



INVESTIGATION 242

ALLEGED DUMPING OF NEWSPRINT EXPORTED FROM THE FRENCH REPUBLIC AND REPUBLIC OF KOREA

VISIT REPORT - IMPORTER

APN NEWSPAPERS PTY LTD

**THIS REPORT AND THE VIEWS OR RECOMMENDATIONS CONTAINED THEREIN
WILL BE REVIEWED BY THE CASE MANAGEMENT TEAM AND MAY NOT REFLECT
THE FINAL POSITION OF THE ANTI-DUMPING COMMISSION**

July 2014

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ABBREVIATIONS

ADN	Australian Dumping Notice
ADN	Anti-Dumping Notice
APN	APN Newspapers Pty Ltd
AUD	Australian dollars
CFR	Cost and freight
COGS	Cost of goods sold
Commission	Anti-Dumping Commission
CTM	Cost to make
CTMS	Cost to make & sell
CTS	Cost to sell
EBIT	Earnings before interest and tax
EDITA	Earnings before interest, tax, depreciation and amortisation
FOB	Free On Board
GAAP	Generally accepted accounting principles
Jeonju	Jeonju Paper Corporation
NIP	Non-injurious Price
NSIA	Norske Skog Industries Australia Limited
PAD	Preliminary Affirmative Determination
SEF	Statement of Essential Facts
The Act	<i>Customs Act 1901</i>
the goods	the goods the subject of the application (also referred to as the goods under consideration or GUC)
the Parliamentary Secretary	the Parliamentary Secretary to the Minister for Industry
USP	Unsuppressed Selling Price

1 BACKGROUND AND PURPOSE

1.1 Background

On 24 March 2014, an application was lodged by Norske Skog Industries Australia Limited (NSIA) requesting that the Parliamentary Secretary to the Ministry for Industry (Parliamentary Secretary) publish a dumping duty notice in respect of newsprint exported to Australia from the French Republic (France) and the Republic of Korea (Korea).

NSIA allege that the Australian industry has suffered material injury caused by newsprint exported to Australia from France and Korea at dumped prices.

NSIA claim that material injury in respect of newsprint began in the 2013/14 financial year. The applicant identified the injurious effect as:

- Lost sales volumes;
- Price undercutting;
- Price depression;
- Price suppression;
- Reduced profit and profitability; and
- Reduced revenues.

Public notification of initiation of the investigation was made on 22 April 2014 in The Australian newspaper and Australian Dumping Notice No. 2014/34.

As part of its investigation, the Commission has identified APN Newspapers Pty Ltd (APN) as an importer of newsprint from Korea.

1.2 Purpose of visit

The purpose of the visit was to:

- Confirm that APN is the importer of newsprint attributed to it within the commercial database and obtain information to assist in establishing the identity of the exporter(s) of this newsprint
- verify information on imports of newsprint to assist in the determination of export prices;
- establish whether the purchases of newsprint were arms-length transactions;
- establish post-exportation costs;
- identify sales and customers and verify sales volume, selling prices and selling costs;
- obtain general information about the Australian market for newsprint; and
- provide the company with an opportunity to discuss any issues it believed relevant to the investigation.

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1.3 Meeting details

Company	APN Newspapers Pty Ltd
Dates of visit	04 June 2014

The following were present at various stages of the meetings.

APN	Michael Foxlee – General Manager – Procurement and Property Debra Hudson – Manager – Finance
the Commission	Tom O'Connor – Assistant Director – Operations 2 Joseph Crowley – Senior Investigator – Operations 2

1.4 Investigation process and timeframes

We advised the company of the investigation process and timeframes as follows.

- The Commission will examine imports from France and Korea during the period 1 April 2013 to 31 March 2014 (the investigation period) to determine whether dumping of newsprint has occurred.
- The injury analysis period is from 01 April 2010 for the purpose of analysing the condition of the Australian industry.
- A preliminary affirmative determination (PAD) may be made no earlier than day 60 of the investigation (23 June 2014) and provisional measures may be imposed at the time of the PAD or at any time after the PAD has been made.

The Commission will not make a PAD until (and if) it becomes satisfied that there appears to be, or that it appears there will be, sufficient grounds for the publication of a dumping duty notice and/or a countervailing duty notice.

This was distinguished from the 'reasonable grounds' threshold for initiation of the investigation.

- The Statement of Essential Facts (SEF) for the investigation is due to be placed on the public record by 11 August 2014, or such later date as the Parliamentary Secretary to the Minister for Industry (Parliamentary Secretary) allows under s.269ZHI of *the Customs Act 1901* (the Act).

The SEF will set out the material findings of fact on which the Commission intends to base its recommendations to the Parliamentary Secretary, and will invite interested parties to respond, within 20 days, to the issues raised therein.

- Following receipt and consideration of submissions made in response to the SEF, the Commission will provide its final report and recommendations to the

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Parliamentary Secretary.

This final report is due no later than 24 September 2014, unless an extension to the SEF is approved by the Parliamentary Secretary.

1.5 Visit report

We explained to the company that we would prepare a report of our visit (this report) and provide it to the company to review its factual accuracy, and to identify those parts of the report it considers to be confidential.

We explained that, in consultation with the company, we would prepare a non-confidential version of the report, and place this on the investigation's Public Record.

2 THE GOODS

2.1 Description

The goods the subject of the application (the goods) are:

Newsprint in roll or sheet form having a weight within the range 40 grams per square meter (gsm) to 46 gsm (inclusive) and brightness below a measure of 70 ISO.

2.2 Tariff classification

The goods are classified to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995*:

The application states that newsprint is classified to:

- tariff subheading 4801.00.20 with statistical code 02;
- tariff subheading 4801.00.31 with statistical code 04; and
- tariff subheading 4801.00.39 with statistical code 19.

Goods classified to tariff subheading 4801.00.31, statistical code 04, must have the following characteristics:

- weigh more than 57gsm; or
- have ash content by weight of more than 8 per cent.

The Australian Customs and Border Protection Service (ACBPS) has provided tariff advice that in order for the goods to be correctly classified to the above tariff subheadings they also must comply with the requirements of Notes 3, 4 and 8 of the tariff Chapter 48.

The general rate of duty applied to goods exported from France and Korea are:

- goods classified under 4801.00.20 and 4801.00.31, a duty rate of 5% applies; and
- goods classified under 4801.00.39, statistical code 19, goods are duty free.

3 COMPANY DETAILS

3.1 Company Background

APN has business interests in newspaper publishing and online publishing. In terms of newspaper publishing, APN's brands cater towards regional centres across Queensland and New South Wales.

APN has three newsprint printing facilities – Yandina, Toowoomba and Rockhampton. From the APN website the 2013 Annual Report indicates APN produce 12 daily newspapers and 58 non-daily newspapers for regional centres stretching from Coffs Harbour in NSW to Mackay in Queensland.

Total revenue for the newspapers was \$217 million.

3.2 Accounting structure and details of accounting systems

The financial year operates from January to December.

3.3 Relationship with suppliers and customers

APN stated that it does not have a stake in NSIA or identified exporters, UPM, Bowater and Jeonju Paper Corporation, and that relationship is no more than commercial of buyer and seller.

APN uses newsprint for the production of newspapers and other related publications and does not sell newsprint as a wholesaler. All newsprint is used for the publication of newspapers.

We were informed that APN use a number of suppliers of newsprint to mitigate supply chain disruptions.

APN noted they had recently engaged NSIA with a supply contract over a number of years into the future. [REDACTED]

[REDACTED] [Commercial details]. APN's other significant supplier of newsprint was not from a country included in this dumping investigation.

3.4 Like goods

APN advised the Commission that it considers newsprint from NSIA to be 'like goods' to the newsprint from Korea. APN considers the imported products to be of good quality and interchangeable with domestically produced newsprint.

4 AUSTRALIAN MARKET

4.1 General

The Australian newspaper publishing industry has faced significant structural decline in recent years. According to the *Newspaper Publishing in Australia IBISWorld Industry report J5411* published in February 2014, industry revenue is estimated to have declined by 8.4% annualised over the five years through 2013-14.

We were informed that APN has not seen the same decline as that occurring for the major metropolitan newspapers. The view was that regional newspapers have more exclusive content than a metro market.

APN sells newspapers and not newsprint. Accordingly the Commission did not examine this part of their business because newspaper sales are not the goods the subject of the investigation.

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[Agent details]

[Agent details]

From the invoices pertaining to the selected consignments, we could verify that Jeonju is the supplier of the goods and all of the prices for the goods sold to Australia were on a per tonne basis in AUD.

We verified that the shipping terms were [redacted]. APN advised us that it undertakes this arrangement because it uses a third party logistics provider in Brisbane. This logistics provider operates a warehouse in Brisbane for the goods and delivers the goods to each of the three printing facilities as instructed.

We verified that the payment terms were AUD [redacted]. APN provided evidence of payment for each invoice [redacted] [Payment details].

5.4.2 Shipment costs

We verified that the commercial invoices indicated that the terms of trade were [redacted]. APN were not aware of the ocean freight rates.

5.4.3 Importation costs

APN provided the inland freight costs from the port to the third party Brisbane inventory store and then the freight costs from that store to each of the three printing facilities. See **Confidential Attachment 2**

5.5 Selling, general and administrative (SG&A) costs

The Commission did not examine the selling and general and administrative costs as the goods are converted into newspapers. Consequently, the Commission considers that determining these costs and profitability for the purposes of an arm's length test not appropriate.

5.6 Export prices for selected shipments

We verified that the export price for each consignment was [redacted] [redacted] per tonne [redacted].

6 WHO IS THE IMPORTER AND EXPORTER

6.1 Who is the importer?

We reviewed the documents provided in respect of the selected shipments. We verified that:

For shipments from Jeonju Korea:

- [REDACTED] [Ordering details]
[REDACTED] [Ordering details]
- Jeonju is named as the manufacturer of the goods;
[REDACTED] [Transaction details]
[REDACTED] [Transaction details]
[REDACTED] [Transaction details]
- APN arranges logistics and storage of the goods once they are delivered to the Australian port.

We consider APN to be the beneficial owner of the goods at the time of importation, and therefore the importer of goods from Jeonju.

6.2 Who is the exporter?

The Commission will generally identify the exporter as:

- a principal in the transaction, located in the country of export from where the goods were shipped, who gave up responsibility by knowingly placing the goods in the hands of a carrier, courier, forwarding company, or their own vehicle for delivery to Australia; or
- a principal in the transaction, located in the country of export, who owns, or previously owned, the goods but need not be the owner at the time the goods were shipped.

It is common for traders and other intermediaries to play a role in the exportation of the goods. These parties will typically provide services such as arranging transportation, conducting price negotiations, arrange contacts with the producer, etc.

In such cases, the trader typically acts as an intermediary who, although one of the principals, is essentially a facilitator in the sale and shipment of the goods on behalf of the manufacturer. Typically the manufacturer as a principal who knowingly sent the goods for export to any destination will be the exporter.

Therefore, depending on the facts, the Commission considers that only in rare circumstances would an intermediary be found to be the exporter. Typically this will occur where the manufacturer has no knowledge that the goods are destined for export to any country and the essential role of the intermediary is that of a distributor rather than a trader.

Subject to further inquiries, we are satisfied that Jeonju can be considered exporter of the goods imported by APN. To our knowledge, these entities are principles in the country of

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export, which manufacture the goods and gave up the goods for shipment directly to APN.

7 ARMS LENGTH

In determining export prices under s. 269TAB(1)(a) and normal values under s. 269TAC(1), the Act requires that the relevant sales are arm's length transactions.

S.269TAA outlines the circumstances in which the price paid or payable shall not be treated as arm's length. These are where:

- there is any consideration payable for in respect of the goods other than price;
- the price is influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller; and
- in the opinion of the Parliamentary Secretary, the buyer, or an associate of the buyer, will, directly or indirectly, be reimbursed, be compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.

We reviewed the documentation for the selected shipments and did not find any evidence, in respect of the purchase of newsprint, that:

- there is any consideration payable for or in respect of the goods other than price;
- the price was influenced by a commercial or other relationship between APN and Jeonju, and its suppliers or an associate of the supplier; and/or
- Jeonju or an associate of Jeonju was not directly or indirectly reimbursed, compensated or otherwise received a benefit for or in respect of the whole or any part of the price.

We are satisfied that import transactions between APN and Jeonju are arm's length in terms of s. 269TAA.

8 GENERAL COMMENTS

APN indicated that its primary focus is the regional market for newspapers. We were informed that APN considers NSIA's newsprint quality as being similar to other well-known suppliers of newsprint to Australia and that price, quality, and reliability of supply are important considerations in supplier selection.

9 RECOMMENDATIONS

From our investigations, we are of the opinion that the goods imported by APN from Jeonju:

- have been exported to Australia otherwise than by the importer;
- have been purchased by the importer from the exporter; and
- the purchases of the goods by the importer were arm's length transactions.

Subject to further inquiries with these exporters, we recommend that the export price for newsprint imported by APN from Jeonju can be established under s.269TAB(1)(a) of the Act, using the invoiced price, less deductions to the FOB level as required.

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10 APPENDICES AND ATTACHMENTS

Confidential Attachment 1	NSIA – Analysis of Newsprint Pricing
Confidential Attachment 2	Commercial documents and evidence of payment.