



Australian Government  
Department of Industry,  
Innovation and Science

Anti-Dumping  
Commission

Anti-Dumping Commission  
GPO Box 2013  
CANBERRA ACT 2601

Mr Paul O'Connor  
Panel Member, Anti-Dumping Review Panel  
c/o- ADRP Secretariat

By e-mail: [ADRP@industry.gov.au](mailto:ADRP@industry.gov.au)

Dear Mr O'Connor

**ADRP Review No. 128: A4 Copy Paper exported from the Republic of Indonesia by Pt Indah Kiat Pulp & Paper Tbk and Pt Pindo Deli Pulp & Paper Mills**

I write with regard to the notice under section 269ZZI of the *Customs Act 1901* (Cth) (the Act) published on 30 October 2020, advising of your intention to review the decision of the Minister for Industry, Science and Technology (the Minister) to declare under section 269ZDB(1)(a)(ii) of the Act that the dumping duty notice applying to A4 Copy Paper exported by Pt Indah Kiat & Paper Tbk and Pt Pindo Deli Pulp & Paper Mills was taken to have been revoked effective from 12 March 2020 (the Reviewable Decision).

I have considered the application submitted by Paper Australia Pty Ltd for a review of the Reviewable Decision and make submissions, pursuant to section 269ZZJ(aa) of the Act, at **Attachment A** (public version).

The confidential version of this submission is provided in **Attachments B, C and D**.

The Commission remains at your disposal to assist you in this matter, and would be happy to participate in a conference if you consider it appropriate to do so.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'Dale Seymour'.

Dale Seymour  
Commissioner, Anti-Dumping Commission

30 November 2020

**COMMISSIONER, ANTI-DUMPING COMMISSION SUBMISSIONS**

**Background**

1. On 10 March 2020, pursuant to section 269ZA(3) of the *Customs Act 1901* (Cth) (the Act),<sup>1</sup> the Minister for Industry, Science and Technology (the Minister) requested the Commissioner, Anti-Dumping Commission (the Commissioner) to initiate a review of the anti-dumping measures relating to A4 Copy Paper (the goods) exported to Australia from Indonesia by Indah Kiat Pulp & Paper Tbk (Indah Kiat) and PT Pindo Deli Pulp & Paper Mills (Pindo Deli).<sup>2</sup>
2. The Minister requested the review examine whether the variable factors relevant to the taking of the anti-dumping measures in relation to Indah Kiat and Pindo Deli may have changed and whether they are no longer warranted.<sup>3</sup>
3. The Commissioner subsequently initiated a review pursuant to section 269ZC(5) on 13 March 2020.<sup>4</sup>
4. On 11 September 2020 and pursuant to section 269ZDB(1)(a)(ii), the Minister declared, for the purposes of the Act and *Customs Tariff (Anti-Dumping Act 1975)* (Cth) that the dumping duty notice applying to the goods exported by Indah Kiat and Pindo Deli was taken to have been revoked effective from 12 March 2020 (the Reviewable Decision).<sup>5</sup> The Reviewable Decision was published on the Anti-Dumping Commission's (the Commission) website on 14 September 2020, as Anti-Dumping Notice No. 2020/090.<sup>6</sup>
5. In the Reviewable Decision, the Minister stated she had considered and accepted the recommendations and reasons for recommendations, including all the material findings of facts or law, set out in *Anti-Dumping Commission Report No. 547* (REP 547).<sup>7</sup>
6. On 9 October 2020, Paper Australia Pty Ltd ('Australian Paper') applied to the Anti-Dumping Review Panel ('ADRP') for review of the Reviewable Decision.

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<sup>1</sup> All legislative references in this submission are to the *Customs Act 1901* (Cth) ('the Act') unless otherwise indicated.

<sup>2</sup> Review 547 – Electronic Public Record ('EPR 547'), document 1, attachment A.

<sup>3</sup> Ibid, page 1.

<sup>4</sup> Ibid.

<sup>5</sup> EPR 547, document 23.

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

7. Following receipt of Australia Paper's application, the ADRP published an intention to conduct a review. In that notice, the ADRP proposed to conduct a review of the Reviewable Decision in relation to the following grounds:<sup>8</sup>
- 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 and 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 failed to take into account relevant considerations in normal value determinations for the respective exporters; and
  - c. The determination of the export price of 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.

**Ground 1 – Likelihood of the continuation or recurrence of dumping and material injury the measures are intended to prevent**

8. As part of conducting a review of measures pursuant to Division 5 of the Act and as set out in REP 547, the Commissioner had regard to the legislative test in section 269ZDA as follows:

(1A) After conducting a review of anti-dumping measures under this Division, the Commissioner:

...

(b) otherwise must not make a revocation recommendation in relation to the measures, unless the Commissioner is satisfied as a result of the review that revoking the measures would lead, 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.

9. The Commissioner considers this section imposes two conditions which must be met.<sup>9</sup> The first condition requires that if the measures were revoked there would be the likelihood of the continuation of, or a recurrence of, dumping by Indah Kiat and Pindo Deli, respectively.<sup>10</sup> The second condition requires there be a likelihood of the continuation of, or recurrence of, the material injury that

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<sup>8</sup> *Anti-Dumping Review Panel*, Public Notice, page 1.

<sup>9</sup> See *ADRP Report No. 114 – Quenched and Tempered Steel Plate exported from Finland, Japan and Sweden*, [26] (Member O'Connor). The Commissioner notes this case referred to a continuation but considers similar reasoning applies.

<sup>10</sup> *Ibid.*

the measures are intended to prevent due to continued or recurrent dumping by Indah Kiat and Pindo Deli, respectively.<sup>11</sup>

10. The Commissioner further considers that 'likelihood' with respect to each of the two conditions has been accepted to mean that the occurrence of each condition is "probable" or "more probable than not."<sup>12</sup>

### **Indah Kiat**

11. In its application, Australian Paper submitted that the correct or preferable decision was for the Minister to find that revocation of the anti-dumping measures applying to Indah Kiat would lead, or be likely to lead, to a recurrence of the dumping and material injury that the measures are intended to prevent.<sup>13</sup>
12. Australian Paper submitted that the Commissioner relied almost exclusively on the determination of Indah Kiat's dumping margin as being indicative as to whether a resumption of exports by Indah Kiat would result in a recurrence of material injury.<sup>14</sup> Australian Paper outlined a number of relevant factors that the Commission should have considered to arrive at the correct or preferable decision.<sup>15</sup>
13. As stated in REP 547, the Commissioner considered that section 269TAE(1) sets out factors which may be considered when determining whether material injury would be caused to Australian Industry.<sup>16</sup> The Commission further noted that the size of the dumping margin is one such factor.<sup>17</sup> The Commissioner does not consider this list of factors to be mandatory relevant considerations in a review.
14. The Commissioner agrees with Australian Paper that the size of Indah Kiat's dumping margin, being 0.1%, was a significant factor in considering whether any future exports of goods at dumped prices would materially injure Australian industry.<sup>18</sup>
15. As outlined in sections 7.3 and 7.4 of REP 547,<sup>19</sup> due to the cessation of exports by Indah Kiat to Australia in 2016 and Indah Kiat's lack of cooperation

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<sup>11</sup> Ibid.

<sup>12</sup> *Siam Polyethylene Co Ltd v Minister for Home Affairs (No.2)* [2009] FCA 838, [48] (Rares J) ('*Siam Polyethylene*'); See also *ADRP Report No. 114 – Quenched and Tempered Steel Plate exported from Finland, Japan and Sweden* [26] (Member O'Connor).

<sup>13</sup> Australian Paper application, page 3.

<sup>14</sup> Ibid, page 2.

<sup>15</sup> Ibid, page 3.

<sup>16</sup> Section 8.6, page 105.

<sup>17</sup> Ibid.

<sup>18</sup> See Ibid.

<sup>19</sup> Australian Paper application, page 8.

during the conduct of the review, Indah Kiat's dumping margin was calculated using all relevant information, pursuant to sections 269TAB(3) and TAC(6).<sup>20</sup>

16. Importantly, this dumping margin was based on Indah Kiat's export price and normal value in the original investigation period (prior to the imposition of measures) from 1 January 2015 to 31 December 2015, with a timing adjustment applied to its export price and a timing and specification adjustment applied to its normal value.<sup>21</sup> As a result of this methodology, the determination of the dumping margin in REP 547 was not affected by the imposition of measures on 20 April 2017 and the Commission considers provides the best indication of Indah Kiat's export price, if the measures are revoked and Indah Kiat resumed exporting the goods to Australia.
17. The Commissioner submits that based on a likely dumping margin of 0.1%, if the measure was revoked and Indah Kiat resumed exporting the goods, he is not satisfied that the exports would be likely to cause material injury to Australian Paper.
18. The Commissioner acknowledges the factors raised by Australian Paper in its application may be relevant in some cases.<sup>22</sup> However, the majority of factors relate to whether Indah Kiat would likely resume exporting the goods.<sup>23</sup> The Commissioner further agrees with Australian Paper that prior behaviour is a relevant consideration.<sup>24</sup> In some cases, the Commissioner considers it is probably the most reliable indicator of future conduct.<sup>25</sup>
19. However, on the basis of the Commission's finding that any resumption of exports at dumped prices would not cause material injury to Australian industry due to dumping, the Commission placed less weight on the factors relating to the resumption of exports.
20. The Commission also agrees that in some cases a price undercutting analysis is useful to determine whether Australian industry has suffered material injury due to dumped exports. Importantly however, when interpreting a price undercutting analysis, 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 Commissioner 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.
21. The Commissioner maintains that he is not satisfied that as a result of the review, revoking the measure applying to Indah Kiat would lead, or be likely to

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<sup>20</sup> Further explanation of how the export price and normal value was determined is explained in Ground 2 and Ground 3 below.

<sup>21</sup> REP 547, section 7.6.1.7, pages 81-3.

<sup>22</sup> See Australian Paper application, page 3.

<sup>23</sup> With the exception of the price undercutting analysis.

<sup>24</sup> See *Siam Polyethylene* (n 12), 504 (Rares J).

<sup>25</sup> *ADRP Report No. 44 – Clear Float Glass exported from the People's Republic of China, the Republic of Indonesia and the Kingdom of Thailand* [38] (Senior Member Fitzhenry) ('ADRP Report No. 44').

lead, to a continuation of, or a recurrence of, the dumping and the material injury the measures are intended to prevent.

### **Pindo Deli**

22. In its application, Australian Paper submitted that the correct or preferable decision was for the Minister to find that revocation of the anti-dumping measures applying to Pindo Deli would lead, or be likely to lead, to a recurrence of the dumping and material injury that the measures are intended to prevent.<sup>26</sup>
23. In determining whether the revocation of the measure would lead, or be likely to lead, to Pindo Deli resuming the export of the goods at dumped prices, the Commissioner agrees with Australian Paper that prior behaviour is a relevant consideration. The Commissioner further submits that consideration must also be given to contemporaneous information before him.<sup>27</sup>
24. In this case, and as outlined in greater detail in section 8.7 of REP 547, the Commissioner submits that the following factors weigh against the probability of Pindo Deli resuming exports of the goods at dumped prices which would lead, or be likely to lead, to a recurrence of material injury to Australian Paper if the measures were revoked:
  - a. Pindo Deli ceased exporting the goods to all countries from 2018.<sup>28</sup> Prior to this time, Pindo Deli exported the goods to over 20 countries.<sup>29</sup> The Commission consider this behaviour indicates that Pindo Deli ceased being an exporter of the goods for reasons unrelated to the anti-dumping measures.
  - b. In considering Australian Paper's submission that the APP group would switch supply from Tjiwia Kimia to Pindo Deli, the Commissioner draws the ADRP's attention to the Fastmarkets RISI (RISI) cash cost reports provided to the Commission by Australian Paper. This report states that Tjiwia Kimia has a slight cash cost advantage over Pindo Deli. Accordingly, the Commissioner cannot identify a financial benefit associated with the APP Group switching supply from Tjiwia Kimia to Pindo Deli.<sup>30</sup>
  - c. With respect to past conduct, the Commissioner notes that in each year between 2012 and 2015, Pindo Deli's export volumes were consistently

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<sup>26</sup> Australian Paper application, page 3.

<sup>27</sup> *Minister for Aboriginal Affairs v Peko-Wallsend Ltd* (1986) 66 ALR 299. 312-314 (Mason J)

<sup>28</sup> REP 547, section 8.7.2, page 92; REP 47 EPR document 12, *Confidential Attachment A-10.1.2\_Tradedata Indo export code 48025690*; See also analysis in *Confidential Attachment 12 – Indonesian export data analysis – Analysis of Indah Kiat and Pindo Deli exports from Indonesia*.

<sup>29</sup> Ibid.

<sup>30</sup> REP 547, section 8.7.2, page 108; EPR document 12, *Confidential Attachment A-10.1.3\_RISI APP Indo Cash Cost Report*.

less than 0.40% of the total Indonesian exports to Australia.<sup>31</sup> After 2016 exports ceased.<sup>32</sup> Based on past conduct, the Commissioner considers 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.

- d. Unlike in an investigation, cumulation of injury pursuant to section 269TAE(2C) is not applicable in reviews.<sup>33</sup>
25. The Commission cannot be certain that Pindo Deli will not resume exporting the goods at dumped prices to Australia if the measures are revoked. However, the Commission considers the evidence before it indicates that Pindo Deli is not likely to resume exports if the measures are revoked. Further, the Commissioner considers the evidence indicates that if Pindo Deli did resume exporting the goods at dumped prices, the exports would not be likely to cause material injury to Australian Paper.

## **Ground 2 – Commission’s determination of normal values**

### **Indah Kiat – Woodchip Benchmark Determination**

26. In its application, Australian Paper submitted the Commission erred in using woodchip import pricing from Indonesia into Japan as a competitive benchmark (Japanese benchmark price).<sup>34</sup> The Japanese benchmark price was calculated at the cost, insurance and freight (CIF) trade level and was used by the Commission to assess whether Indah Kiat’s cost to manufacture (CTM) woodchip reflected competitive market costs.
27. Australian Paper submitted that the Japanese benchmark was not a suitable benchmark because it incorrectly undervalued woodchip prices as follows:<sup>35</sup>
- a. The Japanese benchmark pricing was three per cent lower than the average import prices for wood chips into a range of export destinations;
  - b. There was an absence of analysis comparing woodchip quantities exported from Indonesia into Japan with volumes exported into other countries; and

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<sup>31</sup> REP 547, section 8.7.2, page 106; REP 547 *Confidential Attachment 17: Australian Import Data Analysis*. Further analysis of import volumes are also included in *Confidential Attachment 13: Australian import data analysis – Analysis of Indah Kiat and Pindo Deli imports into Australia*.

<sup>32</sup> *Ibid*.

<sup>33</sup> See *Minister of State for Home Affairs v Siam Polyethylene Co. Ltd* [2010] FCAFC 86, [106] (Graham and Flick JJ); See *ADRP Report No. 44* (n 25) [43]-[44] (Senior Member Fitzhenry).

<sup>34</sup> Australian Paper application, page 5.

<sup>35</sup> *Ibid* 5-6.

- c. The Japanese benchmark pricing was calculated a CIF trade level, requiring adjustments for freight based upon indicative values rather than actual costs incurred.
28. Instead, in its application to the ADRP Australian Paper proposed using the export prices into a range of countries in the Asian region, sourced from available TradeData International export statistics at the free on board (FOB) trade level.<sup>36</sup>
29. The Commissioner disagrees with Australian Paper's submissions.
30. As outlined in greater detailed in Appendix E2 of REP 547, the Commissioner submits that the Japanese benchmark pricing determined in REP 547 is preferable to Australian Papers proposed benchmark for the following reasons:
  - a. The Commissioner considered the available TradeData statistics provided by Australian Paper to not be reliable; The TradeData statistics relating to exports from Indonesia to China in 2019 fell substantially outside the range of pricing identified in the Wood Resources International LLC (WRI) prices<sup>37</sup> and other import data in the TradeData Statistics provided by Australian Paper.<sup>38</sup> As a result, the Commission considered the data was infected by anomalies.<sup>39</sup>

After disregarding the TradeData statistics which the Commission considered were infected with anomalies, the Commission found a high-level of correlation between the WRI data and other import data provide by Australian Paper.<sup>40</sup>
  - b. Among other countries, Australian Paper's proposed benchmark included imports from Australia, New Zealand and South Africa.<sup>41</sup> The Commission considered it was not preferable to include import pricing from these countries into a relevant benchmark relating to Indonesia because the RISI review reported that the growing costs and growing conditions (which also influences costs) of the relevant wood pulp was substantially different to Indonesia.<sup>42</sup>

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<sup>36</sup> Ibid.

<sup>37</sup> The Commissioner notes that WRI is an internationally recognised forest industry consulting firm that specializes in evaluations of global forest resources, wood raw-material markets (logs, woodchips and biomass), forest products trade, wood costs outlook and forest industry development worldwide.

<sup>38</sup> REP 547, section 2.3.3, page 18; REP 547, *Confidential Attachment 20*, tab "2019 ADC Japan TDI vs WRQ".

<sup>39</sup> REP 547, section E2.4, page 187-8; EPR document 21, REP 547, *Confidential Attachment 1 – Woodchip\_China Japan\_import Analysis 2015* ('Australian Paper TradeData'). The Commission's analysis is included in *Confidential Attachment 20 Analysis of woodchip import data provided by Australian Paper. This includes a list of the import prices into China from Indonesia in tab 'China data issues'*;

<sup>40</sup> REP 547, section E2.4, page 188.

<sup>41</sup> Australian Paper TradeData (n 39).

<sup>42</sup> REP 547, section E2.4, page 190.



When these countries were excluded from Australia Paper's proposed benchmark, the Japanese benchmark pricing was 2.21 per cent above the weighted average import pricing of the remaining countries.<sup>43</sup>

- c. The Commissioner agrees with Australian Paper that import volumes are an appropriate consideration when determining a benchmark.<sup>44</sup> The Commission submits that the volume of imports from Indonesia is within the range of import volumes from countries that Australian Paper considered appropriate import sources for its proposed benchmark.<sup>45</sup>
31. The Commission further notes that the data provided by Australian Paper from TradeData International following the publication of the Statement of Essential Facts (SEF) was at the CIF Level. Further, Australian Paper did not provide any suggestion as to how this could be adjusted to a FOB level.<sup>46</sup>

### **Indah Kiat – Freight Costs Deduction**

32. In its application, Australian Paper submitted that the Commission undervalued the woodchip price because the Japanese benchmark prices 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.<sup>47</sup> Australian Paper considered the amount deducted for freight costs to not be representative or sufficiently accurate for the intended purpose.<sup>48</sup>
33. The Commissioner submits that it is necessary to deduct an amount for Indah Kiat's ocean freight costs from the Japanese benchmark price to ensure prices more accurately reflect what the competitive cost to manufacture (CTM) woodchips in Indonesia would have been.<sup>49</sup> This is especially important where there are substantial differences in freight distances and the application of bulk shipping rates, as in this case.<sup>50</sup>
34. The Commissioner notes that usually insurance costs are also deducted from the CIF price but this was not done in this case because the Commission assessed the amount of insurance cost to be immaterial.<sup>51</sup> After freight and insurance costs, if any, are deducted from the CIF price, the resulting price is the FOB price. Profit and selling, general and administrative (SG&A) expenses are then deducted from the FOB price to arrive at a competitive CTM woodchips amount.

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<sup>43</sup> REP 547, section E2.4, page 191, Fig E3.

<sup>44</sup> REP 547, section E2.4, page 190.

<sup>45</sup> REP 547, *Confidential Attachment 20*, tab "ADC Japan TDI data w freight".

<sup>46</sup> Australian Paper TradeData (n 39); Please see paragraph 35(b) below for information Australian Paper did provide in relation to the bulk freight rates for wood chips.

<sup>47</sup> Australian Paper application, page 5-6.

<sup>48</sup> *Ibid*, 6.

<sup>49</sup> REP 547, section E2.4, page 188.

<sup>50</sup> REP 547, section E2.4, page 189, Fig E2.

<sup>51</sup> REP 547, Attachment 15, see tab C. *Finance-shipping-payment term* for the calculation of insurance costs on exported A4 copy paper.

35. As outlined in section E2.4 of REP 547 and relevant footnotes,<sup>52</sup> to determine the amount of freight costs to deduct from the Japanese benchmark price, the Commission estimated the ocean freight distance and applied a bulk shipping rate as follows:
- a. The ocean rate freight distance was calculated using data from Sea Distance which advised the sea distance between departure and arrival ports.<sup>53</sup> The Commission compared distances with S&P Global Platts Portworld which showed a small margin of difference.<sup>54</sup> Ports were selected based on a range of factors, including the shortest distance, the size of the port and whether the port accepted bulk goods like woodchips.<sup>55</sup> Where multiple sea routes were available, the Commission selected the shortest route.<sup>56</sup>
  - b. The bulk freight rate used was the same rate used for the purposes of the particular market situation analysis in the original investigation and REP 547, being 0.004 USD per nautical mile per BDMT.<sup>57</sup> To determine the freight cost adjustment, the Commission multiplied the \$USD/BDMT by distance (sea mile).<sup>58</sup>

Following enquiries from the Commission, Australian Paper provided a bulk freight rate of [confidential] USD. This amount reflected Nippon Paper Resources bulk freight costs related to exporting wood chips from Japan-Australia-Japan and Japan-Chile-Japan and was provided to the Commission on a confidential basis.<sup>59</sup>

36. The Commissioner considers that neither methodology to calculate the bulk freight rate is uniquely correct. But, the Commissioner considers that the approach taken in REP 547 is preferable because it is consistent with the Commission's particular market situation analyses and has not previously been challenged. The Commission also 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.

### **Indah Kiat – Selling, General and Administrative Expenses (SG&A) Deduction**

37. In its application, Australian Paper submitted its concern that the SG&A deducted from the Japanese benchmark price was derived from Indah Kiat's

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<sup>52</sup> REP 547, section E2.4, page 188, footnotes 463 and 464.

<sup>53</sup> <https://sea-distances.org/>.

<sup>54</sup> With an average discrepancy of 0.5%; REP 547, *Confidential Attachment 20 – Analysis of Woodchip Import Data*, tab "ADC Japan Port Distances Comparison"; S&P Global Platts Portworld ([www.portworld.com](http://www.portworld.com)).

<sup>55</sup> REP 547, *Confidential Attachment 20 – Analysis of Woodchip Import Data*, tab "ADC Japan Port Distances".

<sup>56</sup> Ibid.

<sup>57</sup> BDMT is "bone/oven dry metric tonne" means wood chips with a zero per cent moisture content per metric tonne.

<sup>58</sup> REP 547, *Confidential Appendix 2.1 CTMS 2019 – Woodchip Benchmark*, tab (d) "Freight costs".

<sup>59</sup> See REP 547, page 188, footnote 464.

2015 record and was not independently validated.<sup>60</sup> Australian Paper further stated that adjustments for SG&A costs made by the Commission were not representative, or sufficiently accurate, for the intended purpose.<sup>61</sup>

38. The Commissioner considers that Australian Paper may have misunderstood the method by which the SG&A deduction for Indah Kiat was calculated.
39. As outlined in paragraph 34 above, following the deduction of freight costs from the Japanese Benchmark price, the Commissioner submits that it is then necessary to deduct an amount which would reflect Indah Kiat's SG&A costs.
40. The Commission did not have data relating to Indah Kiat's wood chip sales, if any. As a result, and as outlined in Section 7.5.1 of REP 547, the Commission determined an amount of SG&A costs to deduct from the Japanese benchmark pricing by using Indah Kiat's weighted average 2015 SG&A costs, which were verified during the original investigation, and applying a timing adjustment to account for any change in costs from the investigation period to the review period.<sup>62</sup>
41. The Commission considered that a timing adjustment was required because it would provide a more accurate reflection of what Indah Kiat's normal value would have been in the review period.<sup>63</sup>
42. The Commission worked out the timing adjustment as follows:<sup>64</sup>
  - a. The Commission adjusted Indah Kiat's finance costs in accordance with the relative movement in bank commercial lending rates from the original investigation period to the review period. This information was obtained from the Bank of Indonesia; and
  - b. The Commission adjusted Indah Kiat's other costs in accordance with the relative changes in Indah Kiat's quarterly cost data from the original investigation period to the review period using cost data obtained from RISI. Where the cost data could not be ascertained from RISI, the costs were adjusted in accordance with the relative changes in wholesale price index from the original investigation period to the review period, relating to manufacturing industries (MWPI) in Indonesia. This information was obtained from Badan Pusat Statistik (Statistics Indonesia).
  - c. The Commission did not adjust a cost where it did not have information to make a reliable adjustment or considered the cost was not affected by inflation. Costs the Commission considered were not affected for

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<sup>60</sup> Australian Paper application, page 6.

<sup>61</sup> Ibid 7.

<sup>62</sup> REP 547, section 7.5.1, pages 73-4; Verification for Indah Kiat, INV 341; *Confidential Appendix 2.1 – CTMS 2019 – Woodchip Benchmark*, Tab (e) "IK SG&A 2019".

<sup>63</sup> REP 547, section 7.6.1.7, page 82.

<sup>64</sup> REP 547, section 7.5.1, pages 73-4.

inflation included costs determined to not be influenced by price movements in Indonesia, such as depreciation and amortisation costs.

43. Please see **Attachment C of these submissions** (confidential) for a list of the direct and indirect selling costs and other SG&A costs, the relative change in cost from the original investigation period and review period, if any, and the data relied on to make the adjustment, if any.<sup>65</sup>

#### **Indah Kiat – Profit Deduction**

44. In its application, Australian Paper submitted that the level of profit deducted from the Japanese benchmark was based on Indah Kiat's profit on non-A4 Copy Paper sales in 2015, which it expected to be significantly higher than for the raw material of woodchips.<sup>66</sup> Australian Paper stated that the Commission did not seek to apply an amount of profit that would be more representative of pulp and other paper grades.<sup>67</sup>
45. As outlined in paragraph 34 above, following the deduction of freight and SG&A costs from the Japanese Benchmark price, the Commissioner submits that it is then necessary to deduct an amount which would reflect Indah Kiat's profit.
46. The Commission acknowledges Australian Paper's concerns and confirms that the profit deducted was the profit from Indah Kiat's non-A4 Copy Paper sales during 2015.<sup>68</sup> As a result, this profit figure took into account Indah Kiat's sales of other paper and pulp products. This profit figure amounted to [confidential] per cent.<sup>69</sup>
47. The Commission requested a relevant profit figure for woodchips and pulp from Indah Kiat in the exporter questionnaire but did not receive a response.<sup>70</sup> In addition, the Commissioner notes that Australian Paper did not propose an alternative profit figure during the course of the review or in its application for review.
48. The Commission did have Indah Kiat's detailed production costs relating to woodchips for November 2015; however, the Commission chose not to use this data because the production cost reflected the distorted log prices in Indonesia.<sup>71</sup> If Indah Kiat's production costs were used, the profit would have been calculated to be in range of [confidential] to [confidential] per cent.<sup>72</sup>
49. The Commission further notes that Australian Paper did not substantiate its claim that profit is expected to be significantly higher on downstream products

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<sup>65</sup> This table was compiled from the information contained in *547 Indah Kiat - Confidential Appendix 2.1 CTMS 2019 - Wood Chip Benchmark, tab (e) IK SG&A 2019*, provided to the ADRP for the purposes of this review.

<sup>66</sup> Australian Paper application, page 6.

<sup>67</sup> Ibid.

<sup>68</sup> REP 547, E2.3, page 187.

<sup>69</sup> REP 547, *Indah Kiat – Confidential Appendix 2.1 CTMS 2019 – Woodchip Benchmark*, tab (f) "IK Profit Calc"

<sup>70</sup> REP 547, EPR documents 13 & 14, G-10.

<sup>71</sup> See REP 547, section E2.2.1, page 185.

<sup>72</sup> REP 547, section E2.2.1, page 185; *547 Indah Kiat - Confidential Appendix 2.1 CTMS - Wood Chip Benchmark 2015 and 2015 private woodchip cost Indah Kiat*.

than compared with the relevant raw material. It is not necessarily the case that profit will be significantly higher on downstream productions than the raw material. For example, the Commissioner is aware that downstream steel products do not necessarily command a higher profit figure than its relevant raw material, iron ore.

50. For these reasons, the Commission considers that the profit of Indah Kiat's non-A4 copy paper represents the best available information before it and is the preferable profit amount to deduct from the Japanese benchmark pricing.

### **Pindo Deli – Pulp Benchmark Determination**

51. In its application, Australian Paper submitted that the Commission erred in using the Indonesian export prices for pulp as the competitive pulp benchmark price.<sup>73</sup> Australian Paper considered that it would have been more appropriate for the pulp benchmark to be based on prices from a country unaffected by the Government of Indonesia's policies, such as the market prices for pulp sold domestically in Korea or Japan.<sup>74</sup>
52. As outlined in section E.3.2 of REP 547, to determine an appropriate pulp benchmark, the Commission obtained benchmarking import price series from RISI relating to the Asian region.<sup>75</sup> In examining the export prices of pulp in the Asian region, the Commission determined that the export prices of pulp from Indonesia were broadly aligned with the imports supplied into the region from Canada, the United States and East Asian economies, all of which were not subject to Government of Indonesia policies.<sup>76</sup> Accordingly, the Commissioner considered that the export price of pulp from Indonesia was competitive and preferable to base the determination of the pulp benchmark.<sup>77</sup>
53. The Commission 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 has not provided any supporting information. Accordingly, the Commission did not undertake an analysis of the domestic prices in Japan and Korea during the review.
54. Having considered Australian Paper's application for review, the Commissioner re-examined the RISI data and confirms it includes information relating to domestic pulp prices in Japan.<sup>78</sup> Notably, the pricing data includes "local mixed hardwood".<sup>79</sup> As a result, the Commission would need to consider whether further information and adjustments would be required to take into account any differences in growing conditions and would need to consider whether adjustments are required to reflect what would be a competitive cost of pulp in Indonesia.

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<sup>73</sup> Australian Paper application, page 6.

<sup>74</sup> Ibid.

<sup>75</sup> REP 547, section E3.2, pages 192-194; *Other relevant information, Benchmark Comparison*.

<sup>76</sup> REP 547, section E3.2.3, page 193-4.

<sup>77</sup> Ibid.

<sup>78</sup> REP 547, *Other relevant information, Benchmark Comparison*

<sup>79</sup> REP 547, *Other relevant information, Benchmark Comparison, see tab 'RISI Prices', footnote 5.*

55. The Commissioner confirms he does not have any data relating to the domestic pulp prices in Korea. At a minimum, the Commission would need to consider whether adjustments are required to reflect what would be a competitive cost of pulp in Indonesia.
56. The Commissioner confirms that it has used domestic hot rolled coil (HRC) prices in Korea and Taiwan in previous HRC cases, as submitted by Australian Paper in their application.<sup>80</sup>
57. As stated in paragraphs 51 and 52, in this case, the Commissioner considers that using Indonesian export prices of pulp is preferable because the Commissioner is satisfied it reflects a competitive price relevant to Indonesia.<sup>81</sup>

### **Pindo Deli – Ocean Freight Costs and SG&A Deduction**

58. In its application, Australian Paper submitted that the Commission's deduction of ocean freight and SG&A costs from the competitive pulp benchmark were presumably based on sales of non-A4 copy paper goods, not pulp product, and thus incorrect and unreliable.<sup>82</sup> Australian Paper continued that the adjustments for ocean freight and SG&A costs were not representative or sufficiently accurate for the intended purpose.<sup>83</sup>
59. The Commission advises that during the original investigation, the Commission did not undertake an onsite verification of Pindo Deli's cost to make and sell data. Instead, and noting the significantly lower volume of the goods exported by Pindo Deli,<sup>84</sup> the Commission compared the data provided by Pindo Deli to Indah Kiat and Tjiwia Kimia's data, which had been subjected to on-site verification and were found to be "complete, relevant and accurate".<sup>85</sup> The Commission was satisfied Pindo Deli's CTMS data was comparable to Indah Kiat and Tjiwia Kimia's records which were found to be "complete, relevant and accurate".<sup>86</sup>
60. The Commission did verify a portion of Pindo Deli's domestic and export sales data which included verifying relevant inland freight costs and export freight costs. The Commission was satisfied that this data was "complete, relevant and accurate".<sup>87</sup>
61. The Commissioner confirms that the amount of ocean freight and SG&A deducted from the competitive pulp benchmark was based on Pindo Deli's sales during the investigation period. The Commission notes the competitive pulp benchmark was based on an internationally traded price, inclusive of export-specific expenses. Accordingly, the Commission considered Pindo Deli's

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<sup>80</sup> Australian Paper application, page 6.

<sup>81</sup> Ibid.

<sup>82</sup> Ibid.

<sup>83</sup> Ibid.

<sup>84</sup> Please see table below in paragraph 73 which demonstrates Pindo Deli's exports represented about [confidential] of Tjiwia Kimia's exports and about [confidential] of Indah Kiat's exports of virgin fibre A4 Copy Paper.

<sup>85</sup> REP 547, section 3.1, page 22.

<sup>86</sup> Ibid.

<sup>87</sup> REP 547, section 3.1, page 22.

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.

62. Specifically, the Commission deducted an amount for ocean freight costs from the competitive pulp benchmark and replaced it with an amount to reflect domestic freight costs. The Commission chose to base these amounts on Pindo Deli's expenses from the original investigation period because they were directly relevant to Pindo Deli and reflected Indonesian costs. Further, the Commission is not aware of any alternative source of relevant information, such as trade publications, that would provide a more relevant basis for the adjustment.
63. Similarly, the Commission deducted an amount for other export SG&A costs from the competitive pulp benchmark based on Pindo Deli's export sales of A4 Copy Paper during the original investigation and applying a timing adjustment calculated in the same method as described in paragraph 42 above.<sup>88</sup>
64. Please see **Attachment D of these submissions** (confidential) for a list of the direct and indirect selling costs and other SG&A costs, the relative change in cost from the original investigation period and review period, if any, and the data relied on to make the adjustment, if any.<sup>89</sup>
65. The Commission further notes that Australian Paper did not provide any relevant data on which to base an adjustment for ocean freight and SG&A costs. Accordingly, the Commission had no other information before it to determine these costs.
66. The Commissioner maintains that the approach taken in REP 547 is preferable.

### **Ground 3 – Commission's determination of export prices**

67. In its application, Australian Paper disputed the basis on which the Commission determined Indah Kiat and Pindo Deli's export prices.<sup>90</sup>
68. Australian Paper submitted that market intelligence provided to the Commission during the original investigation confirmed that the known majority of Tjiwi Kimia's exports were 100% recycled grades and that the volume of virgin (non-recycled content) grades exported was below negligible.<sup>91</sup> Australian Paper continued that Tjiwia Kimia only commenced exporting virgin A4 Copy Paper in significant volumes after the anti-dumping measures were imposed and the Commission should have made a specification adjustment.<sup>92</sup>

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<sup>88</sup> REP 547, section 7.5.1, pages 73-4.

<sup>89</sup> This table was compiled from the information contained in *547 Pindo Deli - Confidential Appendix 2 CTMS 2019*, tab (a) *Dom SG&A*, provided to the ADRP for the purposes of this review.

<sup>90</sup> Australian Paper application, page 7.

<sup>91</sup> *Ibid*, pages 8-9.

<sup>92</sup> *Ibid*.

69. The Commissioner considers Australian Paper may have misunderstood the method by which the timing adjustment index value was determined. The Commission excluded recycled grades of A4 Copy Paper when calculating the timing adjustment index value applied to Indah Kiat and Pindo Deli's 2015 export prices.<sup>93</sup>
70. The Commission calculated the timing adjustment index value by using Tjiwia Kimia's *relevant* import prices taken from Australian Border Force's (ABF) import database.<sup>94</sup> To determine which import prices were relevant, the Commission excluded all grades of A4 recycled copy paper.<sup>95</sup>
71. The Commissioner further assessed the accuracy of import prices taken from the ABF import database by reconciling it with Tjiwia Kimia's verified export prices from the original investigation.<sup>96</sup> The reconciliation found a small margin of difference.<sup>97</sup>
72. In the relevant confidential attachment you will note the following:<sup>98</sup>
- a. [Confidential] per cent is the timing adjustment applied to Indah Kiat and Pindo Deli's export price in the dumping margins for REP 547.
  - b. "PPT" from the original investigation's termination report excerpt is the product code for Tjiwia Kimia's non-recycled paper and the product code "RCL" relates to its recycled paper.
  - c. The price difference between the ABF CRE import database 2015 price for Tjiwia Kimia non-recycled paper imports ([confidential] USD) and its non-recycled paper export price verified in the original investigation ([confidential] USD) was 2.1%. This is the small margin of difference referenced in sections 7.6.1.7 and 7.7.1.7 of REP 547 and the preceding paragraph above.
73. The Commission disagrees with Australian Paper's claim that Tjiwia Kimia's volume of virgin A4 Copy Paper exports was below negligible during the original investigation. As set out in the table below, the volume of virgin A4 Copy Paper exported to Australia in metric tonnes represented about [confidential] of all A4 Copy Paper exported by Tjiwia Kimia. This amount also represented approximately [confidential] of the volume of A4 Copy Paper exported by Indah Kiat in the same period and [confidential] the volume of A4 Copy Paper exported by Pindo Deli in the same period. Accordingly, the Commissioner is satisfied that the volume of Tjiwi Kimia's exports of virgin fibre A4 Copy Paper is a reliable base to calculate the timing adjustment index value.

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<sup>93</sup> REP 547, sections 7.6.1.7 and 7.7.1.7, pages 81-3 and 94-96, respectively; REP 547, *Confidential Attachment 15 – Indah Kiat and Pindo Deli Common Customer Price Analysis*.

<sup>94</sup> Ibid.

<sup>95</sup> A REP 547, sections 7.6.1.7 and 7.7.1.7, pages 81-3 and 94-96, respectively; REP 547, *Confidential Attachment 15 – Indah Kiat and Pindo Deli Common Customer Price Analysis*.

<sup>96</sup> Ibid.

<sup>97</sup> Ibid.

<sup>98</sup> REP 547, *Confidential Attachment 15 – Indah Kiat and Pindo Deli Common Customer Price Analysis*.



	Virgin fibre (MT)	Recycled content (MT)
Tjiwi Kimia	[confidential]	[confidential]
Pindo Deli	[confidential]	0
Indah Kiat	[confidential]	0

Export volumes during original investigation period

74. The Commission further submits that, as outlined in further detail in sections 7.6.1.7 and 7.7.1.7, the import prices of Tjiwia Kimia provided the most suitable information to base the timing adjustment index value for the following reasons:<sup>99</sup>
- a. Verified 2015 export prices of Tjiwia Kimia showed a strong correlation in pricing with the verified export prices of Indah Kiat and Pindo Deli, compared to other Indonesian exporters;
  - b. Exports by Tjiwia Kimia in 2019 were to the same importer that both Indah Kiat and Pindo Deli exported to in 2015; and
  - c. The data obtained from both exporters and the common importer in Investigation 341 enabled the Commission to identify products within Tjiwi Kimia's 2019 exportations that had sufficiently similar product characteristics to Indah Kiat's exportations in 2015 so as not to require the Commission to make any specification adjustments under section 269TAB(2G)(b).

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<sup>99</sup> REP 547, sections 7.6.1.7 and 7.7.1.7, pages 81-3 and 94-96.