



Australian Government
Anti-Dumping Review Panel

ADRP Report No. 128

A4 Copy Paper exported from the Republic of Indonesia by Pt Indah Kiat Pulp & Paper Tbk and Pt Pindo Deli Pulp and Paper Mills

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Abbreviations

Term	Meaning
Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
APP	Asia Pulp and Paper
Australian Paper	Paper Australia Pty Ltd
CIF	Cost, insurance and freight
CTMS	Cost to Make and Sell
Commission	Anti-Dumping Commission
Commissioner	The Commissioner of the Anti-Dumping Commission
FOB	Free on board
Goods	A4 copy paper exported to Australia from the Republic of Indonesia by Pt Indah Kiat Pulp & Paper and Pt Pindo Deli Pulp & Paper Mills
Indah Kiat	Pt Indah Kiat Pulp & Paper Tbk
Original Investigation period	1 January 2015 to 31 December 2015
Measures	Anti-dumping measures
Minister	Minister for Industry, Science and Technology
Pindo Deli	Pt Pindo Deli Pulp and Paper Mills
REP 341	The report published by the Commission in relation to A4 copy paper exported from the Federative Republic of Brazil, the People's Republic of China and the Kingdom of Thailand and the alleged subsidisation of A4 Copy Paper exported from the Republic of Indonesia, dated 17 March 2017

REP 547	The report published by the Commission in relation to A4 copy paper exported from the Republic of Indonesia and dated 14 August 2020
Review Panel	Anti-Dumping Review Panel
Review period	1 January 2019 to 31 December 2019
Reviewable Decision	The decision of the Minister made on 11 September 2020, following a review of measures in respect of A4 Copy Paper exported from the Republic of Indonesia by Pt Indah Kiat Pulp & Paper Tbk and Pt Pindo Deli Pulp and Paper Mills , that the measures were taken to have been revoked
RISI	Fastmarkets RISI
SEF 547	Statement of Essential Facts 547
SG&A	Sales, general and administrative expenses
Tjiwi Kimia	PT Pabrik Kertas Tjiwi Kimia
TradeData	TradeData International Pty Ltd
WRI	Wood Resources International LLC

Summary

1. This is a review of a decision made by the Minister for Industry, Science and Technology (Minister) on 11 September 2020, following a review of anti-dumping measures (measures) in respect of A4 Copy Paper exported from the Republic of Indonesia by Pt Indah Kiat Pulp & Paper Tbk (Indah Kiat) and Pt Pindo Deli Pulp and Paper Mills (Pindo Deli), that the measures be taken to have been revoked (the reviewable decision).
2. The applicant for the review was Paper Australia Pty Ltd (Australian Paper).
3. For the reasons set out in this report, I recommend that the reviewable decision be affirmed.

Introduction

4. Australian Paper is the Australian manufacturer of A4 Copy Paper.
5. Indah Kiat, Pindo Deli and PT Pabrik Kertas Tjiwi Kimia (Tjiwi Kimia) are Indonesian producers and exporters to Australia of A4 copy paper. They are related entities and form part of the larger corporate structure known as Asia Pulp and Paper (APP).
6. On 19 April 2017, measures were imposed upon A4 copy paper exported to Australia by Indah Kiat and Pindo Deli. Following a review, the level of the measures imposed on Indah Kiat and Pindo Deli were set at 30.0% and 33.0% respectively.¹ Tjiwi Kimia's exports of A4 copy paper to Australia were not subject to any measures.
7. On 12 March 2020, after a request from the Minister, the Anti-Dumping Commission (Commission) initiated a review under Division 5 of Part XVB of the *Customs Act 1901* (Act),² to consider whether:

¹ REP 547 at page 21, table 2.

² Unless otherwise specified, all legislative references are to the *Customs Act 1901*.

- the variable factors relevant to the taking of measures in relation to A4 copy paper exported to Australia from Indonesia by Indah Kiat and Pindo Deli may have changed; and/or
 - the measures applying to Indah Kiat and Pindo Deli are no longer warranted.
8. The period of review established for REP 547 was 1 January 2019 to 31 December 2019 (review period).
 9. Indah Kiat ceased exporting A4 copy paper to Australia during 2016 and has not exported A4 copy paper to Australia since the imposition of measures in 2017.³ Since 2018, Pindo Deli has stopped exporting A4 copy paper both to Australia and to more than 20 other countries.⁴ Neither company had therefore exported A4 copy paper to Australia during the review period.
 10. The Commission completed its review and forwarded REP 547 and recommendations to the Minister in August 2020. Notwithstanding the absence of relevant exports during the review period, the Commission determined normal values, export prices and dumping margins, based upon hypothetical sales, for both exporters for the review period.
 11. In the absence of export price information, the Commission determined Indah Kiat's and Pindo Deli's export prices for 2019 based upon export data obtained and verified in the 2015 investigation, using both a timing and a specification adjustment. Similarly, for normal value, in the absence of 2019 costs to make and sell data (CTMS) from Indah Kiat and Pindo Deli, the Commission elected to determine normal values based upon each exporters' CTMS adjusted for the changing woodchip costs between 2015 and 2019, and a timing adjustment for the differences between 2015 and 2019 costs.
 12. In REP 547 the Commission determined a dumping margin for Indah Kiat of 0.1% and a dumping margin of 17.5% for Pindo Deli.⁵

³ REP 547 at page 106.

⁴ Ibid at page 108.

⁵ Ibid at page 106.

13. On 11 September 2020, the Minister accepted the recommendations, and reasons for the recommendations, of the Commissioner, including all the material findings of fact or law set out in REP 547. Under subsection 269ZDB(1)(a)(ii) of the Act the Minister declared, with effect from 12 March 2020, that the measures against Indah Kiat and Pindo Deli were taken to have been revoked.
14. On 14 October 2020, Australian Paper applied, under section 269ZZC of the Act, for a review of the reviewable decision.
15. The Senior Member of the Anti-Dumping Review Panel (Review Panel) directed, in writing, that the Review Panel be constituted by me in accordance with section 269ZYA of the Act.
16. The application was accepted and notice of the proposed review, as required by section 269ZZI, was published on 30 October 2020.

Conduct of the Review

17. In accordance with section 269ZZK(1) of the Act, the Review Panel must recommend that the Minister either affirm the reviewable decision, if they are satisfied that the decision is the correct or preferable one, or revoke it and substitute a new specified decision.
18. Section 269ZZK(1A) relevantly provides that the Review Panel may recommend that the Minister revoke a reviewable decision and another decision be substituted “only if the new decision is materially different from the reviewable decision”.
19. In undertaking the review, section 269ZZ(1) of the Act requires the Review Panel to determine a matter required to be determined by the Minister in the same manner as if it were the Minister, having regard to the considerations to which the Minister would be required to have regard if the Minister was determining the matter.
20. Subject to certain exceptions,⁶ the Review Panel is not to have regard to any information other than relevant information pursuant to section 269ZZK, i.e.

⁶ See section 269ZZK(4).

information to which the Commission had regard or ought to have had regard when making its findings and recommendations to the Minister.

21. If a conference is held under section 269ZZHA of the Act, then the Review Panel may have regard to further information obtained at the conference to the extent that it relates to relevant information, and to conclusions reached at the conference based on that relevant information.
22. A conference was held with Commission representatives on 18 November 2020, pursuant to section 269ZZHA of the Act, to clarify details contained in REP 547 and to seek comment on certain claims made by Australian Paper in its review application. A non-confidential summary of the information obtained at the conference was made publicly available in accordance with section 269ZZX(1) of the Act.
23. In response to the application for review, and pursuant to section 269ZZJ of the Act, the Review Panel received written submissions from:
 - the Government of Indonesia;
 - a joint submission from Indah Kiat and Pindo Deli (joint submission); and
 - the Commission.
24. In conducting this review, I have had regard to the application for review, REP 547 and its attachments, information obtained in the conference and to the submissions received, insofar as they contained conclusions based on relevant information.

Grounds of Review

25. The grounds of review relied upon by Australian Paper, which the Review Panel accepted, were stated in its application and are as follows:
 - a) The Minister cannot be satisfied that revoking the measures would not lead to, or be likely to lead to, a continuation of, or a recurrence of, the dumping or subsidisation and the material injury that the measures are intended to prevent;

- b) The determination of normal values for Indah Kiat and Pindo Deli are incorrect and the Commission has failed to take into account relevant considerations in normal value determinations for the respective exporters; and
- c) The determination of the price for Indah Kiat and Pindo Deli are incorrect and the Commission has failed to take into account relevant considerations in export price determinations for the respective exporters.

Consideration of Grounds

Ground 1

The Minister cannot be satisfied that revoking the measures would not lead to, or be likely to lead to, a continuation of, or a recurrence of, the dumping or subsidisation and the material injury that the measures are intended to prevent.

- 26. Australian Paper's challenge to the reviewable decision separately addresses the likely recurrence of dumping and material injury with respect to both Indah Kiat and Pindo Deli.

Indah Kiat

- 27. Australian Paper noted REP 547 determined the dumping margin for Indah Kiat for the review period at 0.1% and alleged the Commission "has relied almost exclusively" upon that margin "as indicative as to whether a resumption of exports of the goods by Indah Kiat would result in a recurrence of the material injury, or threat thereof, that the measures are intended to prevent".⁷ Australian Paper had made a similar submission to the Commission following the publication of Statement of Essential Facts 547 (SEF 547).
- 28. Australian Paper's application to the Review Panel cites the following passage from REP 547:

the Commission restates the factors raised by Australian Paper in its submission in response to SEF 547. Most notably, these factors include:

⁷ Australian Paper Application at page 2.

- *Indah Kiat is the largest pulp and paper producer in Indonesia with a production capacity of 1.45 million tonnes;*
 - *Indah Kiat's Perwang facility possesses a cash cost advantage that is approximately 33% below the next most efficient APP facility of Tjiwi Kimia;*
 - *the lower cash cost and higher output capability would likely result in Indah Kiat recommencing exports to Australia.*⁸
29. Australian Paper then notes the Commission cited section 269TAE(1)(aa) "concerning considerations to be taken into account when assessing material injury to the Australian industry" and that "the size of the dumping margin was one relevant factor to consider".⁹
30. Australian Paper emphasised that notification of the commencement of the original investigation,¹⁰ the imposition of provisional measures upon Indah Kiat and Pindo Deli in September 2016, and ultimately the imposition of final measures in 2017 "were significant events influencing the future export intentions of" Indah Kiat and Pindo Deli.¹¹
31. REP 547 notes that Indah Kiat "ceased exporting A4 copy paper to Australia in 2016 and has not exported A4 copy paper to Australia since the imposition of measures".¹²
32. Australian Paper's application to the Review Panel asserts that "the Commission erred by not actively examining the move away from [Indah Kiat] ... to the sole exporter [Tjiwi Kimia] not the subject of measures".¹³ I understand Australian Paper's argument to be that the Commission ought to have placed a greater emphasis upon an apparent decision by the APP group, of which Indah Kiat is a member, for Indah Kiat to cease exporting to Australia knowing that Tjiwi Kimia (another member of the APP group) was available to continue to supply the

⁸ Ibid.

⁹ Ibid.

¹⁰ The original investigation culminated in REP 341.

¹¹ Ibid.

¹² REP 547 at page 106.

¹³ Australian Paper Application at page 3.

Australian market with A4 copy paper unimpeded, as it was not subject to measures. Australian Paper argued that Indah Kiat's export volumes to Australia had, in effect, been "replaced with volumes supplied by the associated supplier Tjiwi Kimia".¹⁴

33. Australian Paper argues that notwithstanding the relationship between Indah Kiat and its related entity Tjiwi Kimia, the Commission "was focused solely on the dumping margin determined for Indah Kiat throughout the [review] period",¹⁵ and ought to have considered and given greater weight to a number of relevant factors including:

- the likelihood of APP switching to resumption of supply from the lower cost Indah Kiat in the absence of measures; and
- recognition that Indah Kiat continued to have well-established distribution links into the Australian market.

34. Such factors, Australian Paper argues "were at least relevant to the material injury analysis (in addition to the dumping which was determined at 0.1% margin) and ... in accordance with Section 269TAE(1)",¹⁶ as those factors extended beyond the level of the dumping margin.

35. The joint submission argued Australian Paper's claims, that the Commission erred by not examining whether exports made by Indah Kiat's affiliate (Tjiwi Kimia) would shift to Indah Kiat, were incorrect. The joint submission noted that REP 547 states:

*if Tjiwi Kimia were minded to switch supply, which the Commission maintains is not borne out as likely on the evidence before the Commission, it is more likely to switch its supply to Indah Kiat on the basis that Indah Kiat appears more financially appealing.*¹⁷

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ Ibid at page 3.

¹⁷ Joint Submission at page 1.

Analysis

36. Section 269ZDB(1)(a)(ii) empowers the Minister, after considering a report from the Commission, to revoke measures in their application to particular exporters. The reviewable decision reflects the exercise of that power.
37. Section 269ZDA(1A)(b) relevantly provides that the Commissioner must make a revocation recommendation in relation to measures **unless** satisfied that “revoking the measures would lead to, or be likely to lead to, a continuation of, or a recurrence of the dumping ... **and** the material injury that the measures are intended to prevent” [emphasis added]. Importantly, the Commission needs to be satisfied as to the likelihood of **both** dumping and material injury.
38. Section 269ZDA can be found within Division 5 of Part XVB of the Act. Division 5 is headed “Review of anti-dumping measures” and enables the Minister to initiate a review of anti-dumping measures via a request to the Commission.
39. REP 547 and Australian Paper’s application to the Review Panel both cite the Federal Court’s decision in *Siam Polyethylene Co Ltd v Minister for Home Affairs (No.2)*¹⁸ in support of the proposition “that the context of ‘likely’ that appears in subsection 269ZHF(2) suggested that Parliament used that word to convey ‘more probable than not’, rather than a lesser degree of certainty”.¹⁹ Given the commonality in the relevant language adopted in both 269ZDA(1A)(b) (which appears in Division 5 of Part XVB of the Act) and section 269ZHF(2) (which appears in Division 6A), I accept that the meaning is to be attributed to “likely” as it appears in section 269ZDA: that the continuation of, or a recurrence of, the dumping and the material injury that the measures are intended to prevent is to be more probable than not, and not a mere possibility. Further, a finding as to the probability of an occurrence must be based upon positive evidence.
40. REP 547 notes that a recommendation by the Commissioner with respect to the consequences of the cessation of measures necessarily requires a prospective assessment of a hypothetical situation. Importantly, Division 5 of the Act, and specifically section 269ZDA(1A), provides no guidance to the Commissioner as to

¹⁸ [2009] FCA 838.

¹⁹ Australian Paper Application at page 2.

the matters which he or she ought to have regard to in reaching the requisite level of satisfaction needed to preclude recommending the revocation of measures.

41. Stated differently, the relevant statutory provisions do not prescribe factors (i.e., mandatory relevant considerations) that must be considered in the exercise of the revocation power. Accordingly, those matters which may be considered are left to the judgement and discretion of the Commissioner and are not constrained in their scope, save by the purpose and object of the provisions.
42. REP 547 and Australian Paper's application reference the Commissioner's reliance upon the determined dumping margin established for Indah Kiat for the review (i.e. 0.1%). In particular, REP 547 suggests that section 269TAE(1)(aa) **requires** consideration of the size of the dumping margin in the assessment of material injury [emphasis added]. I note that section 269TAE is limited in its application to the imposition of measures under Division 2 of Part XVB, specifically under sections 269TG and 269TJ, and Division 5 does not cross reference to section 269TAE. Therefore, contrary to the position stated in REP 547, the size of the dumping margin would appear not to be a mandatory relevant consideration in the context of a Division 5 review, such that the Commissioner was **not required** to give it any consideration.
43. Consideration of the size of the dumping margin, if any, determined in the context of a continuation review, would nevertheless be a relevant consideration as to the probability of both dumping and material injury continuing, or recurring, in the absence of measures. Therefore, the Commissioner and the Minister were not obligated to consider the size of the dumping margin, but it was open for them to do so as a relevant consideration.
44. Continuation reviews conducted under Division 5 require a prospective analysis of the likely or probable future events and it therefore has been argued that "past conduct is probably the most reliable indication of future conduct".²⁰

²⁰ ADRP Report No. 44 *Clear Float Glass from the People's Republic of China, the Republic of Indonesia and the Kingdom of Thailand* at [32].

45. REP 547 notes Australian Paper's reliance upon Indah Kiat's past pricing behaviour "of dumping in the 2015 investigation [at a margin of 30%] to support a conclusion that Indah Kiat will likely dump in the future".²¹ It has also been noted that

*whilst ... the general proposition that past conduct is probably a reliable indicator of future conduct, it is unwise to treat it as determinative. Its application and relevance must be assessed in context, and its influence necessarily weakens over time, as other factors intervene.*²²

To this end, REP 547 noted that the circumstances observed over the review period required "an examination of more contemporaneous information, particularly where there has been a four year intervening period since the last determination",²³ i.e. the imposition of measures.

46. Australian Paper's application does not dispute that the Commission's consideration of Indah Kiat's dumping margin in the review period (0.1%) was a relevant factor in determining whether the continuation of dumping was a probable occurrence were the measures to cease. Rather, Australian Paper argues that the Commission "was focused solely upon the dumping margin determined for Indah Kiat throughout the [review] period" and "relied almost exclusively" on the size of that margin.²⁴ Implicit in this argument is that the Commission gave undue or excessive weight to Indah Kiat's dumping margin and insufficient weight to other relevant factors upon which Australian Paper seeks to rely.
47. Section 8 in REP 547 is headed "Revocation Review" and specifically listed a range of factors Australian Paper had submitted in its response to SEF 547 and which formed the basis of its disagreement with the Commission's preliminary assessment that the revocation of the measures would not lead to a likely continuation of, or a recurrence of, the dumping and the material injury that the measures were intended to prevent.²⁵

²¹ REP 547 at page 105.

²² ADRP Report No. 104 *Certain Aluminium Extrusions exported from the People's Republic of China* at [68].

²³ REP 547 at page 105.

²⁴ Australian Paper Application at page 3.

²⁵ Refer REP 547 at pages 102-103.

48. Australian Paper's application noted that in REP 547,

the Commission restates the factors raised by Australian Paper in its submission in response to SEF 547. Most notably, these factors include:

- *Indah Kiat is the largest pulp and paper producer in Indonesia with a production capacity of 1.45 million tonnes;*
- *Indah Kiat's Perwang facility possesses a cash cost advantage that is approximately 33% below the next most efficient APP facility of Tjiwi Kimia;*
- *the lower cash cost and higher output capability would likely result in Indah Kiat recommencing exports to Australia.²⁶*

By doing so, Australian Paper has accepted that the Commission considered or had regard to those factors and Australian Paper does not argue that the Commissioner failed to have regard to any other relevant factors. Australian Paper's issue is that the Commission did not view these factors as overriding the significance which the Commission attributed to Indah Kiat's dumping margin.

49. REP 547 went on to note "that Indah Kiat ceased exporting A4 copy paper to Australia during 2016 and has not exported A4 copy paper to Australia since the imposition of measures".²⁷

50. In section 8.6 of REP 547, the Commission outlined its response to Australian Paper's submissions and concluded that if the measures against Indah Kiat were revoked, and if Indah Kiat recommenced exporting A4 copy paper to Australia, "the Commission is not satisfied that those exports would result in a dumping margin **above negligible levels**" [emphasis added].²⁸ Further, in section 8.8 of REP 547 the Commission restated its conclusions with respect to Indah Kiat and found

*even if Indah Kiat ... recommenced exporting A4 copy paper to Australia, due to the **negligible dumping margin** that would result ... the Commissioner is*

²⁶ Australian Paper Application at page 2.

²⁷ REP 547 at page 106.

²⁸ Ibid.

*not satisfied that revoking the measures would lead to a continuation of, or recurrence of, the dumping ... that the measures are intended to prevent [emphasis added].*²⁹

51. It is apparent from the passages quoted in the preceding paragraph that the Commission is conceding that, if measures were revoked, dumping would continue, albeit at a non-actionable level (i.e. below what are referred to as negligible or *de minimis* levels).³⁰ By doing so, the Commissioner has adopted and applied an incorrect test with respect to the likelihood of dumping continuing or recurring. Section 269ZDA(1A) refers to a continuation of, or a recurrence of, dumping per se and does not seek to qualify that term by reference to negligible dumping margins or *de minimis* levels of dumping.
52. The Commission has therefore applied the wrong test with respect to the likely continuation of dumping. Contrary to the Commission's conclusion, the first element of section 269ZDA(1A) has been established, in that the Commission had identified that dumping was likely to recur upon the removal of the measures.
53. Section 269ZDA(1A) requires that the Commissioner be satisfied as to the probability of two future events; namely, dumping **and** material injury. Therefore, irrespective of the status or effect of the Commission's determination of a dumping margin of 0.1% during the review period, and the likelihood of that margin continuing, the power conferred by that section will only be enlivened if the Commissioner also attained the requisite level of satisfaction with regard to the likelihood of the continuation of, or recurrence of, material injury. Absent such a finding, a finding with respect to the likely recurrence of dumping would be insufficient to prevent the revocation of measures. I will therefore look to the Commission's analysis and conclusions with respect to the likelihood of material injury.
54. The continuation of, or recurrence of, material injury must also be probable and based upon positive evidence objectively considered by the Commission. Division 5 also does not impose an obligation to consider any factor (a mandatory relevant

²⁹ REP 547 at page 109.

³⁰ See section 269TDA.

consideration) and leaves the Commission a broad discretion to identify and consider factors relevant to material injury.

55. As was the case with Australian Paper's arguments with respect to the likelihood of dumping, it does not argue that the Commission failed to have regard to a relevant consideration. As noted above, Australian Paper notes REP 547 evidences that the Commission gave consideration to factors relevant to the likelihood of material injury. Similar to the argument with respect to the dumping determination, Australian Paper's position is that the weight given by the Commission to the negligible dumping margin subsumed and overwhelmed the Commission's consideration of factors Australian Paper had relied upon to provide a basis for a finding as to the likelihood of material injury. Implicit in Australian Paper's argument is that the Commission, in its prospective injury analysis, assumed that with a dumping margin of 0.1%, the likely price effects of Indah Kiat's exports would not be such as to cause injury to Australian Paper to a material degree.
56. As noted above, Section 8 of REP 547, headed "Revocation Review", contains the Commission's analysis which led to the view that the continuation of, or recurrence of, material injury was not probable if the measures against Indah Kiat were to be revoked. In that Section, consideration was given to Australian Paper's arguments with respect to material injury.
57. Australian Paper's application listed five factors which it argued the Commission either did not address, or gave inadequate weight to, in assessing the likelihood of a resumption of material injury were Indah Kiat's exports to resume. Those factors were:
 - Indah Kiat's available capacity to supply;
 - Indah Kiat's lower cost position and advantage relative to other AAP suppliers (i.e. Tjiwi Kimia);
 - likelihood of APP switching to resumption of supply from lower cost Indah Kiat in the absence of measures;
 - recognition that Indah Kiat continued to have well-established distribution links into the Australian market; and

- whether Indah Kiat’s resumption of exports at dumped prices would undercut the Australian industry selling prices.³¹

58. I find that REP 547 did consider each of the above factors:

- the Commission cited Australian Paper’s claim that “Indah Kiat was the largest pulp and paper producer in Indonesia, with a production capacity of 1.45 million tonnes”.³² Given the relative size of the Indonesian and Australian markets for A4 copy paper, I find that Indah Kiat’s production capacity would be sufficient to accommodate the resumption of exports to Australia, should it wish to do so;
- as an integrated producer Australian Paper argued “Indah Kiat’s Perawang facility had a cash cost advantage that was approximately 33% below the next most efficient APP facility of Tjiwi Kimia”.³³
- REP 547 noted that Paper Force (Oceania) Pty Ltd (Paper Force) was the Australian importer of A4 copy paper from Indah Kiat, Pindo Deli and Tjiwi Kimia and that in the original investigation Australian Paper had alleged that Paper Force had been a “related entity” of Indah Kiat. However, the Commission had established that this was not the case and although a long-established exclusive business partnership or affiliation had been in place between Paper Force and Indah Kiat, the transactions between the parties were found by the Commission to have been at arms length,³⁴ and
- with reference to the likelihood of price undercutting upon the resumption of exports by Indah Kiat, REP 547 referenced “the degree of price undercutting”³⁵ identified in the original investigation but placed a greater reliance upon “more contemporaneous information”³⁶ namely that Indah Kiat

³¹ Australian Paper Application at page 3.

³² REP 547 at page 105.

³³ Ibid.

³⁴ Ibid at page 43.

³⁵ Ibid at page 101.

³⁶ Ibid at page 105.

had ceased exporting A4 copy paper to Australia during 2016 and that Indah Kiat's dumping margin established in the review was 0.1%.³⁷

59. The Commission's submission noted "the Commissioner may only attribute any injury suffered by Australian industry to the level of *dumping* in the goods exported, not the entire margin of price undercutting (if any). In this case, the Commission considered the negligible level of dumping, being 0.1%, would not be likely to cause material injury to Australian industry and, as a result, an undercutting analysis was not required".³⁸
60. Accordingly, the Commission did consider the factors relied upon by Australian Paper as being relevant to the likelihood of the recurrence of material injury were the measures against Indah Kiat to cease and imports resumed. The Commission appears to have not been persuaded by Australian Paper's arguments with respect to these factors. I am similarly not persuaded.
61. I note the recent significant strategic shift in the exporting strategy of the APP group. This shift resulted in Indah Kiat and Pindo Deli ceasing exports to Australia and, as discussed below, Pindo Deli also ceasing exports to all other countries. This shift also saw, again discussed below, Tjiwi Kimia continuing to export A4 copy paper to Australia unaffected by measures and, importantly, to change its product mix from predominately recycled product to virgin product. Although this strategic shift cannot exclude the possibility that Indah Kiat could resume exports following the revocation of the measures, I find there is no evidence to support the belief that such an outcome is likely or probable.
62. Like the Commission, I also place considerable weight upon the strategic export marketing shift and, in particular, in the absence of a compelling commercial imperative which would warrant a reversion to previous export practices including the resumption of exports to Australia by Indah Kiat. I accept that Indah Kiat has a significant cost advantage over Tjiwi Kimia but do not find that, of itself, determinative such as would justify the unravelling of what must have been significant and strategic marketing changes within the APP group.

³⁷ Ibid.

³⁸ Commission Submission at para. 20.

63. In an earlier review I stated that a Commission report

*must be read in a common sense manner, that particular parts of the report have to be read in the broader context of the whole report and that the Commissioner's reasons are not to be read with an eye keenly attuned to the perception of error.*³⁹

I have applied that principle in the current review.

64. In my view, the context in which REP 547 was published is relevant. The report reflects a lengthy history of investigation, and review, of the exports of A4 copy paper from Indonesia. Indah Kiat, Pindo Deli and Tjiwi Kimia are three entities within the APP group that have exported A4 copy paper to Australia at various times. Indah Kiat and Pindo Deli were subject to measures which were reviewed in REP 547. Both entities ceased exporting to Australia following the imposition of measures: Indah Kiat ceased during 2016; and Pindo Deli ceased exporting to Australia, and to more than 20 other countries, "since 2018".⁴⁰

65. Importantly, Tjiwi Kimia, the third member of the APP group, was not subject to the measures imposed in 2017 and thereafter freely exported A4 copy paper into Australia. I note that in its application to the Review Panel, Australian Paper places reliance upon what it describes as a move away from exports from Indah Kiat and Pindo Deli to Tjiwi Kimia which it described as "the sole [Indonesian] exporter not subject to measures".⁴¹

66. In undertaking the review of Australian Paper's application, I am required to determine what is the correct or preferable outcome or decision based upon relevant information.⁴²

67. Notwithstanding my reservations regarding the Commission's reasoning with respect to Indah Kiat's "negligible" dumping margin, I am in agreement with the

³⁹ ADRP Report No 104 *Certain Aluminium Extrusions exported from the People's Republic of China* at [54].

⁴⁰ REP 547 at page 107.

⁴¹ Australian Paper Application at page 3.

⁴² See section 269ZZK.

Commission's recommendation that the measures be revoked, but for different reasons.

68. I note the significant strategic shift in the exporting strategy within the APP group, the result of which was the cessation of Indah Kiat's exports to Australia. This shift suggests that whilst it may be possible that Indah Kiat could resume exports following the revocation of measures, in a commercial sense, such an outcome is not probable. I find there is no basis upon which to conclude that if the measures were revoked it would be likely that Indah Kiat would resume exporting A4 copy paper to Australia and, as the Commission noted in another context, "without a recurrence of exports of the goods, there cannot be a recurrence of dumping, or injury caused by dumping".⁴³
69. In the alternative, I find that if dumping were to continue or recur, albeit at a "negligible" dumping margin as determined by the Commission, such a margin would not be likely to cause material injury to Australian Paper.
70. Accordingly, I hereby recommend the affirmation of the reviewable decision with respect to the likelihood of Indah Kiat continuing or resuming dumping and thereby causing material injury to Australian Paper.

Pindo Deli

71. Australian Paper argues the Commission's reliance upon its findings that Pindo Deli ceased exportation of the goods to Australia, and to all other countries, is an insufficient basis upon which to recommend that the measures cease. Australian Paper identifies the major flaw in the Commission's argument as being a failure to acknowledge that Pindo Deli is one of three affiliated producers of the goods within the APP group of companies. Australian Paper suggests that the Commission is naïve in assuming that the three entities operate independently of each other, given that they export via a single export agent to Australia (Paper Force).
72. Australian Paper notes that in its 2015 investigation (REP 341) the Commission found Pindo Deli was the least efficient of the three affiliated entities (i.e. the most

⁴³ REP 547 at page 108.

expensive producer). Given those findings, Australian Paper argues it is not surprising that following the imposition of provisional measures in 2016,⁴⁴ Pindo Deli ceased exports of the goods not only to Australia but to all other countries. Nevertheless, Australian Paper argues this does not mean that Pindo Deli would not resume exports at dumped prices in the absence of measures. Australian Paper supports its argument by noting that Pindo Deli has access to well-maintained distribution links in Australia.

Analysis

73. Australian Paper's argument only supports the proposition that it is possible that Pindo Deli may resume exports, but it does not address whether this outcome is likely or probable. Accordingly, in the absence of any evidence in support of the argument that the resumption of exports is likely or probable I find the argument to be unsubstantiated and must be rejected.
74. The joint submission notes that the Commission did consider the significance of Pindo Deli's affiliation with Indah Kiat and Tjiwi Kimia but rejected it because Pindo Deli was the highest cost producer of the three, making switching supply and Pindo Deli resuming exports to Australia unlikely.
75. In REP 547, the Commission noted that information supplied by Australian Paper indicated that Tjiwi Kimia has a slight cash cost advantage over Pindo Deli, and that as Tjiwi Kimia is not subject to measures, the Commission could not identify a financial benefit associated with the APP Group switching supply from Tjiwi Kimia to Pindo Deli should the measures be revoked. The Commission went on to note that, "without a recurrence of exports of the goods, there cannot be a recurrence of dumping, or injury caused by dumping".⁴⁵
76. The Commission continued its analysis, and on the assumption that Pindo Deli resumed exporting to Australia, it considered what would be the likely impact of those exports. Drawing upon Pindo Deli's past conduct, the Commission noted that in each year between 2012 and 2015, Pindo Deli's export volumes were consistently less than 0.4% of the total Indonesian exports of A4 copy paper to

⁴⁴ See para. [30] above.

⁴⁵ Ibid.

Australia. Given that past behaviour, the Commission considered that if Pindo Deli resumed exporting the goods to Australia, the volume of exports would be of a similar level, and thus not in sufficient volume to be likely to lead to material injury to Australian Paper.

77. I agree with the Commission's analysis. Given Pindo Deli's cost base and the absence of any apparent commercial incentive to resile from the decision to cease exports, I find that Pindo Deli is unlikely to resume exports to Australia and that on the assumption that it did, the likely volume of any such input exports would not be such as to cause material injury to Australian Paper.
78. Accordingly, I reject Australian Paper's arguments with respect to Pindo Deli and its likely future exports.
79. For the reasons expressed above, I reject this ground of review.

Ground 2

The determination of normal values for Indah Kiat and Pindo Deli are incorrect and the Commission has failed to take into account relevant considerations in normal value determinations for the respective exporters.

80. The Commission was satisfied that the policies of the Government of Indonesia had affected prices within the Indonesian pulp and paper industry such that sales in the Indonesian domestic A4 copy paper market were not suitable for determining normal value under section 269TAC(1). As a consequence, the Commission constructed normal values under section 269TAC(2)(c). In doing so the Commission identified that the woodchip prices in Indonesia did not reflect a competitive market cost, necessitating the identification of an external benchmark. The Commission based the exporters' normal values on their 2015 records, respectively, and applied the following adjustments:
 - o a replacement of the cost of woodchips in the case of Indah Kiat, or pulp in the case of Pindo Deli; and

- a timing adjustment to reflect the changes in costs between 2015 and 2019.⁴⁶
81. Australian Paper agrees with the Commission that a constructed normal value with the relevant benchmark costs included (i.e. woodchips for Indah Kiat; pulp for Pindo Deli) in the exporters' production costs, plus amounts for selling and general administrative (SG&A) expenses, and profit, is the correct or preferable normal value methodology to be applied. However, Australian Paper takes issue with the Commission's application of this methodology with respect to both Indah Kiat and Pindo Deli.

Indah Kiat

82. The Commission chose the prices of Indonesian exports of woodchips to Japan as the basis of the benchmark. In doing so the Commission relied, in part, upon 2019 pricing data provided by an external consulting company, Wood Resources International LLC (WRI).
83. Australian Paper, on the other hand, argued in its application to the Review Panel that

*the Commission should have applied the weighted-average benchmark price for woodchips sold in the [Asian] region into Indah Kiat's production costs, which would have at a minimum been 3% higher than the Japanese import prices selected.*⁴⁷

Australian Paper went on to describe the Commission's choice of the prices of Indonesian exports of woodchips into Japan as "arbitrary ... and cannot be considered to be representative or reliable".⁴⁸

84. REP 547 notes that in response to SEF 547, Australian Paper had submitted 2019 woodchip price import data into the Asian region which it had sourced from TradeData International Pty Ltd (TradeData). REP 547 went on to note that "for completeness",⁴⁹ the Commission assessed TradeData's import price information

⁴⁶ Refer REP 547 at page 70.

⁴⁷ Australian Paper Application at page 6.

⁴⁸ Ibid.

⁴⁹ REP 547 at page 187.

against the import prices which it had sourced from WRI. The Commission identified several anomalies with the TradeData sales information such that

*it considers this import data for the Chinese imports from Indonesia to be substantially outside the range of pricing identified in the WRI prices and other import data provided by Australian Paper and is therefore not satisfied that Chinese import data for Indonesian imports is reliable or accurate.*⁵⁰

85. Although the Commission disregarded the data submitted by Australian Paper with respect to 2019 import pricing into China, it nevertheless gave consideration to it. Having excluded the 2019 Chinese data, the Commission noted that there was a high level of correlation between TradeData import pricing into other countries in the Asian region (including Japan) and the import data it had sourced from WRI, upon which it had relied.⁵¹

86. The Commission submission to the Review Panel noted

*among other countries, Australian Paper's proposed benchmark included imports from Australia, New Zealand and South Africa. The Commission considered it was not preferable to include import pricing from these countries into a relevant benchmark relating to Indonesia because ... the growing costs and growing conditions (which also influences costs) of the relevant wood pulp was substantially different to Indonesia.*⁵²

I note that with these three temperate or sub-tropical countries excluded from the average price benchmark proposed by Australian Paper, the Indonesian import price into Japan, adopted by the Commission as the external benchmark, was 2.21% above the weighted-average import pricing of the remaining countries.⁵³

87. Given the level of the Commission's analysis of the data supplied by Australian Paper, I disagree with Australian Paper's description of the Commission's preference for Japanese import prices for woodchips as being "arbitrary". Further, Australian Paper's argument that had the Commission adopted its preferred basis of

⁵⁰ Ibid at page 188.

⁵¹ Ibid.

⁵² Commission Submission at [30(b)].

⁵³ REP 547 at page 191 and Commission Submission at [30(b)].

the benchmark the outcome would have been more favourable to Australian Paper by 3%, is not determinative and should not be preferred over the reasoned explanation provided by the Commission as justification for the adoption of the Japanese benchmark.

88. Australian Paper's application to the Review Panel also seeks to challenge the Commission's adoption of the Japanese woodchip price benchmark on the basis that it was undervalued because the WRI data, upon which the benchmark was based, reflected a CIF trade level which required adjustments for freight costs based on an indicative value and not the actual freight costs incurred for woodchips.
89. Australian Paper's argument appears to accept that an adjustment to the benchmark to account for ocean freight and insurance cost was appropriate as the object was to identify what the competitive cost to manufacture woodchips in Indonesia would have been. I agree such an adjustment was warranted. Australian Paper's argument is that any such adjustments undertaken by the Commission were estimates and were not based upon actual costs involved. Australian Paper had submitted actual bulk freight costs for two consignments of woodchips into Japan sourced from two different countries. The Commission however looked to reputable public source information for bulk rates to identify a nautical mile rate denominated in US dollars which it then multiplied by distance (sea miles). I find that the Commission's methodology regarding the freight adjustment was preferable to that argued for by Australian Paper.
90. Further, the Commission's submission notes

the bulk freight rate used in REP 547 is lower than the amount provided by Australian Paper. This means the adjustment to the Japanese benchmark price for ocean freight costs is lower, resulting in a higher benchmark price and higher dumping margin for Indah Kiat.⁵⁴

91. Accordingly, I am not satisfied that Australian Paper's criticisms of the Commission's method of adjustment to freight costs are justified.

⁵⁴ Commission Submission at [36].

92. Australian Paper's application next seeks to challenge the Commission's deduction of SG&A from the Japanese benchmark as these, it argues, were derived from Indah Kiat's 2015 financial records and were not "independently validated" in the 2019 review.⁵⁵ I understand Australian Paper's argument to be that the Commission ought not to have relied upon Indah Kiat's 2015 financial records, which were subject to verification and accepted as accurate by the Commission, because Indah Kiat failed to provide similar data in the course of the 2019 review.
93. The Commission's submission suggests that Australian Paper may have misunderstood the method by which the SG&A deduction for Indah Kiat was calculated. Having deducted freight and insurance costs from the Japanese CIF benchmark, the Commission had arrived at a free on board (FOB) price for woodchips. As the Commission needed to identify a competitive cost to manufacture woodchips in Indonesia it therefore needed to deduct from the FOB price amounts for SG&A, thus arriving at a competitive market cost of the woodchip used in the production of A4 copy paper.
94. As the Commission did not have available to it contemporary data relating to Indah Kiat's woodchip sales, it looked to its weighted average 2015 SG&A costs, which had been verified in the original investigation, and then applied a timing adjustment to account for any change in costs over the intervening period. The Commission's submission details the elements considered as part of the timing adjustment and concluded by noting "the Commission did not adjust the cost where it did not have information to make a reliable adjustment or considered the cost was not affected by inflation".⁵⁶ In circumstances where the Commission does not have available to it contemporary verified data, it may look to earlier data in which it has confidence and to update that data via timing adjustments which in turn are based upon data or information in which the Commission has confidence. I agree with the Commission's method of adjusting SG&A costs and reject Australian Paper's criticisms of its methodology.
95. In its application to the Review Panel, Australian Paper submitted that the level of profit deducted by the Commission from the Japanese woodchip benchmark price

⁵⁵ Australian Paper Application at page 6.

⁵⁶ Commission submission at [42(c)].

was based on Indah Kiat's profit on non-A4 copy paper sales in 2015. As the profit level was derived from sales of "a further manufactured downstream product" such sales would command a "significantly higher" profit margin than that commanded by "a raw material, high-volume, woodchip processing function".⁵⁷ Although Australian Paper argued that the Commission ought to have adopted a profit level "more representative of pulp and other grades",⁵⁸ the Commission's submission notes "Australian Paper did not propose an alternative profit figure during the course of the review or in its application for review".⁵⁹

96. Commission representatives confirmed in a conference convened on 18 November 2020 that the profit adjustment to the wood chip benchmark was derived from Indah Kiat's profit realised upon non-A4 copy paper sales during 2015.⁶⁰
97. The Commission submission stated that even though the Commission had Indah Kiat's detailed production costs for woodchips as at November 2015, as such costs reflected the "distorted" log prices in Indonesia, they were therefore rejected. I note that the profit percentage adjustment adopted by the Commission, based upon "further manufactured downstream products", is significantly less than the "distorted" profit realised on woodchips in 2015. Accordingly, the application of the lower profit rate was more favourable to Australian Paper's position in that Indah Kiat's production costs (and dumping margin) would have been higher than would have been the case had the higher but "distorted" profit level been applied.
98. The Commission submission challenged Australian Paper's assumption that "a further manufactured downstream product" would attract a higher profit margin than the margin relating to a raw material input. It did so by reference to the comparison of the profit margin achieved for iron ore, sold as a raw material input, when compared to a manufactured product such as Hot Rolled Coil (HRC). I note that currently the extraction costs of iron ore are significantly less than 50% of the

⁵⁷ Australian Paper Application at page 6.

⁵⁸ Ibid.

⁵⁹ Commission Submission at [47].

⁶⁰ Conference Summary at [6].

current market price of iron ore, whereas HRC has never commanded such a margin.

99. I therefore cannot agree with Australian Paper's assertion that "the level of profit deducted from the CIF woodchip price is excessive and requires a reduction".⁶¹

100. For the reasons stated above I am not satisfied that Australian Paper has substantiated its claims with respect to the determination of Indah Kiat's normal values. I find that the determination of those normal values in the reviewable decision was the correct or preferable one.

Pindo Deli

101. Australian Paper's application to the Review Panel notes that Pindo Deli, like Indah Kiat, did not cooperate with the provision of 2019 costs for the purposes of the variable factors review. Unlike Indah Kiat, Pindo Deli is a non-integrated producer and purchases pulp for conversion to paper products from affiliated suppliers.

102. Australian Paper is critical that the Commission adopted the Indonesian export prices for pulp as a competitive pulp benchmark price and suggests that a more appropriate and representative benchmark would have been one based upon pulp prices sourced from a country, or countries, unaffected by the Government of Indonesia's policies, such as the market prices for pulp sold domestically in Korea and Japan.⁶²

Analysis

103. In determining an appropriate benchmark the Commission looked to data from Fastmarkets RISI (RISI) for export prices of pulp pertaining to the Asian region for 2019.⁶³ The Commission observed that this data was "broadly in alignment with the pricing of imports supplied into the region from Canada, the United States, and East Asian economies",⁶⁴ all of which were not impacted by policies of the Government of Indonesia. This level of price alignment gave an assurance that the export price of

⁶¹ Australian Paper Application at page 6.

⁶² Ibid.

⁶³ REP 547 at page 194.

⁶⁴ Ibid at page 193.

pulp from Indonesia, as quoted by RISI, was competitive and therefore appropriate upon which to base the determination of the pulp benchmark.

104. The Commission in its submission notes that Australian Paper's proposal to use the domestic pulp prices in Korea and Japan was not made during the conduct of the review and was therefore not examined by the Commission during that review. However, following Australian Paper's application to the Review Panel, the Commission re-examined the RISI data it had obtained in the course of the review. Such data included domestic pulp prices in Japan. That data highlights the presence of "local mixed hardwood"⁶⁵ within Japanese prices which would require some further adjustment to reach an appropriate benchmark. Similarly with Korea, the Commission did not have any data relating to domestic pulp prices and was therefore unsure whether further adjustment was also required.

105. I find the Commission had insufficient data available to it to determine if it was appropriate to adopt domestic pulp prices in Korea and Japan as the benchmark, as argued by Australian Paper. The Commission tested the Indonesian export prices for pulp against export prices into the Asian region for pulp from a number of countries and found that they were in alignment and as such were appropriate to adopt as the benchmark. I find that this analysis was sufficient and appropriate. I find that Australian Paper has not substantiated its claims with respect to the adoption of Indonesian export prices of pulp as the appropriate benchmark. Accordingly, I reject Australian Paper's criticisms of the Commission's determination with respect to the pulp benchmark for Pindo Deli.

106. Australian Paper also seeks to challenge deductions from the pulp benchmark for freight charges and SG&A, alleging that freight charges did not relate to the transport of pulp. Australian Paper notes the SG&A amounts were based on dated information (i.e. data obtained from Pindo Deli in 2015), albeit updated by various timing adjustments.

107. I recall that Pindo Deli was viewed as an uncooperative exporter in the review as it did not respond to the Commission's Exporter Questionnaire. Although the Commission did not verify Pindo Deli's response to the Exporter Questionnaire

⁶⁵ Commission Submission at [54].

submitted during the original investigation, it did compare Pindo Deli's data to that provided by two other exporters, Indah Kiat and Tjiwi Kimia, which had been found to be "complete, relevant and accurate".⁶⁶ Accordingly, the Commission similarly regarded Pindo Deli's 2015 Exporter Questionnaire response as being complete, relevant and accurate.

108. Additionally, in the original investigation, the Commission did verify a portion of Pindo Deli's domestic and export sales data which extended to the verification of inland freight costs and export freight costs. Such costs were also found to be accurate.

109. As was the case with Indah Kiat's benchmark, Pindo Deli's benchmark prices were on a CIF basis, necessitating adjustments for freight costs and SG&A. The Commission's submission confirmed that data for those adjustments was based upon cost data obtained from Pindo Deli in the original investigation. The Commission's submission notes, "Australian Paper did not provide any relevant data on which to base an adjustment for ocean freight and SG&A costs".⁶⁷ Accordingly, "the Commission considered Pindo Deli's sales in the investigation period was the best available information to base adjustments to the competitive pulp benchmark so it more accurately reflected an Indonesian domestic price".⁶⁸ I agree with this analysis and reasoning and find that the conclusion reached by the Commission was the correct or preferable one. I reject Australian Paper's criticism of the Commission's adjustments to the benchmark with respect to freight and SG&A costs.

110. Accordingly, Australian Paper has not substantiated its claims with respects to the Commission's determination of normal value with respect to Pindo Deli and I therefore reject this ground of review.

⁶⁶ REP 547 at page 22.

⁶⁷ Commission submission at [65].

⁶⁸ Commission Submission at [61].

Ground 3

The determination of the price for Indah Kiat and Pindo Deli are incorrect and the Commission has failed to take into account relevant considerations in export price determinations for the respective exporters.

111. As noted above, both Indah Kiat and Pindo Deli ceased exporting A4 copy paper to Australia following the imposition of measures. Accordingly, there were no relevant exports from those companies during the review period. Therefore, the Commission considered it preferable to determine the export prices for the review period under section 269TAB(2B)(a), pursuant to section 269TAB(2A) (i.e. by reference to Indah Kiat's and Pindo Deli's export prices identified during the original investigation).

112. REP 547 noted

section 269TB(2G) enables the Minister to make adjustments to the export price ascertained under section 269TAB(2B) to reflect what the export price would have been had there not been an absence of exports by Indah Kiat [and Pindo Deli]. Such adjustments may include:

- *adjustments due to exports relating to earlier times (timing adjustment); and*
- *adjustments due to exports relating to not identical goods (specification adjustment).⁶⁹*

113. REP 547 went on to note that export prices of A4 copy paper from all countries into Australia had changed subsequent to 2015 when the previous export price was established. Consequently, a timing adjustment to the earlier ascertained export prices was warranted given those changes. To determine an appropriate timing adjustment the Commission established index values based upon relevant import prices of another Indonesian exporter, Tjiwi Kimia.

⁶⁹ REP 547 at page 81.

114. In its application to the Review Panel, Australian Paper noted that Tjiwi Kimia's 2015 exports of like goods comprised of "A4 copy paper with high recycled content (100% recycled)" with "volumes of virgin (non-recycled content) grades below negligible".⁷⁰ Further, Tjiwi Kimia's "virgin A4 copy paper grades only commenced in significant volumes after measures were imposed on the related Indah Kiat and Pindo Deli mills". The Commission had found in the original investigation that 100% recycled paper produced by Tjiwi Kimia during 2015 was not subject to the particular market situation as were virgin grades. However, Australian Paper argues that in REP 547 by "using the Indah Kiat's 2015 export prices indexed with a timing adjustment based on 100% recycled grades produced by Tjiwi Kimia during 2015" with no specification adjustment the Commission's approach was questionable. Australian Paper contends it was unreasonable for the Commission to have had regard to export prices of production from a different mill, for a different specification of copy paper without an appropriate specification adjustment.

115. Australian Paper says the Commission erred in accepting Tjiwi Kimia's sales of 100% recycled grades as "relevant information" in the calculation of timing adjustments for both Indah Kiat and Pindo Deli, particularly as no specification adjustment had been made.

Australian Paper contends it was unreasonable for the Commission to have determined export prices of production from a different mill, for a different specification of copy paper, four years apart, as 'relevant', especially considering that the 2015 Tjiwi Kimia product was not subject to the market situation finding as was the Indah Kiat [and Pindo Deli] product.⁷¹

Analysis

116. The Commission's submission suggests that Australian Paper may have misunderstood the method by which the timing adjustment index was determined. Referring to *Confidential Attachment 15* to REP 547, the Commission states that recycled grades of A4 copy paper were in fact excluded from Tjiwi Kimia's transactions used in calculating the timing adjustment index value applied to Indah

⁷⁰ Australian Paper Application at page 8.

⁷¹ Ibid at pages 8-9.

Kiat's and Pindo Deli's 2015 export prices. My review of the Confidential Attachment is consistent with the Commission's submission and I find, contrary to Australian Paper's assertion, that sales of 100% recycled product were excluded from the Commission's calculation.

117. The Commission's submission also challenges Australian Paper's assertion that Tjiwi Kimia's volume of virgin A4 copy paper exports was below the rate considered negligible during the investigation period. The Commission's submission outlines data which indicates the volume of virgin A4 copy paper exported to Australia in metric tonnes during the original investigation period represented about █% of all A4 copy paper exported by Tjiwi Kimia. This amount also represents approximately █% of the volume of A4 copy paper exported by Indah Kiat in the same period and █ times the volume of A4 copy paper exported by Pindo Deli in the same period.

118. For the reasons stated above, I find no basis for Australian Paper's challenge to the Commission's determination of export prices for Indah Kiat and Pindo Deli and therefore reject this ground of review. I find the export prices determined by the Commission to have been correct or preferable.

Recommendations

119. Pursuant to section 269ZZK(1) of the Act and for the reasons given above, I consider that the reviewable decision was the correct and preferable decision.

120. Accordingly, I recommend that the Minister affirm the reviewable decision that the measures against Indah Kiat and Pindo Deli be revoked effective from 12 March 2020.



Paul O'Connor
Panel Member
Anti-Dumping Review Panel
15 January 2021