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Australian Government
**Department of Industry,
Innovation and Science**

Anti-Dumping Commission

REPORT TO THE ANTI-DUMPING REVIEW PANEL

REINVESTIGATION OF CERTAIN FINDINGS

REPORT 308

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ABBREVIATIONS

ABF	Australian Border Force
The Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
APN	APN News and Media Ltd
ADA	Anti-Dumping Agreement
the Commission	The Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
CIF	Cost, insurance and freight
the goods	the goods the subject of the application (also referred to as the goods under consideration or GUC)
gsm	grams per square metre
Jeonju	Jeonju Paper Corporation
Korea	Republic of Korea
the Minister	the Minister for Industry, Innovation and Science
NSIA	Norske Skog Industries Australia Limited
the Parliamentary Secretary	the Parliamentary Secretary to the Minister for Industry, Innovation and Science
UPM	UPM France S.A.S.
WAN	West Australian Newspapers Ltd

1 INTRODUCTION AND FINDINGS

1.1 Introduction

This report provides the results of the reinvestigation by the Commissioner of the Anti-Dumping Commission (the Commissioner) of certain findings in Report No. 242 (REP 242), relating to the dumping of newsprint exported to Australia from France.

1.2 The Commissioner's findings

Having regard to evidence submitted to the Anti-Dumping Commission (the Commission) during the original investigation, the Commissioner affirms the following findings in respect of REP 242:

- The Australian industry suffered injury in the form of lost sales volume as a result of dumped goods;
- The Australian industry also suffered injury in the form of price depression, price suppression, and profit and profitability as a result of dumped goods; and
- Other market factors such as un-dumped imports, imports from other countries and contractions in demand for newsprint and changes in patterns of consumption caused injury to the Australian industry. However, these factors do not detract from the finding that dumped newsprint from France caused material injury to the Australian industry.

1.3 Summary of Reasons

The Commission has reinvestigated the finding that dumped newsprint exported from France had caused material injury to the Australian industry producing like goods. The Australian industry is represented by Norkse Skog Industries Australia Limited (NSIA). As requested by the Anti-Dumping Review Panel (the ADRP), the Commission focused on aspects of material injury that included loss of sales volumes and price effects. The Commission's reinvestigation found:

- Dumped newsprint from France affected the Australian industry's ability to compete for contracts with customers (refer to sections 3.2.1 and 3.4.1 of this report);
- Prices of newsprint were affected by dumped exports from France, which affected other areas of the market, such as renegotiation of contracts of other customers of the Australian industry (refer to sections 3.4.1 and 3.5.1 of this report); and
- Although the newsprint market is contracting, and other market forces affect sales volumes and prices, these do not detract from the finding that dumped newsprint exported from France caused material injury to the Australian industry (refer to sections 3.3.1 and 3.7.1 of this report).

2 BACKGROUND

2.1 Original investigation

On 22 April 2014, the Commissioner initiated an investigation regarding the alleged dumping of newsprint exported from the Republic of Korea (Korea) and France.

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The Parliamentary Secretary to the then Minister for Industry (the Parliamentary Secretary)¹ accepted the findings and recommendations in REP 242. A dumping duty notice imposing dumping duties on newsprint exported to Australia from France was published on 30 April 2015.

2.2 Legislative framework for a review

Division 9 of Part XVB of the *Customs Act 1901*² sets out procedures for review by the Anti-Dumping Review Panel (ADRP) of certain decisions made by the Parliamentary Secretary or the Commissioner.

Interested parties³ in relation to a reviewable decision⁴ can apply to the ADRP for a review of that decision.⁵ If an application for review is not rejected, the ADRP must make a report to the Parliamentary Secretary on the application recommending:

- that the Parliamentary Secretary affirm the reviewable decision; or
- that the Parliamentary Secretary revokes the reviewable decision and substitute a specified new decision.⁶

If the ADRP has not rejected an application for review, before making a recommendation under subsection 269ZZK(1), the ADRP may, by written notice, require the Commissioner to:⁷

- reinvestigate a specific finding or findings that formed the basis of the reviewable decision; and
- report the result of the reinvestigation to the ADRP within the specified period.

2.3 Review by the Anti-Dumping Review Panel

On 1 June 2015, an application for review of a decision by the ADRP was lodged on behalf of an interested party, UPM Kymmene Pty Ltd (UPM), a member of a group of companies directly concerned with the manufacture, importation and exportation of newsprint from France to Australia. UPM requested review of the Parliamentary Secretary's decision to impose dumping duty on newsprint exported to Australia from France (the reviewable decision).

On 19 August 2015, the ADRP asked the Commissioner under subsection 269ZZL(1) to reinvestigate certain findings that formed the basis of the reviewable decision. The ADRP requested that the Commissioner reinvestigate the finding that newsprint exported from France caused material injury to the Australian industry producing like goods.

The ADRP advised the Commissioner of the reasons for the reinvestigation:⁸

¹ On 23 December 2014, the then Minister for Industry and Science delegated his powers and functions under Part XVB of the *Customs Act 1901* to the Parliamentary Secretary to the Minister for Industry and Science. On 20 September 2015, the Department of Industry and Science became the Department of Industry, Innovation and Science. The titles of the Minister and Parliamentary Secretary also changed to the Minister for Industry, Innovation and Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science.

² All legislative references in this report are to the *Customs Act 1901*, unless otherwise stated

³ As defined in section 269ZX.

⁴ As defined in subsection 269ZZA(1)

⁵ Section 269ZZC.

⁶ Subsection 269ZZK(1).

⁷ Subsection 269ZZL(1).

⁸ ADRP letter to the Commission requesting reinvestigation of certain findings

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1. *The injury analysis period for the purpose of determining whether the Australian industry had suffered injury was from 1 April 2010 and the investigation period was from 1 April 2013 to 31 March 2014. The Australian industry (NSIA) was found to have suffered the following injury*
 - *Reduced sales volumes*
 - *Price depression*
 - *Price suppression*
 - *Reduced profits and profitability*
 - *Reduced revenues.*
2. *It is not clear however, how this injury was caused by dumped imports of newsprint from France.*
3. *With the injury in the form of sales volumes, the conclusion was that in the absence of dumping, NSIA would have been in a stronger position to achieve sales to Western Australian Newspapers Ltd (WAN) because the UPM price offer would have been less competitive. It is not clear though how this would support a conclusion that the dumped exports caused the lower sales volumes for NSIA which were identified.*
4. *The investigation found that from 2010/11 through to 2013/14 NSIA's annual sales fell by around 25 per cent. During this time, the exports by UPM increased, although from a small base, apparently as a result of a successful bid in 2010 to supply WAN.*
5. *The bids for the supply and the award of a three year contract by WAN in 2013 were analysed. However, this contract was for the supply of newsprint for the years 2014/15 onwards and therefore cannot have caused the loss of sales in the earlier years. The loss of sales volumes would seem to have caused by the dramatic fall in the market for newsprint, with a decline of around 37 per cent in annual sales.*
6. *With the injury caused by price effects, there are two relevant findings. The first is that dumping gave UPM a price advantage which allowed it to secure sales when competing directly with NSIA. While UPM was awarded part of the WAN contract for supply from 2014/15 onwards, it is difficult to see how that evidence (given the timing and various pricing in the bids), could have caused the price effects injury identified during the investigation period.*
7. *The second finding is that it was reasonable to conclude that NSIA's prices in other contracts were influenced by the competition with the dumped imports from France. It is not clear what evidence there is to support this finding. Again, the only tender by UPM which was analysed is the WAN tender in 2013 for the supply of newsprint for three years from 2014/15 and it is not clear how the pricing in this tender influenced pricing during the investigation period.*
8. *In its submission, NSIA refers to its price offer to APN News and Media Ltd (APN) being on the basis of available price offers of dumped imports from UPM. There is however no analysis of the APN tender by the Commission*

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when considering the issue of causation. What were the available price offers of dumped imports and how did those offers influence NSIA's prices in other contracts?

9. *To the extent that exports were influencing prices during the investigation, they would seem to be the undumped exports from Korea. There does not seem to be any evidence that prices were being influenced by dumped exports from France.*

The Commission's reinvestigation report is due by 30 October 2015.

2.4 Relevant information

In conducting a review, subsection 269ZZK(4) provides that the ADRP must (subject to subsections 269ZZK(4A) and (5)) have regard to relevant information and any conclusions based on relevant information that are contained in the application for the review or in any submissions received under section 269ZZJ.⁹ Relevant information is the information to which the Commissioner had regard to when making the findings to the Parliamentary Secretary in relation to the making of the reviewable decision.¹⁰ The application for dumping duty notice, submissions concerning the publication of that notice which the Commissioner had regard to for the purposes of formulating the Statement of Essential Facts No. 242 (SEF 242), submissions in response to SEF 242, REP 242 and any other matters considered relevant by the Commissioner in the course of the original investigation.

2.5 The Australian newsprint market

The newsprint market is described in Section 5 of REP 242. This background provides context when examining the contracts, price effects and negotiations for supply of newsprint.¹¹ A longer extract from REP 242 on how contracted arrangements for the supply of newsprint in the Australian market is included at **Non-confidential attachment B**.

The Australian market for newsprint is dominated by four major newspaper publishing groups that use over 95 per cent of the total volume of newsprint sold in Australia. They are:

- *News Limited;*
- *Fairfax Media Ltd;*
- *WAN; and*
- *APN News and Media Ltd (APN).*

These major end users of both the locally produced and imported goods are publishers of daily, weekly and weekend newspapers that are produced and sold in major metropolitan cities as well as many regional cities and towns.

⁹ Subsection 269ZZK(4).

¹⁰ Subsection 269ZZK(6)(a).

¹¹ REP 242 – Section 5.2

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A relatively small amount of newsprint is sold to regional newspaper publishers as well as to commercial printers and packaging companies that use newsprint for book or catalogue printing, or for wrapping paper.

Demand for newsprint is driven by the amount of newspapers sold and the number of pages per newspaper. In recent years, the rise of digital media has caused newspaper sales to fall. The rise of digital advertising services has also caused a decline in the volume of advertising in each newspaper resulting in fewer pages per newspaper.

Newspaper publishers are able to use paper of various grades to print newspaper. Rolls of 42 grams per square metre (gsm) newsprint are equal to 45 gsm newsprint in weight and diameter. However, 42 gsm newsprint is generally thinner than the 45 gsm variant. As such, 42 gsm newsprint is in a roll of greater length and greater area and, as such, more newspaper pages can be produced per roll. Although slightly more expensive per tonne, using 42 gsm newsprint may result in lower paper costs per page for publishers.

In recent years, the sales mix in Australia has substantially changed from 45 gsm having been the dominant grade in 2010/11 to 42 gsm being the dominant grade in 2013/14.

3 REINVESTIGATION

3.1 ADRP reasons 1 and 2

The injury analysis period for the purpose of determining whether the Australian industry had suffered injury was from 1 April 2010 and the investigation period was from 1 April 2013 to 31 March 2014. The Australian industry (NSIA) was found to have suffered the following injury

- *Reduced sales volumes*
- *Price depression*
- *Price suppression*
- *Reduced profits and profitability*
- *Reduced revenues.*

It is not clear however, how this injury was caused by dumped imports of newsprint from France.

3.1.1 Reinvestigation – reasons 1 and 2

This reinvestigation has reviewed the original investigation and re-analysed the information that was before the Commission. The causal link between material injury and dumped newsprint from France has been re-examined and the findings are outlined below. The Commission addresses each of the ADRP's questions in turn. The conclusion at section 3.8 addresses how dumped imports caused injury to the Australian industry. This ground for reinvestigation is addressed through the responses to the other grounds for reinvestigation as described below.

3.2 ADRP reason 3

With the injury in the form of sales volumes, the conclusion was that in the absence of dumping, NSIA would have been in a stronger position to achieve sales to Western Australian Newspapers Ltd (WAN) because the UPM price offer would have been less competitive. It is not clear though how this would support a conclusion that the dumped exports caused the lower sales volumes for NSIA which were identified.

3.2.1 Reinvestigation – reason 3

This reinvestigation analysed the processes of how contracts are negotiated and awarded for the supply of newsprint, and the resulting timeline of events in the newsprint market. A timeline of key events is provided in **Non-confidential attachment A**.

The period for analysing the injury to the Australian industry was from April 2010. In 2010, WAN held a tender process to select newsprint suppliers for the period 2010–13. Prior to this time, NSIA was the major supplier of newsprint to WAN. In the 2010 tender selection process, NSIA submitted a bid, but was unsuccessful and the supply was awarded to Jeonju of Korea and to UPM of France. UPM provided between **[CONFIDENTIAL TEXT DELETED – sales arrangement]** per cent of WAN's supply depending on the different composition of WAN's newsprint supply through the contract period.

The Commission understands that WAN and UPM negotiated and agreed to terms in 2010, a period prior to the investigation period. The supply of newsprint to WAN by UPM continued throughout the investigation period until June 2014. During the original investigation, the Commission analysed exports from France from April 2013 to March 2014 and these exports were found to be at dumped prices. This reinvestigation considers that even though contracts between WAN and UPM were agreed on in 2010, the supply of newsprint by UPM to WAN according to terms of that contract included exports at dumped prices.

In November 2013, WAN launched a request for tender for newsprint supply from 2014 to 2017. The WAN tender process concluded in February 2014. This time period, in which prices for supply were being negotiated, is within the investigation period. NSIA submitted a bid to WAN, but was unsuccessful in the tender process, while UPM was successful in winning a proportion of WAN's newsprint supply.

This renegotiation occurred in the context of a market supplied by dumped newsprint from France. As a result, the Australian industry was in a weak position relative to UPM to secure new contracts. This resulted in NSIA failing to make sales that it may have otherwise achieved in a market not affected by dumping. The Commission considers that these lost sales represent injury in terms of lost sales volume.

3.3 ADRP reasons 4 and 5

The investigation found that from 2010/11 through to 2013/14 NSIA's annual sales fell by around 25 per cent. During this time, the exports by UPM increased, although from a small base, apparently as a result of a successful bid in 2010 to supply WAN.

The bids for the supply and the award of a three year contract by WAN in 2013 were analysed. However, this contract was for the supply of newsprint for the years 2014/15 onwards and therefore cannot have caused the loss of sales in the earlier years. The loss of sales volumes would seem to have caused by the dramatic fall in the market for newsprint, with a decline of around 37 per cent in annual sales.

3.3.1 Reinvestigation – reasons 4 and 5

This reinvestigation concurs with the ADRP's assessment that the 2013 WAN contract negotiations for supply from July 2014 could not have caused injury in the form of lost sales volumes prior to that time. However, the fall in NSIA's annual sales from 2010–11 through to 2013–14 was partly due to the lost sales volume resulting from sales to WAN being lost to UPM after the 2010 bidding process as discussed above at 3.2.1.

With regard to the potential for lost sales volumes from a 'dramatic' fall in the market, this reinvestigation notes that the original investigation found that injury to the Australian industry was from several sources, including a contracting market and un-dumped imports.

The Commission received submissions from UPM and Seven West Media (the parent company of WAN) that highlighted the contracting market, and also that exports of newsprint from France represent an insignificant proportion of the market.¹² Seven West Media further claimed that despite NSIA losing sales volumes, NSIA was able to increase its market share over the investigation period, and this finding would preclude a conclusion of material injury to NSIA from dumped goods exported from France.¹³

The original investigation found that newsprint exported from France was the second largest source of imported newsprint in Australia, which over the injury period was between 16 and 24 per cent of total imports (excluding NSIA imports from New Zealand). In 2013–14, newsprint exported from France represented 4 per cent of market share. REP 242 further notes that NSIA was able to increase its market share, to some extent, due it being able to make sales from its Australian manufacturing operations to replace most of its own imports from New Zealand. REP 242 concluded that NSIA did not suffer injury in the form of reduced market share due to dumped imports of newsprint from France.

This reinvestigation acknowledges that the newsprint market has endured sustained drops in size over the past five years. This contracting market has caused injury to the Australian industry, and as a result, sales volumes have declined. As noted above,

¹² Clayton Utz on behalf of Seven West Media - ADRP Review: Newsprint Exported to Australia from France and the Republic of Korea, 24 July 2015.

Statement by UPM Kymmene Pty Ltd relating to decisions of the Parliamentary Secretary under subsections 269TG(1) and (2) to issue dumping duty notices published on 30 April 2015 that apply to newsprint export from France, 1 June 2015

¹³ Clayton Utz on behalf of Seven West Media - ADRP Review: Newsprint Exported to Australia from France and the Republic of Korea, 24 July 2015.

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contracts for supply of newsprint were negotiated in the context of a market influenced by dumped goods, and these dumped goods weakened the ability of the Australian industry to secure new contracts.

This reinvestigation notes *the Ministerial Direction on Material Injury*, which states that there is no minimum standard that determines whether dumped imports have a sufficient share of the Australian market to cause material injury. Furthermore, the Ministerial Direction adds that dumping may be causing material injury even if the industry is adversely affected by a range of other factors. These factors could include a contracting market.

3.4 ADRP reason 6

With the injury caused by price effects, there are two relevant findings. The first is that dumping gave UPM a price advantage which allowed it to secure sales when competing directly with NSIA. While UPM was awarded part of the WAN contract for supply from 2014/15 onwards, it is difficult to see how that evidence (given the timing and various pricing in the bids), could have caused the price effects injury identified during the investigation period.

3.4.1 Reinvestigation – reason 6

In order to address this question, this reinvestigation analysed the timeline of events in the newsprint market over the injury and investigation periods. As noted above at section 3.2.1, the processes of newsprint contract negotiations indicate how the Commission came to the conclusions in the original investigation.

In November 2013, WAN launched a request for tender for newsprint supply from 2014 to 2017. The WAN tender process concluded in February 2014. This time period, in which prices for supply were being negotiated, is within the investigation period. NSIA submitted a bid to WAN, but was unsuccessful in the tender process, while UPM was successful in winning a proportion of WAN's newsprint supply.

UPM claimed in a submission that given it was not the under bidder in the tender process, and that price was not a factor in its winning the bid¹⁴. However, the Commission provided analysis in Confidential Appendix 9 to REP 242, which highlights cost differentials over the course of the entire supply period. In relation to this analysis, the Commission stated in section 8.9.1 of REP 242:

The Commission found that newspaper publishers have requested bids to supply various proportions of their requirements over periods ranging from three to seven years. The Commission has also found that newspaper publishers evaluate bids on the basis of the total cost of supply over the entire period to which the tender pertains, not only on the first year of that period. Both NSIA and UPM have made bids to supply newsprint over periods longer than one year. The Commission has analysed details of both successful and failed bids and contracts over the entire periods that are relevant. The Commission has determined which newsprint suppliers were the highest and lowest bidders and referred to this analysis of

¹⁴ Statement by UPM Kymmene Pty Ltd relating to decisions of the Parliamentary Secretary under subsections 269TG(1) and (2) to issue dumping duty notices published on 30 April 2015 that apply to newsprint export from France, 1 June 2015

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confidential information in its consideration on whether dumping has caused material injury.

This reinvestigation has found that the nature of contract negotiations in the newsprint industry indicates that it is common for pricing and terms to vary within specific periods of contracts. When considering the pricing offers for the 2014 WAN contract, the Commission did not look at the first year in isolation. The Commission undertook a comparative analysis of the terms for the entire contract. The analysis of the respective bids in Confidential Appendix 9 to REP 242 indicates that in the first year of the proposed contract, NSIA's offered price for newsprint was **[CONFIDENTIAL TEXT DELETED – prices]** less than that of UPM. However, over the entire three year period, NSIA's offered price for newsprint was **[CONFIDENTIAL TEXT DELETED – prices]** higher than that of UPM and NSIA was unable to achieve its quoted price.

During the negotiations for the contract to cover 2014–2016, the Commission considers that the dumped prices would have assisted UPM to win the contract with WAN. Although UPM's price was higher in the first year than the Australian industry, based on the above analysis of the entire contract, this reinvestigation considers that UPM had a competitive advantage over NSIA by offering newsprint at prices that were lower than those of NSIA.

The reinvestigation also analysed injury with regard to Subsections 269TAE(1),(e), (f) and (g). The negotiation of the WAN contract was conducted in the context of a market that included supply of newsprint at dumped prices. The Commission considers that the price that had been and is likely to be paid for newsprint manufactured by NSIA and sold in Australia had been affected by the prices of newsprint by UPM as indicated in its contract with WAN. That is, dumped newsprint resulted in lower prices being achieved at the time and in the future by NSIA.

These lower prices, affected by dumped newsprint, in turn, affected other relevant economic factors for the Australian industry. As outlined in REP 242, profit and profitability achieved by NSIA was lower as were other economic factors such as value of assets, level of capital investment, capacity utilisation, and employment were all lower. These factors have been influenced by external market factors, including dumped goods and a contracting newsprint market. However, the ability of the Australian industry to compete for contracts has been weakened, and its contracts with major customers were re-negotiated.

3.5 ADRP reason 7

The second finding is that it was reasonable to conclude that NSIA's prices in other contracts were influenced by the competition with the dumped imports from France. It is not clear what evidence there is to support this finding. Again, the only tender by UPM which was analysed is the WAN tender in 2013 for the supply of newsprint for three years from 2014/15 and it is not clear how the pricing in this tender influenced pricing during the investigation period.

3.5.1 Reinvestigation – reason 7

This reinvestigation has analysed the original findings and has assessed that the influence of dumped newsprint from France in certain segments of the market affected the negotiation of contracts with other customers of the Australian industry. This is highlighted in NSIA's existing contracts with its major customers, News Corp Australia (formerly NEWS Ltd) and Fairfax Media. News Corp Australia and Fairfax represent NSIA's largest customers and accounted for maintaining **[CONFIDENTIAL TEXT**

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DELETED – volume amount] per cent of NSIA’s total sales in 2013-14. NSIA’s contract with News Corp Australia was not due to expire until 2016. However, in December 2013 – which is within the investigation period – News Corp Australia and Fairfax separately requested a renegotiation for supply.

These issues were analysed in the original investigation and REP 242 noted:

Certain major customers of NSIA had long term contracts in place and requested NSIA to renegotiate details of these contracts before they expired. The Commission has confirmed that NSIA secured supply at reduced prices and reduced volumes in the renegotiation of existing agreements.

It is apparent that quotations that were being provided in these negotiation processes were prepared in the context of a market influenced by the prices of imported newsprint. The evidence gathered in relation to the competition for supply of newsprint at major newspaper publishers during the investigation period shows that NSIA reduced its prices or quoted prices that were lower than those that prevailed in the two years prior to the investigation period. The Commission also found that the decline in prices and volumes achieved by NSIA coincided with the negotiation and subsequent granting of contracts to supply newsprint.¹⁵

The Commission considers that the requests to NSIA by News Corp Australia and Fairfax to re-negotiate existing contracts were made in order to achieve prices that were lower and competitive with prices of imported newsprint. The Commission notes that the period of supply of the requests included the years from 2014–15. The Commission considers that the influence of prices negotiated in the contract between WAN and UPM was a factor that influenced prices negotiated between NSIA and its other customers.

In its verification visit to News Corp Australia, the Commission noted that News Corp Australia sourced newsprint from NSIA and from Jeonju of Korea. The report also notes that given that NSIA is the only Australian producer of newsprint, the only option for alternative supply is importation. As such, News Corp Australia was aware of prices being offered in the Australian market by exporters of newsprint. The other major user of newsprint in Australia, Fairfax, is also able to source a portion of its newsprint requirements from exporters. However, NSIA has successfully maintained its sales of this part of Fairfax’s requirements. The 2013 requests for re-negotiation of the contracts with News Corp Australia and Fairfax were made in the context of competition with dumped newsprint. NSIA was required to prepare its bids and conduct its negotiations in this context. The Commission had found that this context included the supply of newsprint from France at dumped prices.

The Commission does not consider it necessary for UPM to have made a bid for the News Corp Australia or Fairfax contracts to affect this finding. REP 242 indicated that the Australian newsprint market is a price sensitive one. The Commission considers that the presence and practices of all importers, including UPM, in the market, were factors that NSIA considered when preparing its bids and negotiating its contracts. The re-negotiations resulted in NSIA achieving lower prices from News Corp Australia and Fairfax.

¹⁵ REP242 Section 8.6.1

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The reinvestigation considers that the contract negotiation processes put in place by major newspaper publishers and the outcomes of those processes were relevant and material factors affecting the price of newsprint in the Australian market.

The Commission considers that the context of the Australian market is such that the bidding and supply of newsprint at dumped prices to WAN by UPM is linked to the fall in prices achieved by NSIA to its other customers, including its largest customers, News Corp Australia and Fairfax. As such, the Commission concludes that NSIA suffered injury from price effects as a result of the bidding and supply of newsprint at dumped prices to WAN by UPM.

3.6 ADRP reason 8

In its submission, NSIA refers to its price offer to APN News and Media Ltd (APN) being on the basis of available price offers of dumped imports from UPM. There is however no analysis of the APN tender by the Commission when considering the issue of causation. What were the available price offers of dumped imports and how did those offers influence NSIA's prices in other contracts?

3.6.1 Reinvestigation – reason 8

The APN request for tender was conducted between August and November 2013, which is within the investigation period. APN has a policy of contracting two suppliers for its newsprint needs. In the case of the August 2013 tender process, APN requested quotes for maintaining **[CONFIDENTIAL TEXT DELETED – volume amount]** per cent of its newsprint supply for 2014. During the original investigation, the Commission did not receive complete information on APN's bidding process. However, based on information provided to the Commission, there were four companies bidding, **[CONFIDENTIAL TEXT DELETED – bidder details]**.

An Indonesian company was already a supplier to APN and in the tender process it was subsequently successful in maintaining **[CONFIDENTIAL TEXT DELETED – volume amount]** per cent of APN's newsprint supply. In a submission to the Commission, UPM stated it made an offer of **[CONFIDENTIAL TEXT DELETED – prices]**. This price was not the lowest offer for APN's newsprint supply, and was ultimately unsuccessful. NSIA also made an initial offer to APN of **[CONFIDENTIAL TEXT DELETED – prices]**, but this offer was rejected. Having been unsuccessful with its first offer, NSIA subsequently made an aggressive quote of **[CONFIDENTIAL TEXT DELETED – prices]**, and was consequently the successful bidder for the remaining **[CONFIDENTIAL TEXT DELETED – volume]** per cent of newsprint supply to APN.

The Commission considers that NSIA was in a negotiation circumstance where it was apparent that it could not win a contract with APN at a price of **[CONFIDENTIAL TEXT DELETED – prices]**. The Commission further considers that NSIA's aggressive bid was rational in the circumstances and also allowed it to determine that UPM's bid must have been between **[CONFIDENTIAL TEXT DELETED – prices]**.

The APN and WAN tender processes demonstrate the competitive nature of the newsprint industry. In the 2013 WAN tender process, newsprint exported from France at dumped prices influenced price offers made by NSIA. Although UPM was not successful in its bid for a share of APN's business, it was competing in a broader market where dumped goods had influenced prices across a range of contracts, and these prices influenced other tender negotiations regardless of whether UPM was an under bidder or not. The success of NSIA in winning the contract with APN on the basis of reduced prices

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supports the finding that NSIA suffered injury in the form of price effects. The market context, which was influenced by dumped newsprint, supports the finding that that injury was caused by newsprint exported from France at dumped prices.

The un-dumped imports from Korea and Indonesia were found to have influenced the prices in the market as well as the dumped goods from France. As noted above, contract negotiations were taking place in the context of dumped imports, which contributed to price suppression and depression.

As discussed above, the dumped imports from The reinvestigation considers that dumped newsprint exported from France contributed to the factors that influenced prices in the injury and investigation period to the Australian industry in the form of price depression and suppression.

3.1 ADRP reason 9

To the extent that exports were influencing prices during the investigation, they would seem to be the undumped exports from Korea. There does not seem to be any evidence that prices were being influenced by dumped exports from France.

3.1.1 Reinvestigation – reason 9

As outlined in the April 2012 *Ministerial Direction on Material Injury*, dumping need not be the sole cause of injury. There are other possible causes of injury to the Australian industry other than dumped goods. These included un-dumped imports from Korea and Indonesia, contractions in demand for newsprint and changes in patterns of consumption.

The newsprint market is in a state of decline due to various market forces such as increased consumption of news through electronic media, which is reducing demand for traditional newspapers. The Australian industry has been weakened by these changes in the market.

France contributed to the material injury suffered by the Australian industry, despite the French imports having an apparent smaller market share. However, this finding does not preclude the finding that the Australian industry suffered injury from other sources, such as a contracting market and un-dumped imports from other countries. None of these factors detract from the assessment that dumping of itself has caused material injury to the Australian industry.

3.2 Findings

Based on the information available to it, the Commission concludes that newsprint exported to Australia from France by UPM:

- influenced News Corp Australia and Fairfax to request contract re-negotiations with NSIA;
- influenced the prices quoted in those negotiations and in turn caused NSIA to achieve lower prices in its sales to News Corp Australia and Fairfax;
- gave UPM an advantage over NSIA in terms of pricing in negotiations to supply WAN. As per the *Dumping and Subsidy Manual*, this establishes a direct link to the injury experienced by the Australian industry.¹⁶

¹⁶ *Dumping and Subsidy Manual* p. 123

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- influenced negotiations to supply APN which in turn caused NSIA to achieve lower prices in its sales to APN;
- lower prices achieved by NSIA resulted in reduced profits and profitability for NSIA;
- other possible causes of injury such as un-dumped imports, imports from other countries and contractions in demand for newsprint and changes in patterns of consumption, do not detract that dumped imports from France caused injury to the Australian industry.

Accordingly, the Commission's reinvestigation affirms the REP 242 finding that dumping of newsprint from France caused material injury to the Australian industry producing like goods.

4 ATTACHMENTS

Title	Description
Non-confidential attachment A	Timeline of events
Non-confidential attachment B	Background to Australian newsprint market