



Ref. No. PP.01/ *463* /DAG.6/SD/06/2022

Jakarta, *29* June 2022

Anti-Dumping Review Panel (ADRP)
Department of Industry, Science, Energy and Resources
10 Binara Street
Canberra City ACT 2601
Australia

Attn.: Mr Paul O'Connor
Member of ADRP

Subject: Government of Indonesia's Submission in Review 2022/153 of the Minister's Decision in Continuation Inquiry 588

Dear Mr. O'Connor,

On behalf of the Government of Indonesia (**GOI**), first of all, I would like to convey that Indonesia respects the right of Australian government to impose or extend anti-dumping measures against unfair trade practices as far as they are consistent with the World Trade Organization (**WTO**) Anti-Dumping Agreement (**ADA**) where Indonesia and Australia are Members of the WTO.

Indonesia has a good bilateral trade relationship with Australia where Australia experienced a trade surplus of USD 6.2 billion in 2021 through trade liberalization commitment under the Indonesia-Australia Comprehensive Economic Partnership Agreement (**IA CEPA**). In such a good bilateral trade relationship between the two countries which is more favorable to Australia, the Australian government has increased the use of trade remedies (anti-dumping) instruments including against A4 copy paper products imported from Indonesia, which tends to be a protectionist.

As you may be aware, Australia's imports of A4 Copy Paper from Indonesia have decreased from 26,465 MT in 2015 (prior to the imposition of antidumping measure) to only 794 MT in 2021.¹ This significant decrease has happened even before the revision of anti-dumping measures for one of Indonesia major exporters namely PT Riau Andalan Kertas (**RAK**) from 12.6%² in 2017 to 59.7% in 2022 through sunset review investigation. Indonesia is of the view that the finding in the aforementioned inquiry is not only inconsistent with the WTO ADA but also disadvantageous for the Australian consumers of A4 Copy Paper by limiting their option to purchase qualified paper product originating in other countries namely Indonesia, Brazil, China, Thailand, Austria, Finland, South Korea, Russia, and Slovakia since A4 Copy Paper products from those countries are also subject to anti-dumping duties.

¹ Trade Map Australia import statistic from Indonesia for HS 4802.56.10.03 and HS 4802.56.10.09 in 2015 and for the year 2021 is using index Table 21 of Report No 588 since in trademap there is no import volume from Indonesia in 2020 and 2021.

² Report 341, A4 Copy Paper - Brazil, China, Indonesia and Thailand.

We believe that trade remedies instruments should not be implemented in such a way, that is, as protectionist tools, to defend an uncompetitive domestic industry against imported products fairly competing. Imposition of anti-dumping instruments should only be utilized to remedy the domestic industry's injury and to offset unfair trade practices, and shall not be imposed as unnecessary measures that will restrict or limit imports from trading partners.

Previously, Indonesia had reluctantly challenged Australia's anti-dumping measure imposition of A4 Copy Paper from Indonesia to the WTO (DS529) in 2017. In that case, the Panel had found that Australia's anti-dumping measure were inconsistent with various Articles of the WTO ADA, and as a result, the Panel recommended Australia to bring its measure into conformity with its obligations under the ADA. However, Australia still continues to impose the anti-dumping duties towards other companies including RAK, has extended the period of imposition of the duties for another 5 years, and has increased the dumping margin significantly from 13.8%³ to 59.7% for RAK and 19.2% to 59.7% for all other exporters (except Indah Kiat, Pindo Deli and Tjiwi Kimia).

Indonesia is of the view that the Australian Anti-Dumping Commission's Report number 588 concerning the continuation inquiry of antidumping measures applying to A4 copy paper exported to Australia from Indonesia is inconsistent with WTO ADA because of the following reasons:

1. As submitted to the Anti-Dumping Commissioner (**Commissioner**) by the GOI on 4 March 2022, the GOI expected the Commissioner to conduct the continuation inquiry in accordance with Article 11.3 of the WTO ADA. This required an evaluation of whether the expiry of the measures would be likely to lead to continuation or recurrence of dumping and injury.
2. The Commissioner determined the 'export price' for Indonesian exports to be the price payable in transactions between Indonesian producer (RAK) and a Malaysian trading company (AFEM) for the purchase and delivery of A4 Copy Paper in Indonesia (transactions entered into and performed in Indonesia). This is inconsistent with Article 2.1 of ADA where the 'export price' should be the price payable by Australian customers to exporter (AFEM) for the purchase and delivery of A4 Copy Paper to the customer in Australia. This is the price at which the A4 Copy Paper was introduced into the commerce of Australia. For the Commission to use any other price (i.e., price between RAK and AFEM), it is inconsistent with and in breach of its obligations under Article 2.1 of the WTO ADA. In addition, the Commission's determination of normal values was also inconsistent with Article 2.1 of ADA as they were not based on domestic sales, notwithstanding reliable information concerning such sales was provided by Indonesia exporters, but it was rejected by the Commissioner who used a methodology that was neither warranted nor permitted under WTO rules.

³ ADRP Report No. 138, A4 Copy Paper exported from the Federative Republic of Brazil, the People's Republic of China, the Republic of Indonesia (except by PT. Indah Kiat Pulp & Paper Tbk, PT. Pabrik Kertas Tjiwi Kimia Tbk and PT. Pindo Deli Pulp & Paper Mills) and the Kingdom of Thailand.

3. Article 3.1 of the WTO ADA requires that a determination of injury for the purposes of Article VI of GATT 1994, which includes a sunset review such as Continuation Inquiry No.588, must be based on 'positive evidence', and involve an 'objective examination' of the effect of 'dumped imports on prices' in the domestic market and the consequent impact on the domestic industry producing like goods in the importing country. A profound analysis is required to produce a firm conclusion that the expiration of the measures would lead to a continuation or recurrence of injury to the Australian industry caused by dumped exports from Indonesia. The GOI considers that Continuation Inquiry No.588 did not involve an 'objective examination' based on 'positive evidence' pertaining to the issues requiring consideration.
4. The Commissioner failed to take into account other factors which have contributed to the injury suffered by the domestic industry. It is essential to analyze other economic factors, other than imported A4 Copy Paper from Indonesia, which critically caused the injury to Australian industry. For example, sales volumes in the Australian A4 Copy Paper market have declined due to the decrease of business-to-business sales, e.g. because of businesses and consumers switching to electronic solutions (digitalization) in substitution for paper-based solutions, business inactivity and a shift to working from home arrangements driven by COVID-19 pandemic.⁴ It is necessary to emphasize that the period of investigation of Continuation Inquiry of 588 (1 July 2020 – 30 June 2021) coincides with the period of COVID-19 pandemic. We also see the injury likely further compounded by the existence of excess production by the sole Australian producer, where Australian domestic industry has installed capacity of 200,000 tonnes/ year,⁵ while the total national consumption of Australian market only absorbed 134,000 tonnes in 2020.⁶ Therefore, it would lead to an oversupply of A4 Copy Paper in Australia market.
5. Another factor causing injury to Australian paper that has not been properly addressed by the Commissioner is the domestic self-inflicted oversupply situation. With demand declining and supply exceeding demand, prices in the Australian market could not be increased. Therefore, the Australian industry could not increase its prices to recover its increasing costs and become profitable. This has nothing to do with exports from Indonesia that has been significantly decreased for more than 80% prior to the imposition of the anti-dumping duty.
6. Finally, in the sunset review the Commissioner failed to properly identify what material injury caused by dumping of export from Indonesia would continue to occur or recur with the expiration of the anti-dumping measures or why that injury would continue to occur or recur following the expiration of the anti-dumping measures. This is a fundamental requirement of a sunset review and injury caused to the Australian industry by other economic factors must not be attributed to Indonesian exports.

⁴ Pulp and Paper Manufacturing Industry Reference Committee (IRC). "Australian Pulp and Paper Manufacturing Industry Sector: Annual Update 2021".

⁵ Application for the publication of Dumping duty notice White Uncoated A4 Copy (Cut Sheet) Paper Exported from Indonesia by Pabrik Kertas Tjiwi Kimia TBK, March 2021, page. 17.

⁶ *Ibid*, page. 21.

In view of the above facts, GOI respectfully requests the ADRP to make a thorough review and to redress such inconsistencies with WTO obligations in the report. GOI trusts that ADRP will make an objective assessment in this appeal process in line with the WTO ADA.

The GOI avails itself of this opportunity to renew ADRP the assurances of its highest considerations.

Thank you for your kind attention and cooperation.

Yours sincerely,



Natan Kambuno

Director of Trade Defense

Cc:

1. Acting Director General of Foreign Trade, Ministry of Trade of the Republic of Indonesia;
2. H.E. Ambassador of the Republic of Indonesia in Canberra;
3. H.E. Ambassador of Australia in Jakarta;
4. Secretary of Directorate General of Foreign Trade, Ministry of Trade of the Republic of Indonesia;
5. Director of Pacific and Oceania Affairs, Directorate General of Asia-Pacific and African Affairs, Ministry of Foreign Affairs of the Republic of Indonesia;
6. Indonesian Trade Attaché in Canberra, Australia.