

24 July 2015

Anti-Dumping Review Panel
C/O Legal Services Branch
Department of Industry and Science
10 Binara Street
CANBERRA CITY ACT 2601

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Dear Sir/Madam

Review of a decision by the Parliamentary Secretary to impose measures on exports of newsprint from France

1. Executive Summary

I refer to an application for the review of a decision by the Parliamentary Secretary to impose anti-dumping measures on newsprint exported from France. The application was made by UPM Kymmene Pty Ltd ("UPM") which it is stated in the application for review is a *"member of a group of associated companies directly concerned with the manufacture, importation and exportation of newsprint from France to Australia and referred to collectively herein as UPM"*.

Norske Skog Industries (Australia) Limited ("NSIA") is the sole Australian manufacturer of newsprint and is the interested party that made an application for anti-dumping measures in March 2014.

NSIA has reviewed the applicant's request for review and requests the Review Panel to reject the claims of UPM and affirm the Parliamentary Secretary's decision of 30 April 2015.

2. NSIA comments re grounds of appeal by UPM

(i) Background

NSIA lost cornerstone supplier status at WAN in 2010/11. WAN commenced sourcing its newsprint from UPM of France and Jeonju Corporation ("Jeonju") of Korea. UPM correctly confirms that NSIA has made bids for business at WAN including for supply (j response to tender) from 1 July 2014. NSIA was unsuccessful with UPM securing volumes (at a dumped price) at reduced share, and the balance awarded to Jeonju.

(ii) NSIA has not suffered material injury

It is submitted on behalf of UPM that NSIA unlike "most other suppliers" has "broadly maintained costs, prices, profitability, production volumes, production utilization and employment"¹. Section 7 of Report No. 242 contradicts UPM's claim as it was determined that NSIA had suffered material injury in the investigation period in the form of reduced sales volumes, price depression, price suppression, reduced profits and profitability, and reduced revenues.

The generalization and use of the descriptor "broadly" misrepresents the extent of the injury experienced by NSIA in the investigation period. UPM has sought to draw comparisons with NSIA's economic health and "the global newsprint industry". NSIA's position is starkly different to producers in other countries as NSIA's long-term production and supply position is

¹ UPM Application for Review, P4.

unique to Australia (i.e. two local production facilities and supplementary imports from New Zealand).

NSIA would also highlight with the Review Panel that the impact of dumping in a contracting market is far more substantial and severe than in a stable or growing market. The impact of dumped prices on a market experiencing declining volumes, fuels aggressive price reductions and price undercutting, culminating in reduced profits and profitability.

(iii) Price injury

It is noted that UPM refers to “allegedly” dumped exports. UPM fully cooperated with the Commission in the inquiry and it was confirmed that the exports by UPM were at dumped prices. UPM further suggests that NSIA has not experienced price depression as NSIA's selling prices over the investigation period (i.e. 2010/11 to 2013/14, years ending March) were higher in the investigation period (2013/14) than the initial year of the review period. NSIA's reduced selling prices in 2013/14 are a question of fact. The Review Panel would note that NSIA's selling prices in 2013/14, were lower than each of the previous two years, with the largest reduction in the investigation year period.

UPM seeks to explain the reasons for the decline in selling prices in 2013/14 as due to “leverage on Korean and possibly Indonesia delivered prices as the cheapest alternative sources”. NSIA's offers for supply reflected the competitive offerings of Jeonju and UPM, particularly at the WAN and APN accounts.

UPM's assessment and conclusions concerning its failure to secure the APN volumes in 2013/14 fails to consider the reductions in price NSIA offered to secure a share of the tendered volumes. NSIA's tendered offer was provided to the Commission and was influenced again by offers from Jeonju and UPM, along with higher-priced offers from the Indonesian supplier (based upon published ABS import data).

The supply price for the APN tender represented a *significant* reduction in price for NSIA. It cannot be dismissed as being of such lesser amount as is suggested by UPM.

NSIA also rejects UPM's claims that it had not suffered price suppression during the investigation period. NSIA had experienced a significant erosion of its margin (prices less costs) in the investigation period. This margin erosion can be attributed to the availability of dumped exports of newsprint on the Australian market (from UPM) during the investigation period.

NSIA does not consider that UPM's claims that the Australian industry has not suffered price depression, price undercutting and price suppression in the investigation period can be sustained. NSIA requests the Review Panel to dismiss UPM's claims that the price-effect injury was not significant and affirm the Parliamentary Secretary's decision to publish a dumping duty notice on exports of newsprint from France.

(iv) Sales volumes and reduced revenues

UPM seeks the Review Panel to find that volume injury experienced by the Australian industry can be attributed to the contraction of the newsprint market. As indicated, the financial impact of dumped exports in a contracting market has a far greater influence than in a market experiencing growth.

In a volume dependent business, NSIA is reliant upon securing volumes at each of the four large newspaper publishers. Prior to 2013/14, NSIA had reduced its imports of newsprint from New Zealand (used to supplement Australian production). However, in the investigation period, NSIA's production utilization rates of its Australian plants had declined, and dumped exports into Australia were a key influencing factor of NSIA's inability to supply at WAN given that there existed available local production capacity to supply.

It is noted that UPM has stated that the WAN agreement required the delivery of specified quantities on a financial year basis. This admission that UPM was contracted to supply volumes – at a price that did not reflect currency movements – confirms that the sales by UPM were injurious to the Australian industry as the Australian currency depreciated.

The claim that the Commission should have examined UPM volumes (and hence market volumes) on a financial year basis cannot be sustained. The investigation period was nominated by the Commission at the commencement of the investigation with no opposition to the selected period notified.

NSIA would reaffirm that it was prevented access to the WAN tender due to the dumped prices of UPM. Similarly, NSIA reduced its price offer at APN on the basis of available offers of dumped imports from UPM.

UPM contends that the Commission relied upon incorrect presumptions in its findings that *“in the absence of dumping, NSIA would have been in a stronger position to achieve sales to WAN because the UPM price offer would have been less competitive”*. There can be no basis for UPM to assert that NSIA was not a suitable alternate supplier, nor would Jeonju be a sole supplier given its preferred two-sources of supply preference. UPM's assertions that there has been no sales volume injury to NSIA is therefore incorrect as NSIA would have been able to supply in the absence of the competitive edge afforded to the dumped UPM exports.

NSIA further considers that the impact of the dumped exports from UPM impacted the selling prices (and hence sales revenues) of local newsprint sales. UPM's claims of an absence of sales volume and revenue injury are not supported by the facts and hence the Parliamentary Secretary's decision to publish a dumping duty notice is the correct decision.

(v) Profits and profitability

It is suggested on behalf of UPM that the profit injury experienced by NSIA cannot be attributed to the exports by UPM. UPM has submitted that the Parliamentary Secretary has failed to attribute material injury and, that in respect of the period covered by the provisional measures, failed to examine the issue of causation.

UPM's claims appear to address the issue of causation more so than the impact of the price and volume impact on industry profit and profitability. NSIA submits that the price and volume findings of the Parliamentary Secretary support a conclusion that the Australia industry has suffered profit and profitability impacts in the investigation period.

(vi) Causation

Report No. 242 details the Commission's analysis of causation². UPM does not acknowledge the Commission's findings that in a price sensitive market such as newsprint, the impact of dumped exports on the pricing intentions of other competitors is substantial. The availability of dumped exports from UPM it is a supplier with established avenues to market are key considerations in the causation analysis. The Commission has correctly concluded (and the Parliamentary Secretary relied upon) that the dumping afforded UPM a competitive advantage that permitted UPM to secure sales at NSIA's expense.

The relative market size of the volume of dumped exports from UPM was sufficient to influence prevailing prices in a price sensitive market. UPM's impact on the market cannot be dismissed due to the relativities of the market share held by the dumped volumes.

Contrary to the assertions made in the UPM application for review, the Commission has detailed the grounds for its causation findings. These conclusions are commensurate with available information as to the impact of the dumped exports on the Australian industry's prices and volumes across the investigation period.

² Report No. 242, Section 8.

It was therefore reasonable for the Commission and the Parliamentary Secretary to conclude that exports by UPM had caused material injury to the Australian industry in 2013/14.

(vii) **Materiality**

UPM claims that the Commission has not made a finding as to the “materiality” of the injury experienced by the Australian industry in the investigation period. This is not the Case. Section 8 of Report Mo. 242 is dedicated to the assessment of material injury caused by the dumped goods. The Commission is clear in its assessment that a number of factors have caused injury to the Australian industry during the investigation period. The impact of these other factors on the economic performance of the Australian industry does not detract from the finding of the Commission that in a price sensitive market that dumping of itself has caused *material* injury to NSIA.

Additionally, it is observed by NSIA that³ *“the Commission examined which newsprint suppliers were the highest and lowest bidders and referred to this analysis of confidential information in its consideration on whether dumping has caused material injury”*. The Commission therefore was able to satisfy itself that the dumped exports by UPM were a cause of the material injury to NSIA.

The Commission has exercised care in detailing the nature of the long-term contracts required by the newspaper publishers including the influence of off-contract sales and how the offered prices influence the price negotiation process.

NSIA further acknowledges the Commission’s findings that UPM has an ongoing contract for the supply of newsprint and it was reasonable to conclude that the dumping and material injury from UPM’s prices would continue in the absence of measures.

3. Conclusions

UPM’s grounds for review are based on assertions that the “alleged” dumped goods have not caused material injury to the Australian industry. NSIA rejects these claims as the assertions that NSIA has not experienced price and volume injury that have impacted profit and profitability in the investigation period cannot be supported. The Commission has exercised due care in its analysis of the pricing impacts of the dumped exports in a price sensitive market. The Commission’s analysis enabled it to identify the impact of the dumped exports on pricing in long-term contracts and for off-contract volumes. Prices are influenced by import parity prices of which UPM’s export prices could be readily observed. The prices of UPM’s exports were at a level that prevented NSIA from competing on a fair basis, and afforded UPM a commercial advantage.

NSIA has indicated that the impact of the dumped exports in a contracting market is of greater significance than in a market experiencing growth. The availability of dumped exports necessitates the local supply to further reduce prices in a price transparent market in order to maintain sales volumes and market share. The dumped exports prevented NSIA from competing for sales volumes and further influenced subsequent contract and off-contract negotiations.

NSIA submits that the Parliamentary Secretary has made the correct and preferred decision to apply dumping duties on exports of dumped newsprint from France by UPM. The Parliamentary Secretary has also correctly established that the Australian industry has suffered injury in the form of price depression, price undercutting and price suppression, a loss of sales volumes and sales revenues that have contributed to reductions in profit and profitability during the investigation period.

³ *Ibid*, P. 45.

NSIA requests the Review Panel to dismiss UPM's claim for the Parliamentary Secretary's decision to revoke the anti-dumping measures and to affirm the Parliamentary Secretary's decision to apply dumping duties to exports of newsprint from France.

If you have any questions concerning this submission, please do not hesitate to contact me on (02) 8268 2037 or NSIA's representative Mr John O'Connor on (07) 3342 1921.

Yours sincerely



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