



13. The Conference also touched upon the Commission's counterfactual methodology, particularly in relation to the estimate of Australian Paper's 2018 CTMS. The Applicant arguing such methodology did not take into account differences in product mix supplied and distribution costs incurred in 2018, relative to those incurred in 2017. The Commission Representatives indicated this issue would be addressed in the submission.

14. The Commission Representatives were also asked to comment on Hankuk's argument that although the Commission had identified several factors indicative of material injury, it had not gone on to consider the significance or impact of those factors upon the overall financial condition of the Australian industry. The Commission Representatives responded, indicating Hankuk's argument would also be addressed in the submission.

15. The Commission Representatives were also asked to comment on Mondi's submission, dated 28 May 2018, regarding its sales behaviour in support of the argument that any future imports would be at profitable levels. The Commission Representatives' initial response was that normal values also had to be taken into account in this context. Again, the Commission Representatives indicated this issue would be dealt with in the submission.

A handwritten signature in black ink that reads 'Paul O'Connor'.

Paul O'Connor
Panel Member
Anti-Dumping Review Panel
11 June 2019