

Ref. No. ~~1182~~/DAGLU.6.1/SD/11/2020

Jakarta, ~~26~~ November 2020

Paul O'Connor

Panel Member of Australia Anti-Dumping Review Panel

Re : The Government of Indonesia ("GOI") Submission in Response to the Application of Review (Application") of Paper Australian Pty Ltd ("Australian Paper") of Decision of The Minister for Industry, Science and Technology ("Minister") On A4 Copy Paper exported from the Republic of Indonesia by P.T. Indah Kiat Pulp & Paper Tbk ("Indah Kiat") and PT. Pindo Deli Pulp and Paper Mills ("Pindo Deli")

Dear Mr. O'Connor,

The GOI refers to the above-referenced decision of the Minister and the application of appeal by the Australian Paper to Australia Anti-Dumping Review Panel ("ADRP").

Having read the Application, the GOI is of the view that the Australian Paper failed to establish the basis of its review application to ADRP and therefore ADRP should reject such application completely.

The facts show in the review of Australia Anti-Dumping Commission which is the basis for the Minister to render the decision has correctly established that: (1) Indah Kiat's dumping margin is likely negligible and that import volume of A4 copy paper of Pindo Deli's is likely negligible; (2) the ADC's selection of benchmarks was correct, reasonable and consistent with Australian law; and (3) the ADC's adjustment to export price of PT Tjiwi Kimia's ("TK") to Australia was correct, reasonable and consistent with the Australian Law.

In the following, we would like to present our explanation of the facts which should lead ADRP to reject the review application of ADRP.

I. Indah Kiat's Dumping Margin Was Negligible and the Volume of Imports from Pindo Deli Was Negligible

1. The GOI does not agree with Australian Paper's claim in its application that the Australian Anti-Dumping Commission ("Commission") failed to examine whether exports made by Indah Kiat's affiliate, PT Pabrik Kertas Tjiwi Kimia Tbk (Tjiwi Kimia), would shift to Indah Kiat.

2. The Commission clearly determined that "if Tjiwi Kimia were minded to switch suppliers, *which the Commission maintains is not borne out as likely on the evidence before the Commission*, it more likely to switch its supply to Indah Kiat on the basis that Indah Kiat appears more financially appealing."¹
3. The GOI also notes that the Commission's decision was based on the likelihood that irrespective of the volume of imports from Indah Kiat, the dumping margin was likely to be negligible. This is different from what Australian Paper claimed in its Application and as such ADRP should reject this claim.
4. Furthermore, we do not see how Australian Paper can substantiate its assertion that the Commission could not reasonably rely on the likely negligible level of dumping to support a finding of no likelihood of injury.
5. Indeed, the Commission did consider all evidence in the record, especially it is clear that the Commission considered Australian Paper's arguments about Indah Kiat's production capacity and the likelihood of switching supply but the Commission did not agree that this would lead to the finding that dumping at injurious levels was likely to continue or recur.²
6. ADRP should therefore reject the claim of the Australian Paper.
7. In its Application, the Australian Paper highlighted Pindo Deli's affiliation with Indah Kiat and Tjiwi Kimia. However, this affiliation has no relevance in the present case since the facts clearly show that Pindo Deli was the highest cost producer of the three, making switching supply unlikely³.
8. Moreover, Australian Paper does not contest the Commission's finding that Pindo Deli had not exported to any country since 2018⁴ and Australian Paper cannot contest the fact the negligible volume of Pindo Deli's exports to Australia before dumping measures were imposed.
9. The GOI also views that cumulation with other countries, Brazil, China, and Thailand for the examination of injury were relevant only to the original investigation but it has no bearing with the review of the Commission as the review has a different objective and

¹ Report No. 547, Review of the Anti-Dumping Measures Applying to A4 Copy Paper Exported to Australia from the Republic of Indonesia by PT Indah Kiat Pulp and Paper Tbk and PT Pindo Deli Pulp and Paper Mills, p. 109 (emphasis supplied).

² Statement of Essential Facts No. 547, Review of the Anti-Dumping Measures Applying to A4 Copy Paper Exported to Australia from the Republic of Indonesia by PT Indah Kiat Pulp and Paper Tbk and PT Pindo Deli Pulp and Paper Mills, p. 84.

³ Report No. 547, p. 109.

⁴ Report No. 547, p. 107.

covered only Pindo Delli and Indah Kiat. There is therefore nothing wrong with the conclusion of the Commission and the claim of the Australian paper should be rejected.

II. The Minister's Finding Upholding the ADC's Selection of Benchmarks Was Reasonable and Consistent with Australian Law

10. In its application Australian Paper challenges the Minister upholding the Commission's use of the price of woodchips imported into Japan from Indonesia to construct the normal value of Indah Kiat.
11. The GOI does not see how Australian Paper has established its claim properly by facts. In fact, the Commission was aware of the fact and explained that the import prices for Japan were still the sixth-highest price of the ten countries the Commission analyzed.⁵ Moreover, the Commission noted it could not use prices for China because they contained anomalies.⁶
12. The Commission's view was that include import sources which are likely to have similar climatic or growing conditions to Indonesia.
13. The Commission did also properly examine import volumes and in fact, it agreed with the claim by Australian Paper that import volumes are appropriate for benchmarking. As such, the claim of the Australia paper has no merit.
14. We further disagree with Australian Paper's argument in its Application but concur with the Commission's findings which states: "The Commission analyzed the price data and assessed that prices for imports sourced from Indonesia were broadly in alignment with the pricing for imports supplied into the region from Canada, the United States, and East Asian economies. As a consequence, the Commission considers that the import prices for Indonesian exported pulp are competitive market prices and are an appropriate benchmark for assessing domestic competitive market costs in Indonesia."⁷
15. The Commission clearly based its findings as a result of the examination of facts and this is consistent with an objective requirement which we believe is consistent with Australian law.

⁵ Report No. 547, p. 189.

⁶ Report No. 547, p. 187-188.

⁷ Report No. 547, p. 194.

III. The Commission's Adjustment to Export Prices Using Tjiwi Kimia's Export Prices to Australia as an Index Was Reasonable and Correct

16. The GOI notes that it is possible for the Commission to use the export price from the original investigation under Section 269TAB(2B)(a) of Australia Anti-Dumping Law allows the Commission to use export price from the original investigation.⁸ Moreover, the Commission stated that it is used since onsite verification confirmed the information was accurate, relevant, and complete.⁹

In light of the above facts, the GOI requests ADRP to reject the Application of the Australian Paper and uphold the overall decisions of the Minister.

We thank you very much for your consideration.

Sincerely,



Pradnyawati

Director of Trade Defense
Directorate General of Foreign Trade
Ministry of Trade Republic of Indonesia

Cc:

1. Director-General of Foreign Trade, Ministry of Trade;
2. Director-General of International Trade Negotiation, Ministry of Trade;
3. Director-General of Asia-Pacific and African Affairs, Ministry of Foreign Affairs;
4. Ambassador of the Republic of Indonesia to Australia in Canberra;
5. Ambassador of Australia to Indonesia in Jakarta;
6. Director of East Asian and Pacific Affairs, Ministry of Foreign Affairs;
7. Director of Trade Disputes Task Force, Office of Trade Negotiations, Department of Foreign Affairs and Trade of Australia;
8. Secretary of DG of Foreign Trade, Ministry of Trade

⁸ Report No. 547, p. 80.

⁹ Report No. 547, p. 81.