

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

On behalf of interested parties PT Indah Kiat Pulp and Paper Tbk (Indah Kiat) and PT Pindo Deli Pulp and Paper Mills (Pindo Deli), Indonesian producers and exporters of merchandise subject to review, we hereby respond to the three grounds raised by Paper Australia Pty Ltd (Australian Paper) in its application for review of the decision by the Minister for Industry, Science and Technology to revoke the dumping duty notice applying to A4 copy paper exported from the Republic of Indonesia by Indah Kiat and Pindo Deli.¹ As discussed below, Australian Paper has not established the Minister's decision was unreasonable or inconsistent with Australian law on any one of three grounds upon which Australian Paper relies.

First Ground – The Minister's Decision Adequately Rested on the Fact that Indah Kiat's Dumping Margin Was Likely to Be Negligible and that the Volume of Imports from Pindo Deli Were Likely to Be Negligible

Indah Kiat

With respect to Indah Kiat, Australian Paper claims the Anti-Dumping Commission (Commission) erred by not examining whether exports made by Indah Kiat's affiliate, PT Pabrik Kertas Tjiwi Kimia Tbk (Tjiwi Kimia), would shift to Indah Kiat. Australian Paper is incorrect. The Commission stated "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 more likely to switch its supply to Indah Kiat on the basis that Indah Kiat appears more financially appealing."² In addition, the Commission's recommendation, as adopted in the Minister's decision was based

¹ Anti-Dumping Notice No. 2020/090 A4 Copy Paper Exported to Australia from the Republic of Indonesia by Pt Indah Kiat Pulp & Paper Tbk and Pt Pindo Deli Pulp and Paper Mills, Findings in Relation to Review of Anti-Dumping Measures No. 547, Notice under subsection 269ZDB(1) of the Customs Act 1901 (Cth).

² 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).

on the likelihood that irrespective of the volume of imports from Indah Kiat, the dumping margin was likely to be negligible. As the Commission stated:

[I]f the measures are revoked and 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. The Commission is also not satisfied that this level of dumping is likely to cause material injury to the Australian industry.³

Australian Paper offers no support for the assertion that the Commission could not reasonably rely on the likely negligible level of dumping to support a finding of no likelihood of injury. Finally, there is no indication the Commission did not consider all of the record evidence. To the contrary it is clear that the Commission considered Australian Paper's arguments about Indah Kiat's production capacity and the likelihood of switching supply but did not agree it supported a finding that dumping at injurious levels was likely to continue or recur.⁴ In short, the Minister's findings with respect to Indah Kiat are reasonable and consistent with Australian law.

Pindo Deli

With respect to Pindo Deli, Australian Paper relies on Pindo Deli's affiliation with Indah Kiat and Tjiwi Kimia. However, the Commission considered this argument and rejected it because Pindo Deli was the highest cost producer of the three making switching supply unlikely.⁵ Further, Australian Paper does not contest the Commission's finding that Pindo Deli had not exported to any country since 2018.⁶ Another fact Australian Paper cannot contest is the fact the negligible volume of Pindo Deli's exports to Australia before dumping measures were

³ Report No. 547, p. 106.

⁴ 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.

⁵ Report No. 547, p. 109.

⁶ Report No. 547, p. 107.

imposed. In the four years preceding the imposition of dumping measures, the volume of imports from Pindo Deli as a share of the total Australian market ranged from 0.01% to 0.05%.⁷ Australian Paper points to the injury finding in the original investigation but ignores the fact that in the original investigation the Commission cumulated imports from Brazil, China, Indonesia, and Thailand for purposes of assessing material injury. The Commission's injury determination in the original investigation, thus, has no relevance to the question of whether Pindo Deli's negligible likely volume would be likely to cause the continuation or recurrence of injury. In short, the Minister having considered all of the recommendations and reasoning of the Commission has made a decision with respect to Pindo Deli which is reasonable and consistent with Australian law.

Second Ground – The Minister's Finding Upholding the ADC's Selection of Benchmarks Was Reasonable and Consistent with Australian Law

Indah Kiat

With respect to Indah Kiat, Australian Paper challenges the Minister upholding the Commission's use of the price of woodchips imported into Japan from Indonesia to construct normal value. Notably, Australian Paper did not advance this argument to the Commission with respect to the 2019 data.⁸ Nevertheless, the first argument Australian Paper advances is that the import prices were three percent lower than the average of some other export destinations, including China. However, the Commission was aware of this fact and explained that the import prices for Japan were still the sixth highest price of the ten countries the Commission analyzed.⁹ Further, the Commission noted it could not use prices for China because they contained

⁷ Report No. 547, p. 107.

⁸ Report No. 547, p. 187.

⁹ Report No. 547, p. 189.

anomalies.¹⁰ The Commission also noted it was “preferable to only include import sources which are likely to have similar climatic or growing conditions to Indonesia” given the relatively short growing times in Indonesia relative to Australia, New Zealand, and South Africa.¹¹ Excluding those three countries showed the Indonesian import price into Japan was *above* the average price by 2.21 percent.¹²

The second argument Australian Paper makes is that the Commission should have examined the volume of imports. However, the Commission did examine import volumes. As the Commission stated it “agrees with the claims by Australian Paper in its submission, that import volumes are an appropriate consideration in determining a benchmark.”¹³ Consequently, there is no merit to Australian Paper’s claim.

Finally, Australian Paper argues the Commission did not appropriately adjust the CIF data for freight. However, the Commission explained why it made the adjustments to the CIF price in the manner it did. The Commission explained that the CIF prices included insurance and ocean freight costs.¹⁴ The Commission then noted the need to adjust ocean freight costs to ensure the prices were properly comparable, particularly where there are substantial differences in freight distances.¹⁵ The Commission explained that the bulk freight rate it used was within a reasonable range of the rate Australian Paper provided but that the Commission rate was more appropriate as a conservative cost for making the adjustment.¹⁶ In short, the Minister’s

¹⁰ Report No. 547, p. 187-188.

¹¹ Report No. 547, p. 191.

¹² Report No. 547, p. 191.

¹³ Report No. 547, p. 190.

¹⁴ Report No. 547, p. 188.

¹⁵ Report No. 547, p. 188.

¹⁶ Report No. 547, n. 464.

determination upholding the Commission's recommendations and reasoning to use the price of woodchips imported from Indonesia into Japan is reasonable and consistent with Australian law.

Pindo Deli

With respect to Pindo Deli, Australian Paper argued in its application for review that the Commission should not have used import pulp prices from Indonesia into other countries because those prices would be affected by alleged distortions caused by Government of Indonesia policies. The Commission, however, examined this precise point to ensure there was no distortion and found there was none. As the Commission stated:

The Commission analysed 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.¹⁷

Further, the Commission responded to Australian Paper's argument that Indonesian export pricing for pulp was lower than that of other countries, explaining that Australian Paper's argument was incorrectly comparing FOB prices to CIF prices.¹⁸ Consequently, Australian Paper's argument concerning the Minister upholding the Commission's use of Indonesian export prices as the basis for the benchmark has no merit.

Australian Paper also argues the Commission should not have adjusted freight costs and Pindo Deli's SG&A using Pindo Deli's costs. However, Australian Paper did not object to those adjustments following the issuance of the Statement of Essential Facts. Further, Australian Paper offers no support for why Pindo Deli's adjusted freight costs or SG&A would be

¹⁷ Report No. 547, p. 194.

¹⁸ Report No. 547, p. 195.

distortive. In short, the Minister upholding the Commission's selection of a benchmark and the adjustments to it were reasonable and consistent with Australian law.

Ground 3 – The Minister's Decision to Uphold the Commission Adjustment to Export Prices Using Tjiwi Kimia's Export Prices to Australia as an Index Was Reasonable and Consistent with Australian Law

On its third ground of challenge, Australian Paper makes the same argument with respect to both Indah Kiat and Pindo Deli, which is that the Commission should not have used the change in Tjiwi Kimia's export prices to Australia as a basis for adjusting Indah Kiat's and Pindo Deli's 2015 export price. Australian Paper does not dispute the Commission's finding that neither Indah Kiat nor Pindo Deli exported to Australia during the 2019 period of review.¹⁹ Consequently the Commission needed to find an alternate export price.

It is undisputed that Section 269TAB(2B)(a) allows the Commission to use the export price from the original investigation.²⁰ Indeed, the Commission indicated it was preferable because the relevant information was subject to onsite verification which confirmed the information was accurate, relevant, and complete.²¹

With respect to the crux of Australian Paper's argument, the Commission explained in great detail why it was appropriate to use Tjiwi Kimia for the timing adjustment to Indah Kiat's prices.²² The Commission supported its decision as follows:

- Verified 2015 export prices of Indah Kiat and Tjiwi Kimia show a high level of correlation in pricing for relevant models of A4 copy paper compared to other Indonesian exporters. Both Indah Kiat and Tjiwi Kimia provided Australian export sales listings to the Commission for Investigation 341. The Commission compared each exporter's respective export prices to common Australian end customers during 2015. This analysis

¹⁹ Report No. 547, pp. 76, 88-89.

²⁰ Report No. 547, p. 80.

²¹ Report No. 547, p. 81.

²² The same rationale applied to Pindo Deli. Report No. 547, pp. 95-96.

established that there were immaterial differences in pricing between Indah Kiat and Tjiwi Kimia to those common customers. The same degree of similarity in pricing was not evident when comparing weighted average export prices of other Indonesian exporters into Australian during 2015.²³

- Exports made by Tjiwi Kimia in 2019 were to the same importer that both Indah Kiat and Tjiwi Kimia exported to in 2015. Examination of the terms of sale for Tjiwi Kimia and Indah Kiat in 2015 to this importer found that the terms of sale were similar and there is no information to indicate that the terms of sales for Tjiwi Kimia have changed since 2015. During the original investigation, the exporters also advised that the process for negotiating and undertaking sales to Paper Force for each exporter were similar.²⁴
- 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).²⁵
- To assess the accuracy of the import data, the Commission was able to reconcile a 2015 export price calculated from the import database to the verified export price for Tjiwi Kimia in 2015 to within a small margin of difference, confirming a high level of correlation in the ABF data to verified transaction data for Tjiwi Kimia.²⁶

The Commission acknowledged Australian Paper's arguments against using Tjiwi Kimia and explained, in addition to the above, Australian Paper had not offered a valid basis for using third country prices.²⁷ Finally, the Commission performed an analysis showing Tjiwi Kimia's export price followed the same trends as other countries from 2015-2019.²⁸ In short, the Minister's determination upholding the Commission's use of Tjiwi Kimia prices to make a timing adjustment was reasonable and consistent with Australian law.

²³ Report No. 547, p. 82.

²⁴ Report No. 547, p. 83.

²⁵ Report No. 547, p. 83.

²⁶ Report No. 547, p. 83.

²⁷ Report No. 547, p. 86.

²⁸ Report No. 547, Fig. 11.