

8 October 2015

Ms Amanda Woo
Assistant Commissioner
Productivity Commission
GPO Box 1428
Canberra City ACT 2600

Dear Ms Woo

Norske Skog (Australasia) Pty Ltd - Productivity Commission Research Paper – Developments in Anti-Dumping and Countervailing ('Anti-Dumping') Arrangements

Norske Skog – Paper Manufacturer

Norske Skog Australasia Pty Ltd ("Norske Skog") is a local producer of approximately 600,000 tonnes of paper to publishers and commercial printers throughout Australia. The publication papers available from local production at Norske Skog mills located at Albury, NSW and Boyer, Tasmania include newsprint, high white 'improved newsprint', book and directory papers as well as coated paper for use in magazines and catalogues.

Norske Skog is responsible for supplying the bulk of local newsprint requirements from its manufacturing mills in Australia.

In March 2014, Norske Skog made an application for anti-dumping measures on certain newsprint exported from France and Korea. Following investigation, the Anti-Dumping Commission (ADC) made a Preliminary Affirmative Determination (PAD) and applied provisional measures on exports of newsprint from France with effect from 30 January 2015. On 20 March 2012 the ADC terminated investigations into exports of newsprint from Korea as the largest exporter were found not to be dumped (with a negative margin of 1.3 per cent). Remaining exports from Bowater of Korea were at positive margins of 14.4 per cent, however the volume of dumped exports from Korea was considered negligible.

On 1 May 2015 the Parliamentary Secretary assisting the Minister for Industry and Science accepted the recommendations of the ADC and imposed interim anti-dumping measures on all future exports of newsprint to Australia from France.

It is from this background of involvement with the anti-dumping system that Norske Skog makes this submission to the Productivity Commission's Research paper that is examining recent developments in Australia's anti-dumping arrangements. Norske Skog understands that the research project seeks to examine the changes to the Anti-Dumping System following the Productivity Commission's 2009 inquiry report *Australia's Anti-Dumping and Countervailing System*.

There are four key areas where the Productivity Commission ("the Commission") is seeking comments are as follows:

- trends in anti-dumping activity, and the drivers of this activity;
- the particular role that recent changes to the anti-dumping system may have played in this context;
- how anti-dumping measures have affected individual sectors and Australia's broader economy;
- any opportunities to further improve outcomes from Australia's Anti-Dumping System.

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Norske Skog has addressed each item below.

1. Trends in anti-dumping activity, drivers of this activity

Following on from the global financial crisis and a slowing in global economic growth (with some countries experiencing recessionary periods) demand for certain staple products (including paper and paperboard) has contracted. This follows a period of rapid expansion in paper production assets throughout Asia (most notably in China, Indonesia, Korea and Thailand) where production capacity was installed with an eye to continuing double-digit growth in the Asian region.

The slide in domestic demand in most Asian countries has influenced manufacturers to look to increasing export volumes in a period of substantial over supply. As a consequence, manufacturers (including newsprint producers) have increased exports into the region boosting sales where barriers to entry are low. Australia is an open and transparent market, with a high level of price sensitivity associated with most paper products.

NSIA has noticed an increase in anti-dumping actions in the local region during this period of economic slowdown. Targeted countries include China and Indonesia that have constructed large scale operations in the last 10 to 15 years with the support of government subsidies.

In Australia, competition from imports has also increased during this period of economic downturn. The ability of Australian manufacturers to access relief from dumping and subsidisation during these times is of greater importance than during periods of market expansion and growth.

2. Role of recent changes to the anti-dumping system

Timeframe extensions

Norske Skog's exposure to Australia's anti-dumping system is limited to the recent newsprint inquiry (Inquiry No. 242). As an applicant company, accessing measures at the earliest opportunity was a key consideration. Norske Skog's application was formally lodged with the ADC on 24 March 2014, and a formal investigation commenced on 22 April 2014. As indicated, a PAD was not made until 30 January 2015 – some nine months following commencement of the investigation. Three separate timeframe extensions were approved by the Parliamentary Secretary prior to the eventual publication of the Statement of Essential Facts (SEF).

It was Norske Skog's understanding that announced changes to the operation of the anti-dumping system included a flexible approach to timeframe extensions. Specifically ACDN No. 2013/42 announcing implementation of the Tranche 2 changes states:

"To gain an extension the CEO will have to provide reasons for the extension of the timeframe and (where the Minister is satisfied that it is reasonable to do so) the Minister may approve the request. This requirement is intended to ensure that the greater scope to seek extensions is used appropriately."

And also:

*"This amendment increases the flexibility in extension arrangements will allow robust analysis where investigations involve particularly complex arrangements, or involve large numbers of countries or interested parties; and consideration of a response to critical new information that could not reasonably have been provided earlier. **This amendment may also increase the timeliness of investigations, as the ACBPS will be able to seek shorter, tailored extensions as required in an investigation.**"(emphasis added).*

The newsprint investigation involved three cooperative exporters (one in France, two in Korea). An exporter in each of France and Korea was involved in an exporter verification visit by the ADC. There were no 'complex arrangements' or critically late information that could have been the reason for the extraordinary delays in the investigation.

Norske Skog was deflated by the delays (a total of 180 additional days) prior to accessing relief from the injurious dumping. The promoted changes as detailed in the Tranche 2 legislative amendments do not appear to have been adopted with the spirit in which they were intended.



Different forms of anti-dumping duties

The Streamlining Policy Amendments – Tranche 3 included changes to the form of anti-dumping (and subsidy) measures to be applied. The new amendments enable the Minister to apply measures based upon:

- a combination of fixed and variable duty method;
- a floor price duty method;
- a fixed duty method; or
- an ad valorem duty method (a percentage of the FOB export price).

In Report No. 242 the ADC recommended to the Parliamentary Secretary that the measures be based upon the combination method (i.e. a fixed and variable component). Norske Skog welcomes this form of anti-dumping measure as it removes injury from the dumping and it prevents the exporter from further reducing the export price to absorb the impact of any interim duty imposed.

Establishment of the Anti-Dumping Commission

The establishment of the ADC with increased resources is considered by Norske Skog to be a positive step in ensuring that trade remedies applications are commenced in a timely manner. Additionally, the increased resource base should aid the conduct and completion of investigations in accordance with the timeframes stipulated in the legislation.

New anti-circumvention provisions

Norske Skog welcomes the introduction of the Part 5A anti-circumvention provisions, along with the recent inclusions of anti-circumvention coverage to include activities such as sales at a loss and the slight modification of goods the subject of the measures.

These changes reinforce a strong commitment to ensuring an effective anti-dumping system that will quickly respond to attempts to avoid or evade measures.

3. How anti-dumping measures have impacted certain industry sectors

Access to anti-dumping measures in a timely manner during periods of oversupply is critical to the long-term viability of a large capital-intensive manufacturer. Should access to measures be delayed or prevented, the local manufacturer will have difficulty in retaining critical volume-related sales that are needed for a high volume production asset.

Investigations into dumping and subsidisation appear to predominate in the sectors such as steel and aluminium, glass, paper and chemicals. In these industries, scale is of critical importance and manufacturers will seek to sell on export markets (in increasing volumes) when domestic demand falls.

4. What further opportunities exist to improve outcomes?

Enhancements to the anti-dumping system that will improve outcomes include the following:

- Strict adherence to Exporter Questionnaire Response (EQR) completion deadlines (i.e. by Day 37), combined with scheduling of exporter verification visits to commence no later than Day 55 in an investigation;
- improved transparency surrounding the redaction of information by exporters concerning grades of the goods sold on the exporter's domestic market that are used for comparison with export grades to Australia
 - currently, exporters are hiding behind the veil of confidentiality concerning the full disclosure of like grades sold domestically;



- Improved clarity and justification (including supporting evidence) surrounding claims for adjustment to determined normal values
 - particularly for claims that are not consistent with industry practice (e.g. advertising claims, warranty claims);
- PAD to be published at Day 60 based upon the available information to the ADC at that time (including, but not limited to information in the EQR importer questionnaire responses and from the applicant industry);
- timeframe extensions to be limited to one extension approval by the Parliamentary Secretary to 45 days (exceptions for longer extension periods for market situation and countervailing inquiries where Government questionnaire responses are involved);
- upon completion of an inquiry (including measures imposed by Parliamentary Secretary or termination) the applicant industry to be provided with a briefing by the ADC on investigation outcomes.

5. Public interest

NSIA understands that the Productivity Commission is canvassing views on the introduction of a public interest provision. It is further understood that the operation of similar mechanisms in Canada and the European Union have been cited as jurisdictions where a public interest provision is available.

NSIA notes that the Federal Government did not seek to adopt the Productivity Commission's recommendation to introduce a 'bounded' public interest provision following the Productivity Commission's Inquiry No. 48 of 2009. It is not expected that the Federal Government's position would have altered over the intervening period. NSIA would highlight that the public interest provision used in Canada and the EU is not considered in every inquiry but only on the basis of an accepted application for its consideration. Unlike other jurisdictions, Australia has until recently mandated consideration of the lesser duty provision in every investigation. This provision adequately addresses the concern that measures not be applied to a level greater than what is required for injury from dumping or subsidisation to be removed.

NSIA does not support the introduction of a public interest provision that will contribute to investigation timeframe extensions, increase the administrative burden (and cost) associated with additional economic cost/benefit analysis that will be required to be undertaken by economic specialists external to the investigation process, and further increase uncertainty on anti-dumping investigation outcomes.

If you have any questions concerning this submission, please do not hesitate to contact Andrew McKean

Yours sincerely,

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