



Australian Government  
Australian Customs Service

R E P O R T

CUSTOMS ACT 1901 - PART XVB

## TRADE MEASURES BRANCH

**REPORT NO. 138**

TOILET PAPER  
EXPORTED FROM  
THE PEOPLE'S REPUBLIC OF CHINA  
AND  
THE REPUBLIC OF INDONESIA

16 December 2008

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## 2 ABBREVIATIONS AND SHORTENED FORMS

ABC	ABC Tissue Products Pty Ltd
AFH	Away from home
ACDN	Australian Customs Dumping Notice
CEO	Chief Executive Officer of Customs
China	The People's Republic of China
CMI	PT Cakrawala Mega Indah
Coles	Coles Supermarkets Australia Pty Ltd
CTMS	cost to make and sell
Customs	Australian Customs Service
Encore	Encore Tissue (Aust) Pty Ltd
FOB	free on board
Fook Woo	Huizhou Fook Woo Paper Co. Ltd
Fook Woo HK	Fook Woo Assorted Paper Co., Ltd
GHY	Gold Hong Ye Paper (Suzhou Industrial Park) Ltd
GT	General Trade
GUC	goods under consideration
Indonesia	Republic of Indonesia
Injury analysis period	1 January 2004 to 31 December 2007
Investigation period	1 January 2007 to 31 December 2007
KA	Key accounts
KCA	Kimberly-Clark Australia Pty Ltd
Merino	Merino Pty Ltd
NIP	Non-injurious price
Paper Force	Paper Force (Oceania) Pty Ltd
Pindo Deli	PT Pindo Deli Pulp and Paper Mills
PIR	Preliminary Information Request
SCA	SCA Hygiene Australasia Pty Ltd
SEF	Statement of essential facts
SG&A	Selling, general and administration
the Act	<i>Customs Act 1901</i>
the goods	the goods the subject of the application
the Minister	Minister for Home Affairs
USA	United States of America
USP	unsuppressed selling price
VAT	value added tax
Vinda Jiangmen	Vinda Paper (Jiangmen) Co., Ltd
Vinda HK	Vinda Paper Industrial (HK) Co., Ltd
Woolworths	Woolworths Limited
WTO	World Trade Organization

## 3 SUMMARY

### 3.1 Overview

This report presents the results of the investigation by the Australian Customs Service (Customs) and the recommendations to the Minister for Home Affairs (the Minister) into the alleged dumping of certain toilet paper (toilet paper) exported to Australia from the People's Republic of China (China), and the Republic of Indonesia (Indonesia).

Customs initiated the investigation on 26 March 2008 following an assessment of an application lodged by Kimberly-Clark Australia Pty Limited (KCA) and SCA Hygiene Australasia Pty Ltd (SCA). The investigation was announced by notice in *The Australian* newspaper and by Australian Customs Dumping Notice (ACDN) No 2008/12.

In the public notification, Customs advised that, to determine whether dumping had occurred it would examine exports of the goods to Australia from 1 January 2007 to 31 December 2007. This is the investigation period. Customs also notified that it would examine details of the Australian market from 1 January 2004 for injury analysis. This is the injury period.

The goods under consideration (GUC) are toilet paper in rolls with the following dimensions:

- *A maximum sheet width of 120 mm;*
- *A diameter not exceeding 135 mm; and*
- *A perforated sheet size of approximately 110 mm x 100 mm.*

Parent reels, folded toilet paper and jumbo toilet rolls are not the GUC.

The goods are classified to the tariff subheading 4818.10.00 of the *Customs Tariff Act 1995* and statistical code 01.

The applicable duty rate for China and Indonesia is 5%.

On 3 November 2008, Customs placed a statement of essential facts (SEF) on the public record.

### 3.2 Findings

Customs found that:

- there is an Australian industry producing like goods to the goods;
- exports of toilet paper from China to Australia were dumped by a margin of 2% to 25%
- exports of toilet paper from Indonesia to Australia were dumped by a margin of 33% to 45%
- the industry producing like goods has suffered injury in the form of:
  - price undercutting;

- price depression;
  - price suppression;
  - reduced profits and profitability; and
  - reduced return on investment.
- there is a causal link between the dumped imports and injury to the Australian industry and the injury caused by dumping is material; and
  - exports in the future from China and Indonesia are likely to be dumped and material injury to the Australian industry is likely to continue.

### **3.3 Recommendations**

Customs recommends that the Minister publish dumping duty notices on toilet paper from China and Indonesia. Customs specific recommendations to the Minister are at Section 13 of this report.

## 4 INTRODUCTION

### 4.1 Purpose of the investigation

Part XVB of the Customs Act, and the *Customs Tariff Anti-Dumping Act 1975* provide for anti-dumping measures to be imposed where dumping has caused, or threatens to cause, material injury to an Australian industry producing like goods.

### 4.2 Procedures

If Customs accepts an application, s. 269TEA requires that an investigation is to be conducted and a report made to the Minister by day 155 (or by a later date allowed by the Minister, following a request for an extension to the SEF). The report must recommend whether dumping duty notices should be published, the extent of any level of duties payable and recommend matters about which the Minister should be satisfied.

The report must, to the extent that it is practicable to do so, also extend to any like goods not covered by the application and imported between the start of the investigation and ending 20 days after the SEF was placed on the public record.

The recommendation to the Minister is based on:

- the application;
- data verified during industry, exporter and importer visits;
- submissions to which Customs had regard when formulating the SEF;
- the SEF;
- submissions made in response to the SEF; and
- other relevant matters.

Customs must clearly state the material findings of fact on which any recommendation in this report is based and provide particulars of the evidence relied on to support those findings.

In compiling the report and recommendations, Customs examines submissions and undertakes on-site verifications in Australia and overseas where necessary. Interested parties participate in the investigation process by lodging submissions at various stages.

On the basis of this report, the Minister will make a decision on whether measures should be imposed. If measures are imposed, Customs is responsible for the administrative arrangements.

Interested parties have 30 days after the publication of the Minister's decision in which to ask the Trade Measures Review Officer to review the decision. The contact address is:

Trade Measures Review Officer  
Robert Garran Offices  
National Circuit  
BARTON ACT 2601

### 4.3 Background to the investigation

On 28 February 2008 KCA and SCA lodged an application under s269TB(1) requesting that the Minister publish a dumping and countervailing duty notice in respect of certain toilet paper exported to Australia from China and a dumping duty notice in respect of certain toilet paper exported to Australia from Indonesia.

The application alleged that a countervailable subsidy had been received in respect of the goods exported from China to Australia and that the goods from China and Indonesia had been exported to Australia at prices less than their normal value. The application claimed that the subsidisation and dumping has caused material injury to the Australian industry through:

- loss of market share;
- price depression;
- price suppression;
- reduced profit and profitability;
- reduced return on investment;
- reduced attractiveness to re-invest;
- underutilisation of production assets;
- increased inventory levels of like goods produced by the Australian industry; and
- reduced domestic revenues for premium and mid-range product lines.

Public notification of initiation of the investigation was made on 26 March 2008 with a notice in the *The Australian* newspaper and ACDN No 2008/12<sup>1</sup> was also issued on the same date.

The investigation period was 1 January 2007 to 31 December 2007. Customs examined exports to Australia of the goods during that period to determine whether dumping has occurred. Customs examined details of the Australian market from 1 January 2004 for injury analysis.

On 24 October 2008, SCA and KCA withdrew the application for a countervailing duty notice in respect of certain toilet paper exported to Australia from China, in accordance with s. 269TB(3). Accordingly, Customs has ceased its investigation

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<sup>1</sup> This ACDN and other ACDNs are available on the internet at [www.customs.gov.au](http://www.customs.gov.au) by following the anti-dumping links.

concerning the application and no final findings have been made on the allegations of subsidisation, material injury and causal link. ACDN No 2008/38 advising interested parties of this withdrawal was also issued on 24 October 2008.

Trade Measures SEF No. 138 in relation to the investigation was placed on the public record on 3 November 2008.

The investigation in respect of Vinda Paper (Jiangmen) Co Ltd (Vinda Jiangmen) was terminated on 8 December 2008. The termination was publicly notified on 10 December 2008 in *The Australian* and in ACDN No. 2008/44.

The parties that responded to the SEF are as follows:

- the representative for the Australian industry members SCA and KCA;
- Encore Tissue (Aust) Pty Ltd (Encore);
- the representative for Gold Hong Ye Paper (Suzhou Industrial Park) Ltd (GHY), PT Pindo Deli Pulp and Paper Mills (Pindo Deli) and Paper Force (Oceania) Pty Ltd (Paper Force);
- the representative for Vinda Jiangmen and Vinda Paper Industrial (HK) Co., Ltd (Vinda HK);
- the representative for Woolworths Limited (Woolworths);
- Campbell's Janitor Supplies Pty Ltd trading as "Rapidclean Perth";
- Dr Richard Whitwell;
- John S. Hayes and Associates Pty. Limited;
- Midstate Pty Ltd;
- Pro-Clean Cleaning Supplies; and
- Whereabout Supply.

## 5 GOODS UNDER CONSIDERATION

### 5.1 The goods under consideration

The goods under consideration (GUC) are certain toilet paper in rolls with the following dimensions:

- *a maximum sheet width of 120 mm;*
- *a diameter not exceeding 135 mm; and*
- *a perforated sheet size of approximately 110 mm x 100 mm.*

Parent reels, folded toilet paper and jumbo toilet rolls are not the GUC.

The goods are classified to the tariff subheading 4818.10.00 of the *Customs Tariff Act 1995* and statistical code 01.

The applicable duty rate for China and Indonesia is 5%.

#### 5.1.1 Exclusions from the definition of the goods as provided by the applicants

As stated above, parent reels, folded toilet paper and jumbo toilet rolls have been excluded from the goods.

Parent rolls (reels) are large rolls of stock toilet paper from which the smaller rolls of toilet paper are made. The manufacture of parent rolls is described in the application as a stage in the manufacture of toilet rolls. Schedule 3 to the *Customs Tariff Act 1995* notes that "Toilet or facial tissue stock" are in strips or rolls of a width exceeding 36cm and have a different classification to toilet paper.

Jumbo toilet rolls are generally accepted to be rolls of 200 to 800 metres length, as compared to 20 to 50 metres for toilet rolls, may be unperforated and have a different size core. One jumbo roll is equivalent to 10 to 20 toilet rolls. Jumbo rolls are a commercial product targeted mainly for high traffic washrooms whereas toilet rolls are targeted mainly for sale to households.

Discussions with interested parties indicate that the conversion of parent rolls to toilet rolls is a process of manufacture which requires a significant capital investment. There were no submissions from interested parties that parent rolls are like goods to the imported toilet paper. As such, Customs has continued to accept the exclusion of parent rolls as being appropriate.

While jumbo rolls and folded toilet paper are made in a similar process it is apparent from discussions with interested parties that jumbo rolls and folded toilet paper are marketed differently, are in a different price range and do not compete with toilet rolls. There were no submissions from interested parties that jumbo rolls or folded toilet paper are like goods to the imported toilet paper. As such, Customs accepts that excluding jumbo rolls and folded toilet paper is appropriate.

#### 5.1.2 Exclusions from the definition of the goods as submitted by interested

## parties

A submission received from Woolworths during the investigation claimed that the Woolworths' economy product (*Homebrand*) should be excluded from the investigation on the basis they are not like goods to their premium product *Select*, the product alleged to have caused injury to the Australian industry.

Woolworths submitted that the *Homebrand* product is of a lower quality and fewer ply than the premium product Woolworths *Select*. *Homebrand* products have 1 or 2 ply while its premium product has 4 ply.

Customs observes that the definition of the goods does not include any reference to quality or number of ply and remains of the view that the economy product *Homebrand* falls within the definition of the goods.

Customs did indicate to certain interested parties during the investigation that it would consider the need for a discussion paper on the issue. Given Customs view above, which was formed as the investigation progressed and because of the lack of submissions on the matter, Customs decided that the issue could instead be adequately addressed in submissions to the SEF and an issues paper was not warranted. Woolworths made no further submissions in this regard. Following an evaluation of responses to the SEF Customs remains satisfied that the Woolworths economy product *Homebrand* falls within the definition of the goods.

## 6 LIKE GOODS AND AUSTRALIAN INDUSTRY

### 6.1 The Australian industry

Subsection 269T(4) provides that the Australian industry consists of the producer, or producers, of like goods in Australia.

The applicants claimed that the Australian industry for toilet paper consists of five members being the applicants (KCA and SCA), ABC, Merino Pty Ltd (Merino) and Encore Tissue (Aust) Pty Ltd (Encore).

The investigation revealed that the current Australian industry producing toilet paper comprises KCA, SCA, ABC and Encore<sup>2</sup>.

#### 6.1.1 KCA

KCA was established in Australia in 1926. Its parent is the United States of America (USA) listed company, Kimberly-Clark Corporation.

KCA is a manufacturer and distributor of a wide range of personal care, hygiene and health care products in Australia and New Zealand. KCA has four plants; two in South Australia and two in New South Wales. The majority of KCA's tissue paper production, including toilet paper is undertaken at their integrated pulp manufacturing and tissue paper conversion complex located at Millicent, near Mount Gambier, in South Australia.

KCA commenced manufacturing toilet paper in Australia in 1960. The Family Care Division of KCA manufactures and markets toilet paper and other paper products (such as facial tissues and paper towels). It employs approximately 640 people, with most located at the Millicent manufacturing site. KCA sells to a range of customers including major retailers, distributors, pharmaceutical distributors etc and for export.

Customs visited KCA to verify information provided to Customs in the application.

At the visit, Customs observed the conversion of logged trees into constituent wood fibre and the bleaching of the wood fibre to form pulp, the blending and converting of the pulp to form the tissue parent rolls and the conversion of the parent rolls to packaged toilet paper.

Based on observations at the company's production site, Customs is satisfied that KCA carries out at least one substantial process in the manufacture of toilet paper in Australia.

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<sup>2</sup> Customs understands that Encore acquired the Merino business in early 2008.

### 6.1.2 SCA

SCA is part of the Svenska Cellulosa Aktiebolaget Group from Sweden, which is a global consumer goods and paper company that offers personal care products, tissue, packaging solutions, publication papers and solid-wood products. Svenska Cellulosa Aktiebolaget Group is the world's third largest and Europe's largest supplier of paper.

SCA is an Australian wholly owned subsidiary of SCA Tissue Australia Pty Ltd, - a wholly owned subsidiary of SCA Hygiene Investments Australia Pty Limited – and this company is owned by SCA Holland (99.9%) and SCA Hygiene Australia Pty Ltd (0.1%).

The Australian operations of SCA began in 2004 following the acquisition of the Carter Holt Harvey Tissue and Bowater Scott Corporation operations. SCA considers itself to be the largest tissue and incontinence products producer in Australia.

SCA employs approximately 780 people in Australia with 460 employed at its Box Hill site in Victoria. The Box Hill site is the only SCA manufacturing facility. SCA sells to a range of customers including retailers, other commercial customers and for export.

SCA's major customers for toilet paper are the major supermarket chains, Woolworths, Coles and Metcash and a number of independent small retail chains.

SCA sells a small volume of toilet paper (in rolls) in the commercial AFH market (not manufactured in Australia). Sales of these products will be considered in Customs injury analysis.

Customs visited SCA to verify information provided in the application.

At the visit, Customs observed the production process which includes the blending and diluting of pulp before feeding to the paper machines for the production of the parent rolls.

Customs observed the two production processes, 'through air dried' and 'dry crepe'. The 'through air dried' process has a secondary drum that forces air through the paper that dries it out and fills the paper with air, making it bulkier and softer. The 'dry crepe' process (the conventional process), squeezes the paper dry between the drum and the sheet.

Customs also observed the conversion of parent rolls to toilet rolls. This is achieved by feeding the parent roll paper through winders which perforate the sheet, roll the paper into logs of a pre-determined length and then convey to the circular saws which cut them to the actual size required for the finished product. The smaller rolls are then passed through wrapping machines and labelled.

Based on observations at SCA's production site, Customs is satisfied that SCA carries out at least one substantial process in the manufacture of toilet paper in Australia.

### 6.1.3 ABC

Whilst the application identified ABC as an Australian manufacturer of toilet paper, ABC was not an applicant company. ABC is a manufacturer and seller of paper products. Its major toilet paper product is the *Quilton* brand.

ABC is a private family-owned business which was founded in 1985. It currently employs approximately 500 people. It has manufacturing plants in Sydney and Brisbane and sells to the major retail chains in all Australian states.

ABC advised Customs that while it was not approached to take part in the application, it did not oppose the application.

At the visit, ABC provided Customs with a tour of the company's Wetherill Park, NSW facility. Customs observed the conversion of pulp to parent rolls in preparation for the final conversion to toilet rolls. Imported pulp was in sheet form which was reconstituted by adding water. The reconstituted pulp was fed into a paper making machine where the excess water was extracted and the paper rolled onto large parent rolls. The parent rolls are then converted to toilet paper and other tissue products. ABC also imports parent rolls which are converted to toilet paper.

Based on observations at the company's production site, Customs is satisfied that ABC carries out at least one substantial process in the manufacture of toilet paper in Australia.

ABC declined to provide sales and cost information, however, Customs understands from the visit to ABC that 90% of ABC's products are sold into the retail market. ABC only provided information on the products sold into the retail market.

### 6.1.4 Encore and Merino

Whilst the application identified Encore as an Australian manufacturer of toilet paper, Encore was not an applicant company.

Encore has not expressed support for, or opposition to, the application. Encore advised that they did not have the time or resources available within the investigation timeframes to prepare information or a submission. Encore was not visited by Customs.

Encore advised Customs that it is an integrated tissue maker established in 1998. The plant includes a tissue making machine and several converting lines. Encore purchased the assets of the former Merino in February 2008.

The main Encore brands are *Bouquets*, *Envirosoft* and *Safe* in the retail market and, *Earthwise*, *Elite* and 'Merino' in the AFH market.

Based on the information available, Customs is satisfied that Encore carried out at least one substantial process in the manufacture of toilet paper in Australia during the investigation period.

### 6.1.5 Is the application supported by a sufficient part of the Australian industry?

In the absence of information from ABC and Encore, Customs has estimated their production and sales volumes for the purposes of estimating the level of industry support as required by s.269TB(6) and for market share estimates. ABC's production of its main brand, *Quilton*, has been estimated based on the retail sales of the brand through its main distributors. The original estimate of Encore's production has remained unchanged.

An application is taken to be supported by a sufficient part of the Australian industry when the persons who produce or manufacture like goods in Australia and who support the application:

- account for more than 50% of the total production or manufacture of like goods produced or manufactured by that portion of the Australian industry that has expressed support or opposition to, the application; and
- account for not less than 25% of the total production or manufacture of like goods in Australia.

Customs analysis of industry support and market share is contained in **Confidential Appendix 1**. The data shows that the applicants KCA and SCA, combined meet the above criteria.

Customs concludes that the application was supported by a sufficient part of the Australian industry.

## 6.2 Produced in Australia

Subsections 269T(2) and 269T(3) specify that for goods to be taken as produced in Australia:

- they must be wholly or partly manufactured in Australia; and
- for the goods to be partly manufactured in Australia, then at least one substantial process in the manufacture of the goods must be carried out in Australia.

Based on evidence obtained during the investigation including inspection of the manufacturing sites and verification of cost to make and sell (CTMS) data, Customs is satisfied that toilet paper is wholly or partly manufactured in Australia and that the conditions of subsections 269T(2) and (3) are met.

## 6.3 Like goods

Subsection 269T(1) defines 'like goods' as follows:

"**like goods**", in relation to goods under consideration, means goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration.

The applicants manufacture toilet paper in rolls consistent with the following dimensions:

- *a maximum sheet width of 120 mm;*
- *a diameter not exceeding 135 mm; and*
- *a perforated sheet size of approximately 110 mm x 100 mm.*

### **6.3.1 Customs assessment**

Customs compared the toilet paper manufactured by SCA, KCA and ABC with the imported goods. This assessment included:

- comparing the technical specifications, as known, of the goods with the Australian industry's product range;
- examining information relating to the supply chain and market structure;
- reviewing market intelligence relating to marketing and demand;
- examining the production methodology; and
- observing the production of toilet paper in Australia, China and Indonesia.

In assessing like goods Customs uses an administrative framework, which identifies different ways of examining likeness. It uses the following considerations as a basis for assessment:

- a. Physical likeness
- b. Commercial likeness
- c. Functional likeness
- d. Content or production likeness

The considerations may carry different weights depending on the circumstances of a particular case. However, physical likeness is emphasised.

### **6.3.2 Physical likeness**

Customs noted that the physical characteristics of toilet paper manufactured by the applicants and ABC and the goods are very similar.

Customs noted that the product manufactured by the Australian industry and the imported goods variously consist of between 1 ply and 4 ply construction. Customs noted that while the ply may vary the appearance and size of individual sheets the rolls themselves still appear similar.

Further analysis of the physical likeness of the imported goods and the like goods is at section 7.1.3 below. Physical characteristics such as size and weight suggest a strong physical likeness between the imported goods and the like goods.

### **6.3.3 Commercial likeness**

Commercial likeness refers to attributes identifiable from market behaviour.

Customs noted that the distribution channels to the Australian market for the toilet paper from China and Indonesia and the Australian produced toilet paper are essentially the same and the two products compete in the same market segments.

The investigation has revealed that there are distinct segments in the Australian toilet paper market. The segments are the retail market and the away from home (AFH) market (See further detail following at Section 7). Customs has considered these discrete segments when considering commercial likeness.

The information gathered during the investigation shows that customers purchase either the Australian or the imported product with price being an influencing factor.

In this instance the goods are directly competitive in the Australian market indicating a high degree of commercial likeness between the goods and the like goods.

### **6.3.4 Functional likeness**

Functional likeness refers to end-use. End-use will not of itself establish like goods, but may provide support to the assessment of physical and commercial likeness. End use of itself is self-evident in this instance.

### **6.3.5 Content or production likeness**

Different production processes may produce either identical goods or goods having different product characteristics. A comparison of production process may not of itself determine whether goods are like, however it may highlight differences or provide support to the assessment.

Customs has observed the production processes in China, Indonesia and Australia and considers that the toilet paper produced in Australia is manufactured using similar materials and methods as the imported goods.

### **6.3.6 Conclusion**

Customs is satisfied that toilet paper manufactured by the Australian industry:

- have similar physical characteristics to the goods;
- are sold in the same markets as the goods;
- are made using similar materials and in a similar manner as the goods;
- have the same end use as the goods; and
- are substitutable for the goods.

Based on the evidence available, Customs is satisfied that toilet paper produced by the applicants, representing the Australian industry, are like goods to the toilet paper exported from China and Indonesia to Australia.

## 6.4 Summary

As outlined at section 6.1.4, the investigation revealed that Merino was not a current producer of like goods in Australia. Therefore, the Australian industry producing toilet paper currently comprises KCA, SCA, ABC and Encore.

Customs analysis of production volumes is contained in **Confidential Appendix 1**. The data shows that the production volume of KCA and SCA represents more than 50% of the total production or manufacture of like goods produced or manufactured by that portion of the Australian industry that has expressed either support for, or opposition to, the application. KCA and SCA account for not less than 25% of the total production or manufacture of like goods in Australia.

On the basis of information provided in the application and during the verification visit, observations made on-site and other information, Customs is satisfied that:

- the toilet paper manufactured or produced by the Australian industry are like goods as defined by s. 269T(1);
- the like goods were wholly or partly manufactured in Australia as defined by s. 269T(2);
- a substantial process of manufacture was carried out in Australia by members of the Australian industry in accordance with s. 269T(3); and
- there is an Australian industry consisting of persons who produce like goods in Australia as defined in s.269T(4).

## 6.5 Submissions and Analysis

### 6.5.1 Woolworths

In their submission to the SEF, Woolworths:

- submitted that “the economy brand” toilet rolls should not be considered like goods because there is a substantial difference in the quality and performance of this product compared to the premium and mid range brands,
- criticised Customs for not issuing an issues paper as discussed at the verification visit, and
- stated that the SEF does not give any consideration to the preliminary arguments that have been put forward by Woolworths.

In an earlier submission of 24 October 2008, Woolworths also advised Customs that it considered the absence of an issues paper seriously hampered its ability to properly defend its interests.

As noted above, Customs did indicate to certain parties during the investigation that Customs would consider the need for a discussion paper on the issue. Subsequently, given a better understanding of the facts (including information provided by Woolworths), not having received any submissions on the matter from

other interested parties, and given the lack of any pertinent issues being raised in discussion with other interested parties, Customs considered that the issue did not warrant an issues paper and that instead respective positions could be adequately addressed in the SEF and submissions.

As above the investigation has revealed that there are distinct segments in the Australian toilet paper market and Customs has considered these discrete segments when analysing Woolworths' submissions. Customs has found that there are goods produced by the Australian industry which compete with the imported economy brands.

Customs notes that the economy products, imported by Woolworths (and others), fall within the definition of the goods, and that no interested party has pointed to any clear identifiable physical (or other relevant) characteristics that make them (economy goods) separately identifiable (from premium products). For instance the number of ply is not consistent or separately identifiable with the market in which the product is sold.

The SEF provided Woolworths with a further opportunity to comment on Customs assessment in this respect and submit comments in defence of its position in this regard. Customs notes that new arguments were brought forward. These have been considered in the making of this report

#### **6.5.2 Other interested parties**

In their response to the SEF, Midstate Pty Ltd and RapidClean Perth in respect of exports from China, noted the development of toilet paper produced from cane sugar, bamboo and elephant glass pulp and the contrast between such products and products from less environmentally sustainable sources. Midstate Pty Ltd submitted that there was no similarity between a "400 sheet 2 ply carton of 48 Cane Sugar paper" (sold into the AFH market) and a "4 ply 200 sheet Retail Pack of 8".

Midstate Pty Ltd also requested the exception from consideration of the 1 ply and 2 ply 700 sheet toilet paper it sells, as it considers that the Australian industry does not sell a similar product.

RapidClean Perth further claimed that the toilet paper products sold in the AFH market are different to the toilet paper products sold in the retail market, and that no objective analysis of the different products has been made.

In the investigation Customs has considered all toilet paper that fits the description of the goods (as provided in ACDN No 2008/12) regardless of whether it is sold in the retail or AFH market, their packaging or their pulp constitution. Should measures be imposed on toilet paper from China, then any toilet paper that fits the description of the goods as provided for in ACDN No 2008/12 would be covered by those measures.

## 7 AUSTRALIAN MARKET AND DEMAND

The following analysis of imports is based on information from Customs' import database, and verified data from Australian industry and importers.

### 7.1 Australian market

#### 7.1.1 Sectors

Over the injury analysis period (2004 to 2007) the Australian toilet paper market was supplied by the Australian industry and imports from a number of countries including China and Indonesia.

Customs has identified two clear market segments:

- the **retail** market (sales to retailers for on-sale to consumers ie households); and
- commercial or **AFH** market (sales to hotels, offices, schools and other such organisations).

Within the retail market products fall into one of three sub sectors:

1. **premium**
2. **mid range**
3. **economy**.

Each sub sector contains a number of different brands of toilet paper. Each brand appears to be only sold within that sub sector, with no cross over between sectors and sub sectors.

Customs understands that the AFH market may possibly break down into premium and economy products, however, only limited information was provided to Customs regarding the brands and sub segments of the AFH market. Customs was advised by one interested party that the 'AFH premium' is of a lesser quality than the 'retail premium'.

### 7.1.2 Brands

The following table details the source of the major brands in the market:

Sector	Sub Sector	Supplier		Brand
Retail	Premium	Australian industry	ABC	<i>Quilton</i>
			KCA	<i>Kleenex and You'll Love Coles</i>
			SCA	<i>Sorbent</i>
		Importers	Woolworths	<i>Select</i>
			Paper Force	<i>Paseo</i>
	Mid range	Australian industry	ABC	<i>Naturale and Softly</i>
			Encore & Merino	<i>Bouquets, Envirosoft and Safe</i>
			KCA	<i>Wondersoft</i>
			SCA	<i>Purex</i>
	Economy	Australian industry and importers (more detailed information is not available to Customs)		<i>Bi-Lo, Black &amp; Gold, Coles Smart Buy and No Frills</i>
Importer		Woolworths	<i>Homebrand</i>	
AFH	All	Australian industry	Encore & Merino	<i>Merino', Earthwise and Elite</i>
			KCA	<i>Scott and Kimdri</i>
		Importers	Bunzl Limited	<i>Executive Premium and Premium</i>
			Caprice Paper Products Pty Ltd	Not publicly available
			Financial Raising Pty Ltd	<i>Green Dolphin, Casy and Elise</i>
			John S. Hayes and Associates Pty Ltd	<i>Regal and Trusoft</i>
			Paper Force	<i>Livi, Premium, Mayfair, Milestone and Ultrasoft</i>

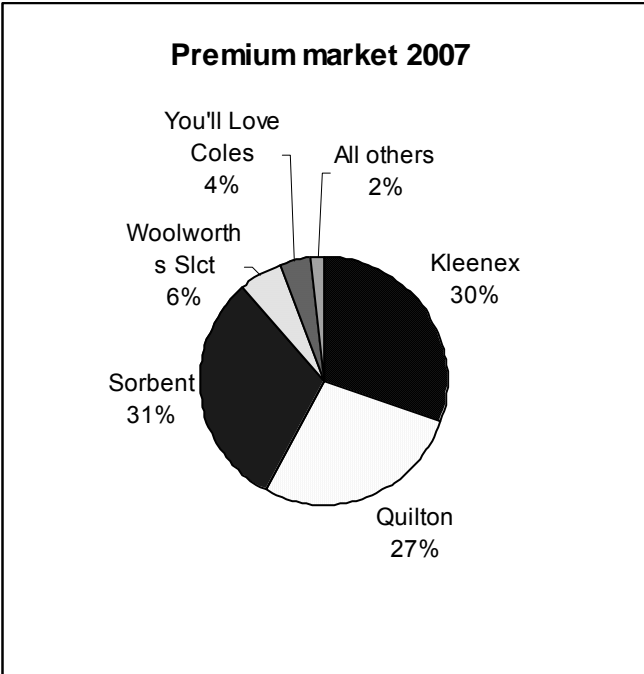
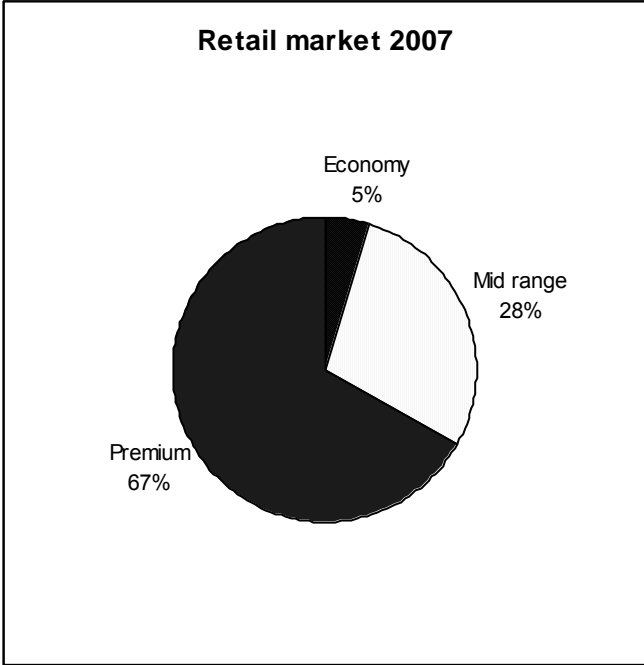
Customs was provided with scanned retail sales reports (from an independent data agency service) for the period of 2004 and 2007. Customs undertook an analysis of the market shares of brands in the premium, mid range and economy sub sectors, of the retail sector to assist in understanding consumer purchasing patterns and price leaders.

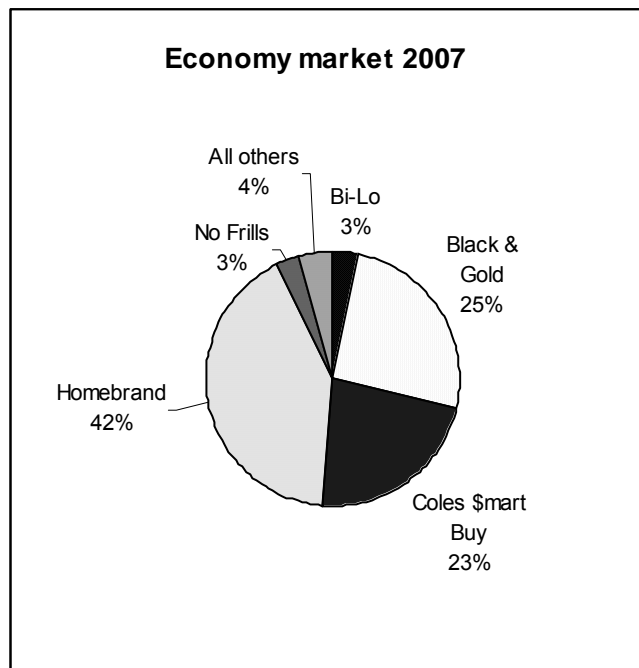
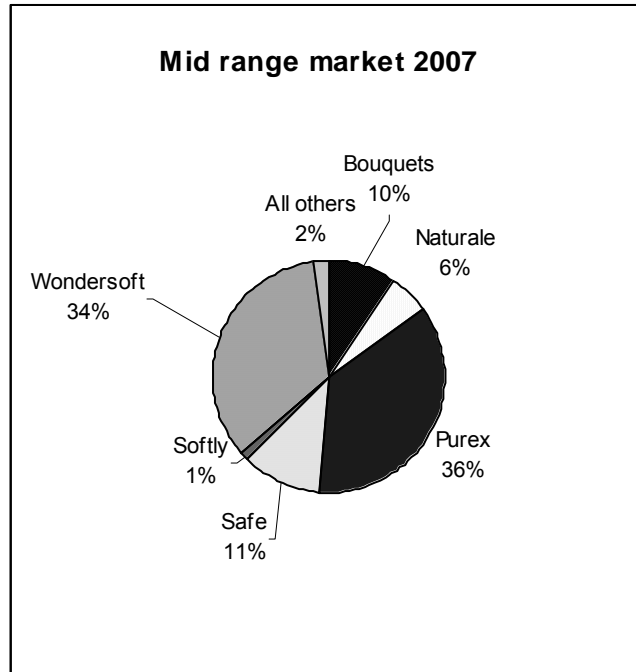
Customs noted the following from the analysis of this information in the retail sector:

- Premium makes up the majority of the market;
- The main brands in the premium market are the Australian produced *Quilton, Kleenex, Sorbent* and the imported Woolworths *Select*;
- The main brands in the mid range market are the Australian produced *Purex, Wondersoft, Safe* and *Bouquets*;
- The main brands in the economy market are the Australian produced *Black & Gold* and *Coles Smart Buy* and the imported Woolworths *Homebrand*.

The analysis is contained in **Confidential Appendix 2.**

The following graphs provide an overview of the product mix in the retail sector and sub-sectors.





**7.1.2.1 Submissions and Analysis**

Woolworths

In their submission to the SEF, Woolworths stated that there should be a chart which reflects the overall market share of all brands in the market, not just those identified by the applicants.

In response Customs notes that Information on the shares of brands in the AFH market (which is 14% of the total market) is not readily available because, unlike the retail sector these sales are not scanned. The information on retail brands is from Aztec reports provided to Customs, which includes all retail brands (noting some

were just too small to show separately in the chart) and not prepared on the basis of merely those identified by the applicants.

### 7.1.3 Quality

It is Customs understanding that the differences between the premium, mid-range and economy products relate to quality in terms of thickness and softness.

Market delineation on the basis of quality has some inherent difficulties as quality is a consumer perception, is dependent on a number of factors and is difficult to define. This information is not used to describe or define the product, is not disclosed on the packaging nor is it readily available. 'Quality' can be the result of the combination of the pulp used in the production of the product and the production process itself. While the number of ply can be an indication of quality, Customs observes that the four main products in the premium market are all of different ply as follows:

- *Kleenex* – 1 ply
- *Sorbent* – 2 ply
- *Quilton* – 3 ply
- *Woolworths Select* – 4 ply

As such, there do not appear to be clear identifiable physical differences between the products, rather a general understanding by market players of the positioning of each of the brands. Customs has noted that industry members and importers have expressed the same view regarding the positioning of the major brands in the market. There also appears to be a general view in the market that the sub sectors can impact on each other, for instance, the promotion of a premium product, at a price close to that of mid range products, will impact the sales of mid range, as consumers quickly respond to get better 'value for money'. The major driver, therefore, in the market appears to be 'value for money'. That is, a good quality product at a reasonable price.

The specifications of the main imported product in the retail market as provided in the application are detailed in the table below:

<b>Brand</b>	<i>Woolworths Select</i>	<i>Woolworths Select DL</i>
<b>Pack Count</b>	8 Rolls	4 Rolls
<b>Sheets / Roll</b>	200 Sheets	400 Sheets
<b>Ply's</b>	4	4
<b>Technology</b>	Conventional Layered	Conventional Layered
<b>Sheet Size</b>	10.0 cm x 11.0 cm	10.0 cm x 11.0 cm
<b>Roll Weight (grams)</b>	140 Grams	280 Grams
<b>Market Segment</b>	Premium	Premium
<b>Imported from</b>	China	Indonesia and China

The specifications of ABC's main product in the retail market, *Quilton*, obtained from scanned retail sales reports are detailed in the table below:

<b>Brand</b>	Quilton
<b>Pack Count</b>	Numerous
<b>Sheets / Roll</b>	200
<b>Ply's</b>	3
<b>Technology</b>	Dry Crepe/conventional
<b>Sheet Size</b>	10.0 cm x 11.0 cm
<b>Roll Weight (grams)</b>	99 Grams
<b>Market Segment</b>	Premium

The specifications of KCA's product range as provided by the applicants are detailed in the tables below:

<b>Brand</b>	Kleenex Cottonelle	Kleenex Cottonelle DL
<b>Pack Count</b>	4,6,8,12,16,18,24	6,8
<b>Sheets / Roll</b>	190 Sheets	380 Sheets
<b>Ply's</b>	1	1
<b>Technology</b>	Through Air Dried	Through Air Dried
<b>Sheet Size</b>	10.0 cm x 11.0 cm	10.0 cm x 11.0 cm
<b>Roll Weight (grams)</b>	77 Grams	154 Grams
<b>Market Segment</b>	Premium	Premium

<b>Brand</b>	Wondersoft	Wondersoft	Delsey
<b>Pack Count</b>	4,9,12,16,18,24	6,8	1
<b>Sheets / Roll</b>	210 Sheets	160 Sheets	1000 Sheets
<b>Ply's</b>	2	3	1
<b>Technology</b>	Conventional Layered		Conventional
<b>Sheet Size</b>	10.0 cm x 11.0 cm		10.0 cm x 11.0 cm
<b>Roll Weight (grams)</b>	77.9 Grams	89.9 Grams	196.0 Grams
<b>Market Segment</b>	Mid-Range	Mid-Range	Economy

The specifications of SCA's product range as provided by the applicants are detailed in the tables below:

Brand	Sorbent	Purex	Private Label
Pack Count	2,4,6,8,12,16	4,6,8,9,12	4,6,9
Sheets / Roll	190	230	200
Ply's	2	2	3
Technology	Through Air Dried	Dry Crepe/conventional	Dry Crepe/conventional
Sheet Size	10.0 cm x 11.0 cm	10.0 cm x 11.0 cm	10.0 cm x 11.0 cm
Roll Weight (grams)	99 Grams	97 Grams	131 Grams
Market Segment	Premium	Mid Range	All

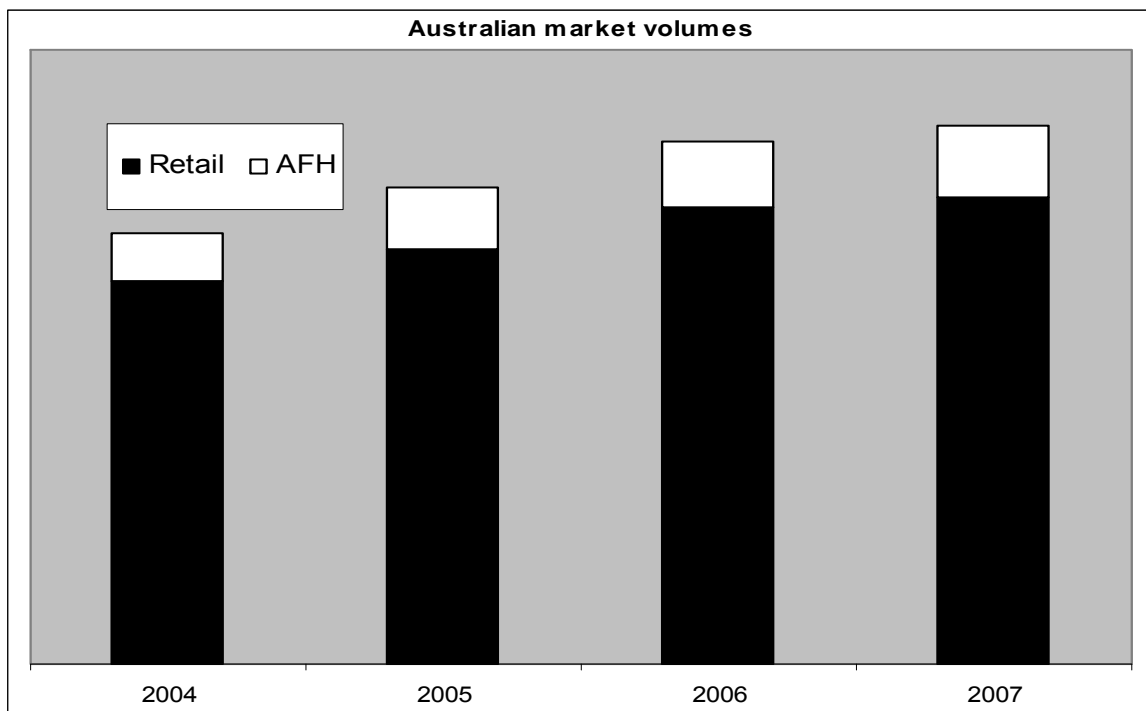
#### 7.1.4 Size of Australian market

The applicants claimed that toilet paper sales through retail chains in Australia accounted for approximately 120,000 tonnes or \$728 million in 2007.

Customs has estimated the Australian market for toilet paper using information from the applicants, importers, Customs' import database and scanned retail sales reports. Customs estimates the market for both the retail and the AFH segments to be approximately 140,000 tonnes. In the absence of verified information from ABC and Encore, Customs has used scanned retail sales reports, of the major retail outlets. Customs understands Woolworths and Coles to be the main distribution channels for the ABC *Quilton* brand over the period 2004 to 2007.

Customs was advised by ABC that only 10% of its sales are into the AFH sector. Customs has received no information from any other interested parties to estimate any sales of ABC and Encore into the AFH market.

The size of the Australian market is depicted in the graph below:



The Australian market for toilet paper has increased by approximately 25% over the period 2004 to 2007. The available information shows that this increase is reflected in both the retail and AFH markets. The AFH sector has remained approximately 14% of the total toilet paper market.

The analysis detail is contained in **Confidential Appendix 1**.

## 7.2 Source and volume of imports

Toilet paper is imported from many sources including China, Indonesia, New Zealand, Thailand and the USA.

Given the large number of importers<sup>3</sup>, Customs verified imports representing the most significant volumes. This verification identified any imports which were not the goods, and excluded them from the analysis. The verified imports as a percentage of total imports are detailed below:

	2004	2005	2006	2007
Percentage of imports from all sources verified	69%	65%	75%	75%

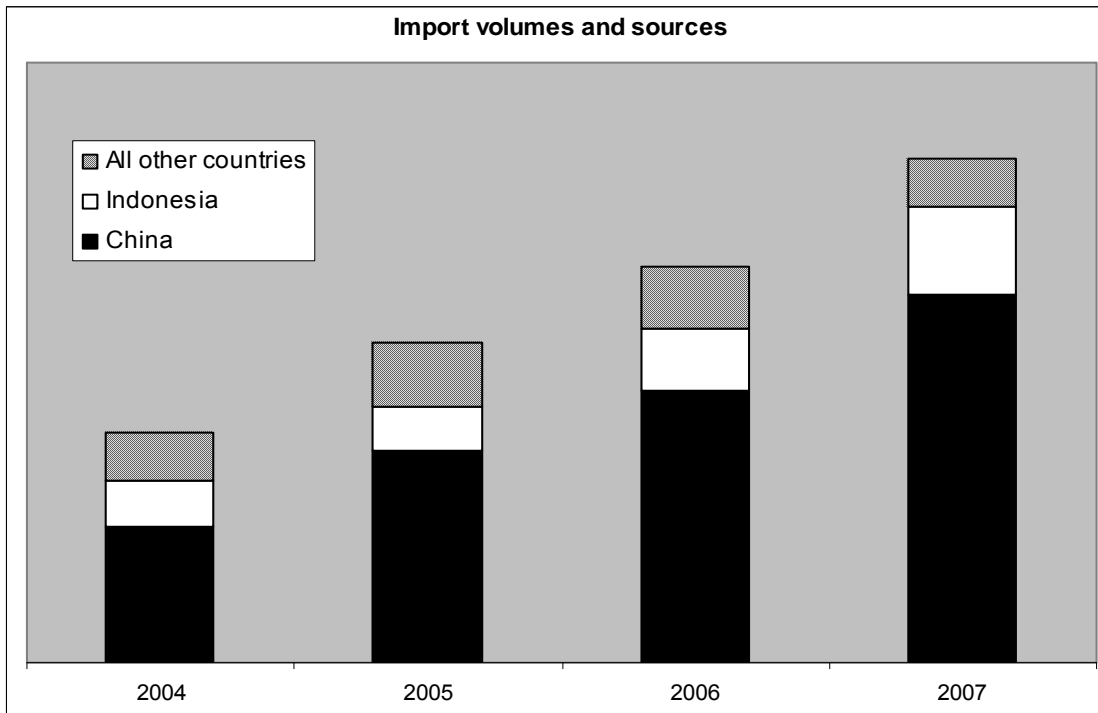
Customs is satisfied that a sufficient volume of imports were verified to provide a reliable basis to make conclusions relating to import and market trends and the economic condition of the industry.

The majority of toilet paper is imported from China and Indonesia. The following graph shows the significant increase in total toilet paper imports<sup>4</sup> from 2004 to 2007,

<sup>3</sup> One hundred and fifty six (156) names were identified from Customs commercial database as having imported certain toilet paper during the investigation period.

<sup>4</sup> On a product weight basis

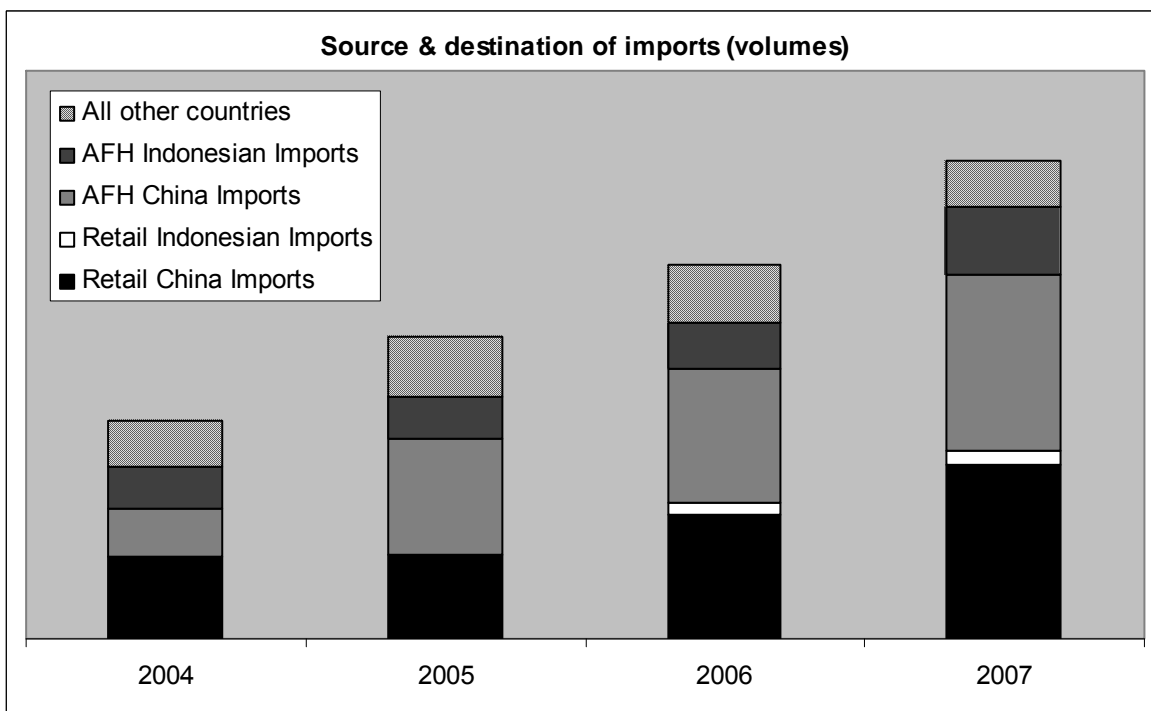
mainly from China, with imports doubling over the four year period. The graph below excludes any imports by the Australian industry.



Customs' analysis detail of toilet paper imports is at **Confidential Appendix 3**.

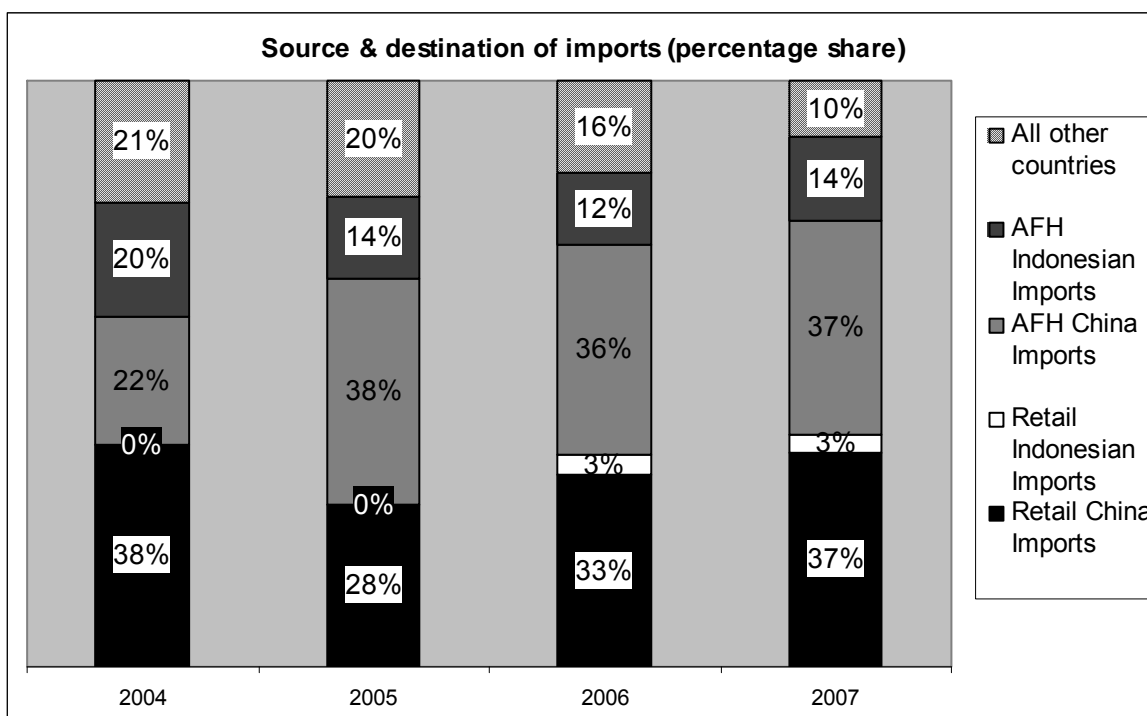
### 7.2.1 Sectoral destination of imports

From visits to importers, review of scanned retail sales reports and Customs' import database, Customs understands the volumes of imported product destined to the retail and AFH sectors to be increasing significantly as shown in the graph below:



Imports overall have more than doubled since 2004, with significant increases in 2006 compared to 2005, and then again in 2007 when compared to 2006. The level of imports from all other countries rose in 2005 and 2006 but in 2007 reverted to the levels of 2004 demonstrating that the current large increase is due to ongoing increasing imports from China and Indonesia.

The percentage of imports from the nominated countries to the respective sectors of the market is depicted in the table below:



Given that imports going into the AFH markets are more than half of total imports in 2007, it would appear that the majority of the AFH market (being only 14% of the total Australian market) is being supplied by imports. (This is further discussed in Section 9.1 below).

The analysis detail is contained in **Confidential Appendix 3**.

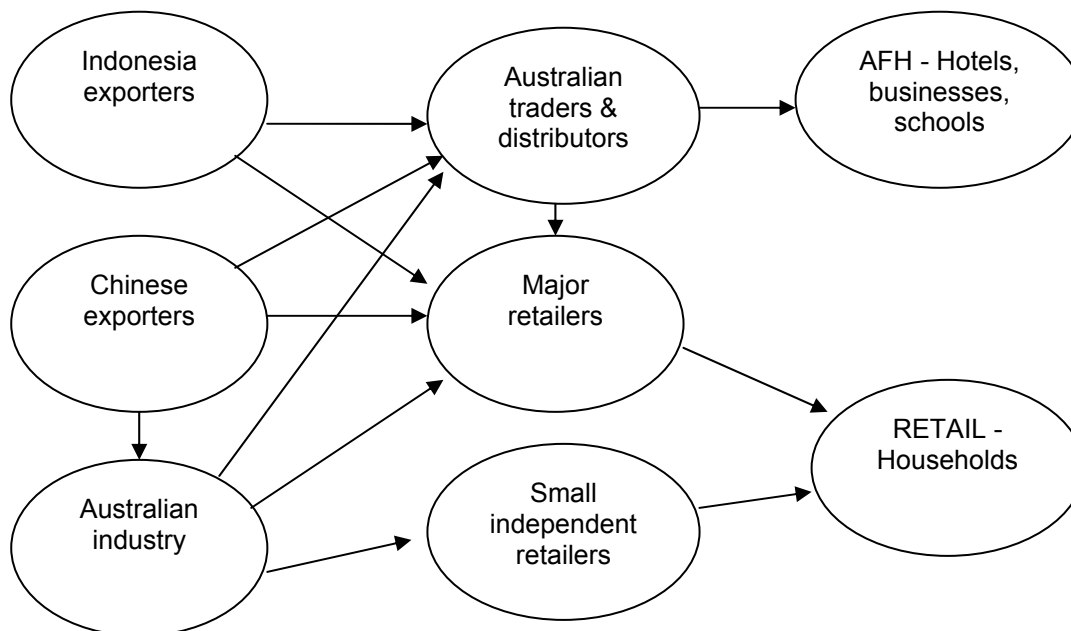
### 7.3 Distribution channels and party relationships

Customs has the following understanding of the distribution of products:

- The applicants and ABC sell predominantly to the major retail chains (Woolworths, Coles, Big W) and small retail outlets in all three sub sectors, premium, mid range and economy.
- Woolworths imports premium (*Select*) and economy (*Homebrand*) to sell in its retail outlets.
- Encore and Merino sell to the major and small retail outlets and AFH market.
- Paper Force imports products under numerous brand names to sell mainly to distributors and customers in the AFH sector. There are also some small volumes of retail mid range products being sold to the major retail chains.

- Bunzl Limited, Caprice Paper Products Pty Ltd, John S. Hayes and Associates Pty. Limited and Financial Raising Pty Ltd import products under numerous brands to sell to customers in the AFH market.

The following diagram depicts the supply of product in the Australian market:



### 7.3.1 Price Negotiation– retail market

It is Customs' understanding that regular negotiations (at the very minimum on an annual basis) are held between Australian manufacturers and the major retail chains. The parties negotiate:

- which products would be added or deleted from their product ranges;
- how many promotional slots would be provided for the manufacturer's products;
- at what price the products would be promoted; and
- the level of discount and/or rebate to be provided (being the difference between the shelf price<sup>5</sup> and the price received by the manufacturer).

It is Custom's understanding that the manufacturers' prices are directly dependent on the level of the shelf price. Any changes in the shelf price, for instance a decrease, are mirrored in the price in which the manufacturers' can sell to the retailer, being a corresponding decrease of the same quantum.

Customs understands that an informal 'tender' was undertaken for the supply of the Woolworths *Select* product early in 2006, in which, SCA, ABC and Encore were

<sup>5</sup> The shelf price is the price at which the retailer sells to the consumer.

invited to 'tender' on the basis that these manufacturers had the necessary production capacity (able to handle the volume Woolworths sought) and technology (capable of producing a 4 ply product)<sup>6</sup>.

Customs requested the 'tender' documentation at the visit to Woolworths and in subsequent correspondence with Woolworths, however, Woolworths did not provide this information. As such the information Customs has available in relation to the 'tender' was limited to only the 2007 supply agreement provided by the successful trader and advice from the applicants. Customs was not provided information on the relative prices offered by the companies invited to 'tender'. It is Customs' understanding that to produce within the advised price range was not a viable option for at least one of the Australian industry members.

### 7.3.1.1 Submissions and Analysis

#### Woolworths

In their response to the SEF, Woolworths has objected to Customs' statement in the SEF that Woolworths declined to provide information on the 'tender' process. Woolworths stated that due to moving premises, these documents can no longer be found. Woolworths also submitted that it is open for Customs to request these documents from other parties.

In response Customs notes that the 'tender' information Customs had sought from Woolworths had not been provided by the time Customs had finalised the report of the Woolworths visit. On 4 September 2008 Customs sent a letter to Woolworths stating that:

"At the time of the Woolworth's visit report going on public file the following two items were outstanding:

- The overseas consolidation (freight forwarder) invoices; and
- The details for the tender of the *Select* product.

It was our understanding that Woolworths had still intended to provide this information to Customs. Could you please advise on the expected submission of this information".

This letter was subsequently placed on the public record. Woolworths did not respond to this letter and did not provide the requested documentation concerning the 'tender' arrangements.

It remains Customs understanding that the informal 'tender' consisted of consultations with the manufacturers and that no 'formal' documents were provided to selected manufacturers. As such there was limited information that could be provided by the applicants. At the same time, following the verification visit to Woolworths, it also remained Customs understanding that some form of documentation was maintained by Woolworths and it was this information which Customs had sought.

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<sup>6</sup> It is Customs' understanding that KCA was not approached as it did not meet the manufacturing requirements.

It was not until their response to the SEF that Woolworths advised Customs that the documents relating to the 'tender' process had been lost and could not be found by Woolworths.

#### Other interested parties

In response to the SEF, Dr Richard Whitwell submitted that Customs gave credit to the outcome of the 'tender' without the support of documentary evidence from the unsuccessful tendering Australian manufacturer. Given this evidence is critical to the price effects of the dumping upon which the injury case is based, Dr Whitwell submitted that the matter should be followed up with the industry members.

As noted above it remains Customs understanding that no 'formal' documents were provided to selected manufacturers. As such there was limited information that could have been provided by the applicants.

#### **7.3.2 Price Negotiations– AFH market**

Where there is ongoing supply, regular negotiations (at the very minimum on an annual basis) on price are held between the main AFH distributors and the Australian manufacturers or overseas suppliers. Price is an important factor, though considerations are given to the quality of the product. Generally the toilet paper is offered as part of a range of washroom products. A contract may be in place, or sales can be on an ad hoc basis.

## 8 THE DUMPING INVESTIGATION

### 8.1 Introduction

Dumping occurs when the export price of a product is less than the normal value of the same (or similar) product in the domestic market of the country of export. A normal value is usually established from the price paid for like goods in the exporter's domestic market, or from the cost of production, and expenses associated with a domestic sale and any profit. Export price and normal value are ascertained under subsections 269TAB and 269TAC respectively.

This section explains the results of Customs' investigations into whether toilet paper was exported from China and Indonesia at dumped prices during the investigation period.

### 8.2 Importers

Prior to the exporter visits, Customs sought information from, and undertook visits to, a number of importers of toilet paper. The public record contains reports of Customs' visits to the following:

- Bunzl Limited
- Caprice Paper Products Pty Ltd
- John S. Hayes and Associates Pty. Limited
- Financial Raising Pty Ltd
- Paper Force
- SCA
- Woolworths

The verified imports accounted for approximately 75% of the total exports from China and Indonesia. (refer Table at section 7.2 above)

### 8.3 Dumping Margins - Indonesia

For exports from Indonesia, Customs received a response to the exporter questionnaire from Pindo Deli and visited that company to verify the information in the response. Another Indonesian exporter (PT Graha Kerindo Utama) did not respond to the questionnaire but supplied some information in response to a request from Customs but this was limited. A visit to the company was not undertaken.

#### 8.3.1 Pindo Deli

##### 8.3.1.1 Export price

Pindo Deli is a manufacturer and exporter of toilet paper sold to Australia and is part of the APP Group of companies.

Customs identified the importer and exporter for each export sale transaction from Pindo Deli to Australia during the investigation period. Customs is satisfied that

Pindo Deli is the exporter in all transactions. Pindo Deli has an exclusive distributorship arrangement with the Australian based intermediary, Paper Force and there are differing trading circumstances involved that are consequential to identifying the importer.

Customs noted some transactions where Paper Force was the importer principal and some other transactions where the role of Paper Force was more akin to that of a trader or a selling agent. In establishing export price Customs identified two circumstances concerning Pindo Deli's export sales.

For the first circumstance, where Paper Force was the importer of the goods, Customs considers that the goods were exported to Australia otherwise than by the importer and purchased by the importer from the exporter in arms length transactions. This circumstance also applies to another importer of the goods. Customs recommends the Minister determine that export price for these exports by Pindo Deli can be determined in accordance with s. 269TAB(1)(a).

In the second circumstance, Pindo Deli's sales were to the intermediary Paper Force. However, after examining the circumstances of these sales, Customs considers that the goods were imported by Woolworths who purchased the goods from Paper Force. Customs recommends that the Minister determine that export price for the goods exported by Pindo Deli and imported by Woolworths under s269TAB(1)(c). Having regard to all the circumstances of the exportation the export price can be calculated using the invoiced price less the charges incurred 'post FOB'.

#### 8.3.1.2 Normal value

Pindo Deli does not sell toilet paper directly in the Indonesian market. It sells these goods through an associated reseller, PT Cakrawala Mega Indah (CMI). CMI is part of the APP Group of companies. Customs established that the prices in the transactions that transferred the goods from Pindo Deli to CMI for the purposes of resale are not prices that are suitable for the purposes of s.269TAC(1). This is because CMI is the selling arm of the APP group and the transactions between Pindo deli and CMI are, in effect, transfer prices within the group and not 'sales' in the ordinary sense. The subsequent sales by CMI were the first arms length sales of Pindo Deli's product in the Indonesian market.

CMI only sold toilet paper manufactured by Pindo Deli and other associated companies (such as PT The Univenus, and PT Lontar Papyrus). Pindo Deli did not sell any other manufacturer's product.

CMI, the re-seller, sold like goods on the domestic market in Indonesia during the investigation period. CMI classified its customers into two sales levels:

- 'distributors', and
- 'modern market' (large retail chains).

Customs was satisfied that there were sufficient quantities of sales by CMI that were arms length and in the ordinary course of trade in each sales level and overall.

Customs therefore considers that normal values for Pindo Deli can be established in accordance with s.269TAC(1), using domestic sales by CMI at the relevant levels of trade.

For the purposes of fair comparison with the export price, Customs examined the sales to both distributors and modern market. Noting the roles of each party in the transactions, particularly in relation to the role of the Australian based intermediary, Customs considers it appropriate to compare:

- CMI sales to modern market purchasers with the Pindo Deli export sales where the intermediary is not the importer, and
- CMI sales in the domestic market to distributors with the other export sales made by Pindo Deli.

The normal value requires adjustments under s269TAC(8) to ensure it is fairly comparable to export prices. The following adjustments are required:

- domestic inland freight (downward)
- export inland freight (upward)
- domestic credit (downward)
- export credit (upward)
- shelf rental expense (downward)

### Submissions and Analysis

Customs decision to compare sales to modern market purchasers with the export sales was the subject of a number of submissions from Pindo Deli and the Government of Indonesia prior to the SEF. Customs considered each of these submissions and responded to Pindo Deli and the Government of Indonesia on the matters raised. The submissions and responses are on the public record. Pindo Deli made further submissions in this regard and on other matters in response to the SEF.

#### *Level of trade*

The submissions argued that it is not appropriate to compare the export prices to the Australian importer (Woolworths a retailer) with the Indonesian 'modern market' sales (also retailers) because of the role undertaken by the intermediary Paper Force in the export transactions. Pindo Deli submitted that as Paper Force is a 'distributor' or a 'wholesaler' this comparison is flawed because of the differing levels of trade involved.

Customs takes the view that level of trade is a fact specific determination. The roles played by the various entities in the particular sales transactions under investigation, and the trade level of the customer, are determinative, rather than the simple acceptance of a label or a title. Merely because there is an intermediary in a sales transaction between a manufacturer and a retailer does not mean that the intermediary unflinchingly must be treated as a 'wholesaler'.

It is the role that Paper Force actually plays in the export transactions that has influenced Customs understanding of what is fair in comparison. The facts suggest that Paper Force, as an intermediary, performs different roles in different transactions. A label of 'wholesaler', in the usual sense of that word, may be

appropriate for certain Pindo Deli's exports to Australia, but in the case of Pindo Deli's other exports the label 'selling agent', in the usual sense of that word, is equally appropriate.

Customs invited Pindo Deli to submit further information on whether or not a 'level of trade' adjustment was necessary to properly compare the normal values and the export prices. In response Pindo Deli submitted that an adjustment be made to the selling prices to modern market customers in the amount of the difference between CMI prices to modern market customers and distributors. This submission was supported by the claim that because Paper Force is an intermediary, the notional "intermediary" in domestic sales to modern market customers can only be Pindo Deli's distributor customers.

Customs considered this claim from the perspective that the adjustment claim should reasonably estimate and provide support for the pricing difference (if any) that would be present if Pindo Deli's sales to major retail chains in Indonesia were through an intermediary performing the same role as Paper Force did for the export sales destined for Woolworths.

These differences mean that selling prices to Pindo Deli's distributors are not a reliable guide as to the prices that Pindo Deli might sell, on the domestic market, to an entity performing the same role as Paper Force did in the export sales to Australia. This indeed was the reason why Customs decided initially not to use Pindo Deli's distributor selling prices.

Customs accordingly does not consider that such an adjustment is appropriate as it would not reasonably reflect the price impact associated with an entity performing the same role as Paper Force being present in domestic sales to modern market customers.

#### *CMI's sales margin*

Pindo Deli, both prior and in response to the SEF, submitted that adjustments should have been made for the effect of their associated re-seller CMI's sales margin on export price and normal value comparability.

Before making adjustments for the sales margin (ie cost of their sales related services and their profit) of an intermediary Customs must be satisfied that there is a difference and a difference which affects price comparability. In other words Customs must be satisfied that the involvement of the intermediary gave rise to a difference that affected price comparability between export price and normal value, not simply that there was a difference in costs. This requirement is well supported by a number of WTO dispute settlement reports including *Korea – Anti Dumping duties on imports of certain paper from Indonesia* (WT/DS312) and by the Customs Act.

In respect of the current circumstances Customs established that:

- CMI performs the domestic selling function for the home consumption of Pindo Deli's paper products which includes their toilet paper manufacture
- CMI are not involved in providing any sales related services to Pindo Deli when Pindo Deli exports toilet paper to Australia.

Because, on the face of it, this might give rise to comparability issues Customs, on a number of occasions, invited Pindo Deli to identify and quantify any additional expenses that may have been incurred, and to provide evidence why these costs might affect price comparability between export price and normal value.

Pindo Deli's consistent response to Customs invitations was not to provide this information because, in their view, the fair comparison of domestic price and export price is affected by the entire gross sales margin of CMI.

From available evidence Customs was able to identify a CMI expense (Shelf Rental) that was incurred in domestic sales to modern market customers and was satisfied that a similar expense would not have been incurred in Pindo Deli's sales to Australia, and Customs was also satisfied that the expense would affect price comparability. An adjustment (downward) for this expense was made.

This exception apart, on the available information following verification of relevant data, Customs found no evidence that there were sales related services performed by CMI on the domestic market that were not rendered by Pindo Deli for export sales to Australia that affected price comparability – there have merely been assertions that this was the case. Accordingly by the adjustment detailed above, for domestic shelf rental expense, takes account of this aspect.

#### *Ordinary course of trade test*

Pindo Deli submitted that the ordinary course of trade test for domestic sales was improperly conducted. In conducting this test Customs compares the selling prices for individual transactions to the corresponding CTMS for those goods.

For those sales found to be sold at a loss, the selling price of each individual sale is compared to the weighted average CTMS of those goods over the whole of the investigation period to ascertain whether it is recoverable within a reasonable period. Where the volume of non-recoverable sales exceeds 20% of the total volume sold, those sales are rejected. The remaining profitable and recoverable sales are treated as sold in the ordinary course of trade and are used in determining normal values.

As above, Customs was satisfied that there were sufficient quantities of sales by CMI that were arms length and in the ordinary course of trade, in each sales level (ie to modern market customers and to distributor customers) and overall, to establish normal values on the basis of price paid on the domestic market.

The tests were conducted at each sales level as well as overall. Each involved comparing each relevant domestic selling price to the monthly CTMS.

Customs then addressed the issue of which domestic sales were most comparable to the export transactions. (See discussion under level of trade above).

The domestic selling prices included discounts, also further deductions were made for transport costs to compare them with the monthly CTMS at ex factory level. Customs did not make a deduction for credit costs as the company submitted that these were already included in the CTMS in finance expenses. Sales at a loss were then compared with the weighted average CTMS for the investigation period to see whether they were recoverable.

Pindo Deli have submitted that testing whether the individual data sets of sales to the modern market and the distributor customers, rather than testing all domestic sales

as one, is inconsistent with legislation, illogical and unfair. Customs disagrees and having reviewed the approach during the consideration of submissions, remains satisfied, on the basis of the available information that the approaches taken are consistent with the operation of s.269TAAD.

#### *Timing of comparison*

Pindo Deli submitted in response to the SEF that comparison of export price and normal value was not made at as nearly as possible the same time as it related to imports by Woolworths. Pindo Deli earlier submitted that the relativity of normal values and export prices at the time that a certain 'tender' from Woolworths to Paper Force was awarded (May 2006) needed to be addressed rather than their relationship during the investigation period.

It is Customs practice, in accordance with s.269TACB, to determine dumping margins by comparing relative prices during the investigation period. Pindo Deli's submission in this regard is further dealt with in Section 10 of this report.

#### *Customs' conclusion*

Customs concludes that in relation to Pindo Deli the most appropriate sales available (for comparison to the exports which were to an importer in Australia) are sales to the modern market. Customs also considers that appropriate adjustments to the prices have been made to reflect the role of CMI.

Given the available information Customs is satisfied that the ordinary course of trade test was conducted properly and that using the weighted average method over the investigation period was appropriate to establish dumping margins for Pindo Deli's exports, including those imported by Woolworths.

#### Customs recommendations

Customs has established values for Pindo Deli in accordance with s.269TAC(1), using domestic sales by CMI at the relevant levels of trade.

In order to establish normal value properly comparable to export price, Customs recommends that the Minister directs that the normal value incorporate adjustments to account for differences between domestic and export sales for:

- domestic inland freight (downward)
- export inland freight (upward)
- domestic credit (downward)
- export credit (upward)
- shelf rental expense (downward)

The adjustments are recommended in accordance with s. 269TAC(8).

#### 8.3.1.3 Dumping margin

Customs recommends the Minister determine a dumping margin for the investigation period by comparing weighted average export prices to weighted average normal

values in accordance with s269TACB(2)(a). The dumping margin for toilet paper exported by PT Pindo Deli from Indonesia to Australia was in the range of 33% to 38%.

### **8.3.2 Other exporters from Indonesia**

#### **8.3.2.1 Export price**

Exports from other exporters accounted for less than 5% of all exports from Indonesia during the investigation period.

Customs identified exports by other exporters from Indonesia during the investigation period from Customs import database and obtained some limited pricing information from one of the other Indonesian exporters (PT Graha Kerindo Utama). Customs used this pricing data to calculate export prices for the other exporters.

Customs recommends that that the Minister be satisfied in accordance with s. 269TAB(3), sufficient information has not been furnished or is not available to enable the export price of toilet paper exported to Australia from Indonesia by exporters other than Pindo Deli, to be ascertained under subsections 269TAB(1)(a), 269TAB(1)(b) or 269TAB(1)(c).

Customs recommends the Minister determine in accordance with s. 269TAB(3), having regard to all relevant information, the export price of toilet paper exported from Indonesia by exporters other than Pindo Deli.

#### **8.3.2.2 Normal value**

Customs considers that sufficient information has not been furnished or is not available to enable the normal value of toilet paper exported to Australia from Indonesia by the other exporters to be ascertained under subsections 269TAC(1) or 269TAC(2). Customs has had regard to all relevant information in calculating normal value for other exporters of toilet paper from Indonesia.

Customs considers that the information obtained from Pindo Deli is relevant to determining normal values for the other exporters.

Customs recommends the Minister is satisfied in accordance with s. 269TAC(6), sufficient information has not been furnished or is not available to enable the normal value of toilet paper exported to Australia from Indonesia exporters other than Pindo Deli, to be ascertained under the preceding subsections of s. 269TAC.

Customs recommends the Minister determine in accordance with s. 269TAC(6), having regard to all relevant information, the normal value of toilet paper exported from Indonesia; by exporters other than Pindo Del.

#### **8.3.2.3 Dumping margin**

Customs recommends the Minister determine a dumping margin for the investigation period by comparing weighted average export prices to weighted average normal values in accordance with s269TACB(2)(a). The dumping margin for toilet paper

exported by 'other exporters' from Indonesia to Australia was calculated to be between 40% and 45%.

Calculations are contained in **Confidential Appendix 4**.

### **8.3.3 Assessment of the market situation in Indonesia**

#### 8.3.3.1 What is a market situation?

The test for calculating normal values is set out in s269TAC. Under s269TAC(1) there is a general test for determining the normal value of goods. This general test must be used to establish normal values unless one of the exceptions set out in s269TAC(2) onwards is applicable.

In broad terms, the general test is that the domestic selling price of goods is the normal value of those goods subject to certain adjustments being made to ensure there is a proper comparison.

One of the exceptions to this general test is set out in s269TAC(2)(a)(ii). Again in broad terms, that exception provides that the general test will not be applicable if the Minister is satisfied that a situation in the market has rendered domestic selling prices unsuitable for establishing normal values.

If the situation in the market is such that it makes sales in that market unsuitable for normal values, because normal values so calculated would not be properly comparable to the export price of the goods to Australia, then normal values must be assessed under another provision in s269TAC.

#### 8.3.3.2 Applicants' submission

In a submission dated 2 May 2008, the applicants alleged that a 'market situation' for toilet paper exists in Indonesia due to the impact of government policies on raw material timber and pulp production which has resulted in lower costs of production than would have otherwise occurred in normal market conditions, and that government influence has resulted in 'artificially low prices' in Indonesia.

The submission sought that Customs investigate the 'market situation' and investigate whether, as a consequence, it was appropriate to determine normal values for Indonesia under s.269TAC(6) using best available information.

#### 8.3.3.3 Customs Assessment

To make a finding that a market situation exists, which renders domestic selling prices unsuitable, Customs considers that there must be sufficient relevant and reliable information that, unless rebutted, would be reasonably supportive of a finding that domestic selling prices are unsuitable for establishing a normal value that is properly comparable with the export prices during the period of investigation.

The applicants' submission relied principally (for the existence of a market situation) on the outcomes of a recent USA countervailing investigation in relation to coated free sheet paper from Indonesia.

Customs decided that the applicants had not met this information threshold in this case. First, they had not addressed the different legislative and policy frameworks that operate in the USA and how that affected the relevance of the findings. Also,

the USA investigation was in relation to different goods, and the submission did not establish a sufficient link between the USA countervailing findings in respect of those different goods and how such findings established reasonable grounds that a 'market situation' existed in Indonesia. It is also the case that the submission did not establish how those findings may render domestic selling prices of toilet paper in Indonesia as unsuitable, or the materiality of the effect of the alleged government influence on domestic selling prices of toilet paper in Indonesia.

Customs did examine information that was available when considering the issue. In respect of the possible impact of government policies on raw material timber and pulp production, Customs examined confidential data provided with the application and data obtained during the Australian industry verification visits in an attempt to gauge the materiality of the input cost of logged timber versus the cost to make toilet paper on the Australian domestic market. Based on that comparison, Customs formed the view that a reduced raw material timber price would be unlikely to have a material effect on domestic selling prices of toilet paper.

The submission also made no attempt to examine the toilet paper market in Indonesia. Market information in relation to toilet paper will necessarily form the foundation for analysing the market situation. While at the same time recognising the inherent difficulties for the applicants in this regard, Customs expects that market situation claims in relation to government influence on upstream inputs should be supported, to the extent possible, by any publicly available market information, studies, and statistics that go to demonstrate the likelihood of how government intervention in one upstream factor of production will impact on the particular markets for the products of interest.

On this basis Customs rejected the course of action proposed by the applicants and did not provide the Government of Indonesia or the exporters with 'market situation' questionnaires. The applicants were advised of this decision on 21 May 2008.

Nevertheless, Customs' normal value determination did examine the actual costs employed in the production of toilet paper in Indonesia. Customs examined the allocations made and the amounts of the input costs, relating to the significant productive inputs being timber, pulp fibre and energy. Customs found no evidence that these inputs did not reflect normal competitive market costs associated with production of the toilet paper.

No interested party provided any submission on the market situation in Indonesia in response to the SEF.

#### 8.3.4 Country summary for Indonesia

In summary the dumping margins established for exports of toilet paper from Indonesia are as follows:

Exporters	Volume of Trade	Dumping Margin Range
Pindo Deli.....	≈ 95%	33% to 38%
Other Exporters.....	≈ 5%	40% to 45%

Customs must terminate the investigation under s269TDA(3) so far as it relates to a particular country if the volume of dumped goods is negligible. The volume of dumped goods is negligible if this figure is 3% of the total Australian import volume.

Exports from Indonesia at dumped prices during the investigation period were greater than 3% of the total Australian import volume.

## **8.4 Dumping Margins - China**

### **8.4.1 Sampling**

A large number of companies exported toilet paper from China to Australia during the investigation period (1 January 2007 to 31 December 2007). During the investigation period, one hundred and fifty eight suppliers of goods of Chinese origin were identified from the Customs import database.

The public notice notifying the initiation of the investigation advised that Customs import database showed a potentially large number of suppliers of toilet paper from China. The notice also advised that given this large number it may be impractical to establish dumping margins for each exporter, and it may be necessary to decide whether dumping exists on the basis of information obtained from an investigation of a selected number of those exporters.

Customs sent an information pack, including a Preliminary Information Request (PIR), to each supplier thereby selecting all suppliers as potential exporters. Suppliers who did not respond were considered to be non-cooperating.

On 21 April 2008, following an evaluation of the responses received, Customs sampled 4 exporter/producers<sup>7</sup> for further investigation. This sample was made on the basis of the largest percentage of the volume of the exports from cooperating suppliers (on the information available to Customs at the time of selection) that could reasonably be investigated.

The non-selected cooperating exporter/producers from China were:

- Dongguan Zhida Paper Products Co., Ltd
- Jiangmen Luck Tissue Mfy Ltd
- Dongguan Lixinde Paper Co., Ltd
- Shanghai Clean Paper Co., Ltd
- Shantou B & S Paper Co., Ltd

A report concerning the selection of exporters for further investigation was placed on the public record.

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<sup>7</sup> One Chinese exporter/producer and its supplier/trader in Hong Kong withdrew cooperation prior to the due date for submission, due to resource constraints.

The table following summarises the sampling process:

	Number	Volume of Trade (VOT)
Suppliers sent a PIR	158	100%
Suppliers who responded	46	about 80%
Suppliers who indicated cooperation	34	about 70%
Exporter/producers sampled for further investigation	4	about 60%

The sampled exporters and their respective traders (a total of 7 trader/suppliers) were provided with either an Exporter/Producer or a Supplier/Trader Questionnaire for completion. The suppliers who did not respond to the PIR, or submitted a response out of time, were advised that they were considered to be non-cooperating. Those suppliers are still “selected exporters” as their exports will be investigated for the purpose of deciding whether or not to publish a dumping duty notice.

The due date for responses to the questionnaire was set at 26 May 2008. Customs provided extensions to this due date.

Customs received completed exporter/producer questionnaire responses from the following three sampled exporter/producers:

- GHY;
- Fook Woo; and
- Vinda.

Customs received a completed supplier/trader questionnaire response from:

- Vinda HK.

Customs subsequently conducted on site verification visits. Reports of these visits are available on the public record.

Customs also sought information from companies that may have supplied significant productive inputs to the toilet paper producing industry that exported toilet paper to Australia from China during the investigation period. In this case significant productive inputs were timber, pulp fibre and energy. Energy included oil, coal, electricity, steam etc.

From information obtained from the sampled exporter/producers Customs provided input supplier questionnaires to 30 Chinese companies. Customs received partially completed responses from 2 input suppliers associated with the exporter GHY. Customs met with representatives of these two companies and verified the information provided in the responses.

## 8.4.2 GHY

### 8.4.2.1 Export price

GHY is engaged in the manufacture and sale, in both domestic and export markets, of toilet paper. GHY is part of the APP Group. All of GHY's toilet paper exports to Australia during the investigation period were sold to their Australian based intermediary, Paper Force.

Customs considers that GHY was the exporter of toilet paper to Australia in sales to Paper Force during the investigation period, and that the sales to Paper Force were arms-length transactions.

Customs considers that the goods were exported to Australia other than by the importer (who Customs considers to be Woolworths) but that the importer (Woolworths) did not purchase the goods from the exporter (GHY).

Customs recommends that the Minister determine export price for the goods exported by GHY under s269TAB(1)(c). Having regard to all the circumstances of the exportation the export price can be calculated using GHY's invoiced prices to Paper Force.

### 8.4.2.2 Normal value

GHY, the producer, sold like goods on the domestic market in China during the investigation period. GHY classified its customers according to the categories Key accounts (KA), General Trade (GT) and Away From Home (AFH).

In terms of selling price per kilogram, the only clear price distinctions Customs observed were in relation to particular sales channels (KA, GT and AFH).

Customs considers that GHY's sales to KA customers are the most appropriate to compare with its exports to Australia in the investigation for the following reasons:

- GHY's export price is best characterised as a price set with Woolworths. The price paid by Paper Force to GHY is a function of the price negotiated by Woolworths ie the target price negotiated by Woolworths less a small fixed percentage margin;
- GHY's KA customers are major retail chains in China. Customs considers these sales are the most appropriate to compare with an export price best characterised as a price set with Woolworths. GT customers sell to customers other than major retail chains;
- the goods are packaged for Woolworths and shipped direct to Woolworths;
- the nature of the export arrangements with Woolworths;
- the role of Paper Force in the transaction; and
- the typical price difference between GHY's sales to KA and GT customers, which provides an indicator of the margin received by GT customers,

reinforces Customs view that the roles of Paper Force and GT customers in the distribution chain are not similar.

Having considered all the available information Customs is of the view that the roles of GT distributors and Paper Force are not similar and that GHY's sales to KA customers (large retail chains) remain the most appropriate basis to compare to its exports, through Paper Force, to Woolworths.

The ability of Customs to fully explore the roles of parties involved in GHY's domestic sales of toilet paper during its visit to GHY was limited due to some incorrect advice provided by GHY in its questionnaire responses and at the visit. However, subsequent to the visit, Customs took into account a number of submissions from GHY and one from the Government of China on this issue. Customs considered each of these submissions and responded to GHY on the matters raised. The submissions and responses are on the public record.

Customs found that GHY's domestic sales of toilet paper in China were representative, arms length and in the ordinary course of trade. Customs considers that the normal value can be established under s269TAC(1) using GHY's domestic sales to KA customers of toilet paper manufactured by GHY.

The normal value requires adjustments under s269TAC(8) to ensure it is fairly comparable to export price. The following adjustments are required:

- export expenses [costs included] (upward);
- export credit (upward);
- value added tax (VAT) (upward);
- domestic credit (downward);
- domestic transportation and warehousing (downward);
- domestic promotion expenses (downward);
- difference in salespersons salaries (downward);
- difference in regional sales office expenses (downward); and
- bad debt (downward).

### Submissions and Analysis<sup>8</sup>

Customs decision to compare sales to KA purchasers with the export sales was the subject of a number of submissions from GHY prior to the SEF and GHY further made submissions in this regard and other matters in response to the SEF.

#### *Level of trade*

The submissions argued that it is not appropriate to compare the export prices to Paper Force with GHY's KA customer sales because of the roles undertaken by the

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<sup>8</sup> To a significant extent the submissions made in respect of GHY's exports and Pindo Deli's exports are interchangeable. As Customs has taken a consistent approach in determining the respective margins so the analysis here and above is complimentary and the two sections of the report should be considered in conjunction.

intermediary Paper Force in the export transactions. GHY submitted that as Paper Force is a 'distributor' this comparison is flawed, because of the differing levels of trade involved, and that the sales to the GT distributors are thus the more appropriate comparison selection.

As for the Indonesian exports above, it is the role that Paper Force and the GT distributors actually undertake in the respective transactions that has influenced Customs understanding of what is fair in comparison. Customs has established that the roles are not similar. For instance there are differing market activities undertaken and in some instances differing warehousing and delivery activities.

Customs invited GHY to submit further information on whether or not a 'level of trade' adjustment was necessary to properly compare the normal values and the export prices. In response GHY submitted that an adjustment be made to the selling prices to KA customers in the amount of the difference between the average price difference between domestic sales to KA and GT customers.

Again, as for the Indonesian exports above, Customs' view was that any adjustment should reasonably estimate, supported by relevant evidence, any pricing difference that would likely arise if GHY's sales to major retail chains in China were through an intermediary performing the same role as Paper Force for the export sales. Customs noted that in the Chinese market the roles of GHY's GT distributor customers and Paper Force are not similar, with a number of important differences.

These differences mean that selling prices to GHY's GT distributors are not a reliable guide as to the prices that GHY might sell, on the domestic market, to an entity performing the same role as Paper Force did in the export sales to Australia. This indeed was the reason why Customs decided initially not to use GHY's GT distributor selling prices.

Customs accordingly does not consider that such an adjustment is appropriate as it would not, in Customs view, reasonably reflect the price impact associated with an entity performing the same role as Paper Force being present in domestic sales to GHY's KA customers.

#### *Timing of comparison*

GHY submitted in response to the SEF that comparison of export price and normal value was not made at as nearly as possible the same time. GHY earlier submitted that the relativity of normal values and export prices at the time that a certain 'tender' from Woolworths to Paper Force was awarded (May 2006) needed to be addressed rather their relationship during the investigation period.

It is Customs usual practice, in accordance with s.269TACB, to determine dumping margins by comparing relative prices on sales made during the investigation period. GHY's submission in this regard is further dealt with in Section 10 of this report.

#### *Adjustments*

GHY submitted in response to the SEF that ad valorem negative export price adjustments for credit terms and VAT were treated as positive normal value adjustments and hence their value inflated.

GHY earlier submitted that the approaches taken in making these adjustments were contrary to the provisions of s.269TACB and the WTO Anti-Dumping Agreement because Customs assessed notional amounts for VAT and credit costs (in calculating the normal value) by applying the relativity of the verified actual amounts of VAT and credit cost to export price to normal value, which is based on (the higher) domestic price. GHY submitted that there was no need to calculate notional amounts for these export price adjustments as Customs had verified actual amounts.

Customs considers that these calculations are correct. Where an adjustment amount is a percentage of the FOB value, Customs preference is to use domestic selling price information adjusted to the FOB point to calculate the amount, rather than the actual export price. In respect of export credit expenses where the terms for both domestic and export sales are credit, Customs makes the adjustment having regard to the interest rates and terms applying to both markets. The adjustment formula in this instance is:

- the credit inclusive domestic price is discounted to the equivalent of cash terms, and then
- the domestic cash terms price is adjusted to the same credit terms as the export sale

The principle is the same for VAT expenses. Customs considers that such methodology is reasonable and consistent with s.269TACB and the WTO Anti-Dumping Agreement.

#### Customs recommendations

Customs has established normal values for GHY in accordance with s.269TAC(1), using domestic sales at the relevant levels of trade.

In order to establish normal value properly comparable to export price, Customs recommends that the Minister directs that the normal value incorporate adjustments to account for differences between domestic and export sales in respect of

- export expenses [costs included] (upward);
- export credit (upward);
- value added tax (VAT) (upward);
- domestic credit (downward);
- domestic transportation and warehousing (downward);
- domestic promotion expenses (downward);
- difference in salespersons salaries (downward);
- difference in regional sales office expenses (downward); and
- bad debt (downward).

The adjustments are recommended in accordance with s. 269TAC(8).

### 8.4.2.3 Dumping margin

Customs recommends the Minister determine a dumping margin for the investigation period by comparing the weighted average of export prices over the investigation period with the corresponding weighted average normal values over the same period in accordance with s269TACB(2)(a). The dumping margin for toilet paper exported by GHY from China to Australia was in the range of 5% to 10%.

### 8.4.3 **Fook Woo**

#### 8.4.3.1 Export price

Fook Woo based in China manufactures toilet paper from both recycled and virgin pulp material. All of Fook Woo's toilet paper exports to Australia during the investigation period were sold to either Merino (an Australian industry member) or to Woolworths.

Customs identified differing circumstances concerning these export sales. In the first circumstance, for the sales to Merino, Customs considers that the goods were exported to Australia otherwise than by the importer, and purchased by the importer from the exporter in arms length transactions. For these sales, Customs has determined export price in accordance with s269TAB(1)(a) using the invoiced prices. Export price has been calculated at FOB Shenzhen.

Customs recommends the Minister determine that export price for these exports by Fook Woo can be determined in accordance with s. 269TAB(1)(a).

In the second circumstance all Fook Woo's export sales to Woolworths were made through its associated Hong Kong trader, Fook Woo Assorted Paper Co., Ltd (Fook Woo HK).

Customs was unable to establish all the circumstances of these sales and is satisfied that there is not sufficient information available to ascertain the export price under s.269TAB(1)(b) or s.269TAB(1)(c) and considers it appropriate to determine a deductive export price for sales to Woolworths under s269TAB(3) based on:

- the invoiced price between Fook Woo HK and Woolworths
  - o less a trader's margin, being the difference between the Fook Woo to Fook Woo HK transfer price and the Fook Woo HK to Woolworths invoiced price.

Customs recommends that that the Minister be satisfied in accordance with s. 269TAB(3), sufficient information has not been furnished or is not available to enable the export price of toilet paper exported to Australia by Fook Woo in export sales to Woolworths, to be ascertained under subsections 269TAB(1)(a), 269TAB(1)(b) or 269TAB(1)(c).

Customs recommends the Minister determine in accordance with s. 269TAB(3), having regard to all relevant information, the export price of toilet paper exported from China by Fook Woo in export sales to Woolworths by reference to the invoiced price between Fook Woo HK and Woolworths less a trader's margin, being the difference between the Fook Woo to Fook Woo HK transfer price and the Fook Woo HK to Woolworths invoiced price.

#### 8.4.3.2 Normal value

Due to the low volume of sales in the ordinary course of trade in the domestic market of the country of export, Customs considers the remaining few sales would not be relevant, under the terms of s269TAC(2) and s.269TAC(14), for the purpose of determining a price based normal value in accordance with s269TAC(1).

Customs considers that available information can be relied upon to establish normal values under s269TAC(2)(c) and has accordingly constructed a normal value under this provision. In constructing the normal value Customs did not add a profit. The applicants submitted that this was unacceptable and that Customs should include a profit in the construction.

A fundamental element to the construction of normal value is that the profit (and selling, general and administrative expense) must be established from an assumed or notional sale. Customs approach in this regard is to consider verified exporter information and other relevant information to determine a level of profit likely to be achieved in respect of sales of like goods on the domestic market.

In respect of Fook Woo's domestic sales Customs did establish that there were a number of profitable sales but these sales were only a very small percentage of Fook Woo's sales and in low volume, under s.269TAC(14), making them unsuitable for the determination of normal value. To use the profit on these sales as indicative of what would be a profit likely to be achieved in a notional domestic sale in the ordinary course of trade would not be reasonable as these sales could not be considered representative or relevant for the purpose, taking into account all the relevant information.

It is also the case that if all of Fook Woo's domestic sales had been unprofitable then pursuant to s.269TAC(13) the constructed normal value under s.269TAC(2)(c) would not include any profit figure. Simply because a mere handful of sales were profitable the attendant inclusion of a profit figure from another source would seem an unreasonable imposition on this exporter. Further the exporter provided Customs with a reasonable explanation for their acceptance of continuing zero profit domestic sales. Customs remains satisfied that, if instead of being exported, it was assumed that the goods were sold into the domestic market, it is likely that those sales would be unprofitable at least in the short term and has not included a profit in the construction<sup>9</sup>.

As this constructed normal value reflected a notional factory gate price Customs considers adjustments, in terms of s269TAC(9), are required to ensure that the normal value is properly comparable to the export prices. These adjustments have been made in respect of domestic inland transport and handling charges to the FOB level and for VAT credit on export (certain transactions only).

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<sup>9</sup> It is important to note that this approach and the approach taken in the Vinda Jiangmen constructed normal value is not inconsistent as there are differing reasons why Customs found it necessary to construct a normal value for these two exporters. One (Vinda Jiangmen) was a consequence of the non-arms length nature of the transactions and the other (Fook Woo) a consequence of the lack of sales in the ordinary course of trade

### Customs recommendations

Customs recommends the Minister determine, in accordance to s. 269TAC(2)(c), the cost of production for toilet paper by Fook Woo, and on the assumption that the goods, instead of being exported, had been sold for home consumption in the ordinary course of trade, determine the SG&A costs associated with the sale and any profit on the sale;

Customs recommends the Minister in determining the costs to be determined determine in accordance to s. 269TAC(2)(c), determine in accordance to s. 269TAC(9), the adjustments to be made to ensure that the normal value and the export prices are properly comparable by reference to domestic inland transport and handling charges to the FOB level and for VAT credit on export (in certain transactions).

#### 8.4.3.3 Dumping margin

Customs recommends that the Minister determine a dumping margin for the investigation period by comparing the weighted average of export prices over the investigation period with the corresponding weighted average normal values over the same period in accordance with s269TACB(2)(a). The dumping margin for toilet paper exported by Fook Woo from China to Australia falls in the range of 2% to 5%.

### **8.4.4 Residual exporters from China**

#### 8.4.4.1 Export Price

The non-sampled cooperating exporter/producers from China were:

- Dongguan Zhida Paper Products Co., Ltd;
- Jiangmen Luck Tissue Mfy Ltd;
- Dongguan Lixinde Paper Co., Ltd;
- Shanghai Clean Paper Co., Ltd; and
- Shantou B & S Paper Co., Ltd.

These accounted for between less than 5% of all exports from China during the investigation period. A number of these exporter/producers exported toilet paper to Australia through a supplier/trader.

Customs recommends that the Minister be satisfied that sufficient information has not been furnished or is not available to enable the export price of toilet paper exported to Australia from China by the residual exporters to be ascertained under subsections 269TAB(1)(a), 269TAB(1)(b) or 269TAB(1)(c).

For these exporters Customs recommends the Minister determine in accordance with s. 269TAB(3), having regard to all relevant information, the export price of toilet paper exported from China by the residual exporters by reference to the weighted average of export prices for like goods of the sampled cooperating exporters from China.

#### 8.4.4.2 Normal value

Customs considers that sufficient information has not been furnished or is not available to enable the normal value of toilet paper exported to Australia from China by the residual exporters to be ascertained under subsections 269TAC(1) or 269TAC(2). Customs considers that the normal values for the residual exporters from China can be established under s269TAC(6), having regard to all relevant information.

Customs calculated the normal value for the residual exporters from China by taking the weighted average of normal values for like goods of the sampled cooperating exporters from China.

Customs recommends the Minister is satisfied in accordance with s. 269TAC(6), sufficient information has not been furnished or is not available to enable the normal value of toilet paper exported to Australia from China by the residual exporters, to be ascertained under the preceding subsections of s. 269TAC.

Customs recommends the Minister determine in accordance with s. 269TAC(6), having regard to all relevant information, the normal value of toilet paper exported from China by the residual exporters by reference to the weighted average of normal values for like goods of the sampled cooperating exporters from China.

#### 8.4.4.3 Dumping margin

Customs recommends that the Minister determine a dumping margin for the investigation period by comparing the weighted average of export prices over the investigation period with the corresponding weighted average normal values over the same period in accordance with s269TACB(2)(a) having regard to the requirements of s.269TG(3B) and s.269TG(3C). The dumping margin for toilet paper exported by the residual exporters from China to Australia falls in the range of 5% to 10%.

Calculations are contained in **Confidential Appendix 5**.

### 8.4.5 'Other selected exporters' from China

#### 8.4.5.1 Export price

Customs considers that sufficient information has not been furnished or is not available to enable the export price of toilet paper exported to Australia from China by 'other selected exporters' to be ascertained under subsections 269TAB(1)(a), 269TAB(1)(b) or 269TAB(1)(c).

For these exporters Customs has established the export price under s269TAB(3), having regard to all relevant information, by reference to the weighted average of export prices for like goods of the sampled cooperating exporters from China.

Customs recommends that the Minister be satisfied that sufficient information has not been furnished or is not available to enable the export price of toilet paper exported to Australia from China by the 'other selected exporters' to be ascertained under subsections 269TAB(1)(a), 269TAB(1)(b) or 269TAB(1)(c)

Customs recommends the Minister determine in accordance with s. 269TAB(3), having regard to all relevant information, the export price of toilet paper exported from China by the 'other selected exporters' by reference to the weighted average of export prices for like goods of the sampled cooperating exporters from China.

#### 8.4.5.2 Normal value

Customs considers that sufficient information has not been furnished or is not available to enable the normal value of toilet paper exported to Australia from China by 'other selected exporters' to be ascertained under subsections 269TAC(1) or 269TAC(2). Customs considers that the normal values for 'other selected exporters' from China can be established under s269TAC(6), having regard to all relevant information.

Customs calculated the normal values for toilet paper for 'other selected exporters' from China by reference to the highest normal value established for like goods of the sampled cooperating exporters from China.

Customs recommends the Minister is satisfied in accordance with s. 269TAC(6), sufficient information has not been furnished or is not available to enable the normal value of toilet paper exported to Australia from China by the 'other selected exporters', to be ascertained under the preceding subsections of s. 269TAC.

Customs recommends the Minister determine in accordance with s. 269TAC(6), having regard to all relevant information, the normal value of toilet paper exported from China by the 'other selected exporters' by reference to the highest normal value established for like goods of the sampled cooperating exporters from China.

#### 8.4.5.3 Dumping margin

Customs recommends that the Minister determine a dumping margin for the investigation period by comparing the weighted average of export prices over the investigation period with the corresponding weighted average normal values over the same period in accordance with s269TACB(2)(a). The dumping margin for toilet paper exported by the 'other selected exporters' from China to Australia was in the range of 20% to 25%.

Calculations are contained in **Confidential Appendix 5**.

### **8.4.6 Assessment of the market situation in China**

#### 8.4.6.1 Applicants' submission

In the application and in a submission dated 5 May 2008 the applicants submitted that various Government subsidies and benefits which have been provided to GHY distort the domestic prices for toilet paper sold by GHY, making them artificially low.

The applicants also submitted that because a significant level of debt has been associated with the APP group, of which GHY is a member, that this debt is a critical cost recognition element in determining GHY's CTMS over the investigation period.

#### 8.4.6.2 Customs assessment

Customs has examined the subsidies that have been received by the sampled exporters and has also examined their sales into the domestic market. Customs found no evidence that the subsidies had an effect on domestic sales prices such that those sales became unsuitable for normal value purposes and found no cause to suggest that the domestic price and the export price are not properly comparable.

Customs considers that the matter of appropriate debt allocations has not, in this instance, given rise to a 'market situation'. Customs undertook a verification exercise at GHY and the report of that visit is available on the public record.

Having regard to all information Customs considers that the situation in the toilet paper market in China is such that sales of toilet paper in that market are suitable for use in establishing normal values that will be properly comparable to the export prices during the period of investigation.

#### 8.4.7 **Country summary for China**

In summary the dumping margins established for exports of toilet paper from China are as follows:

Selected Exporters	Volume of Trade	Dumping Margin Range
GHY.....	≈ 55%	5% to 10%
Fook Woo.....		2% to 5%
Residual Exporters	0% to 5%	5% to 10%
Other Selected Exporters	35% to 40%	20% to 25%

Customs must terminate the investigation under s269TDA(3) so far as it relates to a particular country if the volume of dumped goods is negligible. The volume of dumped goods is negligible if this figure is 3% of the total Australian import volume.

The volume of toilet paper imported from China at dumped prices during the investigation period was greater than 3% of the total Australian import volume.

## 9 ECONOMIC CONDITION OF THE INDUSTRY

The applicants claim that injury to the Australian industry commenced at the end of 2006, following the emergence of imported toilet paper from China and Indonesia into the premium segment of the market.

The application claimed that the dumping has caused material injury to the Australian industry through:

- loss of market share;
- price depression;
- price suppression;
- reduced profit and profitability;
- reduced return on investment;
- reduced attractiveness to re-invest;
- underutilisation of production assets;
- increased inventory levels of like goods produced by the Australian industry; and
- reduced domestic revenues for premium and mid-range product lines.

The period of analysis is the calendar years 2004 to 2007.

Woolworths stated in response to the industry visit reports that Customs analysis of the years 2006 and 2007 is not appropriate as 2004, not 2006, is the base year.

The examination of the period 2004 to 2007 by Customs does not automatically make 2004 the base year for comparison. Customs needs to compare the performance in the period that injury is claimed to a base year, which is a year that is unaffected by the event that has been claimed to cause the injury. In this case, this could arguably be 2005, as the 'tender' for the Woolworths *Select* brand occurred, from Customs understanding, in May 2006, and imports of *Select* commenced in November 2006.

In the absence of sale and cost information from ABC and Encore, Customs takes the view that the applicants, as the major Australian producers in terms of domestic production (in excess of 50%), can be taken to be representative of the Australian industry for the purposes of the price and profit injury indicators.

An estimate of the sales volumes of ABC and Encore in the retail market are included in the sales volume and market share analysis which are based on scanned retail sales reports of the major retail outlets. Customs has been unable to estimate toilet paper sales of ABC and Encore into the AFH market. No evidence has been provided to Customs during the investigation which would demonstrate the significance of these volumes, although ABC did advise that 90% of its sales volume is sold into the retail sector.

Varying views were presented by interested parties regarding the appropriate basis for price and volume comparison of different products. Customs has deemed it reasonable to undertake the injury analysis on a weight basis rather than a roll

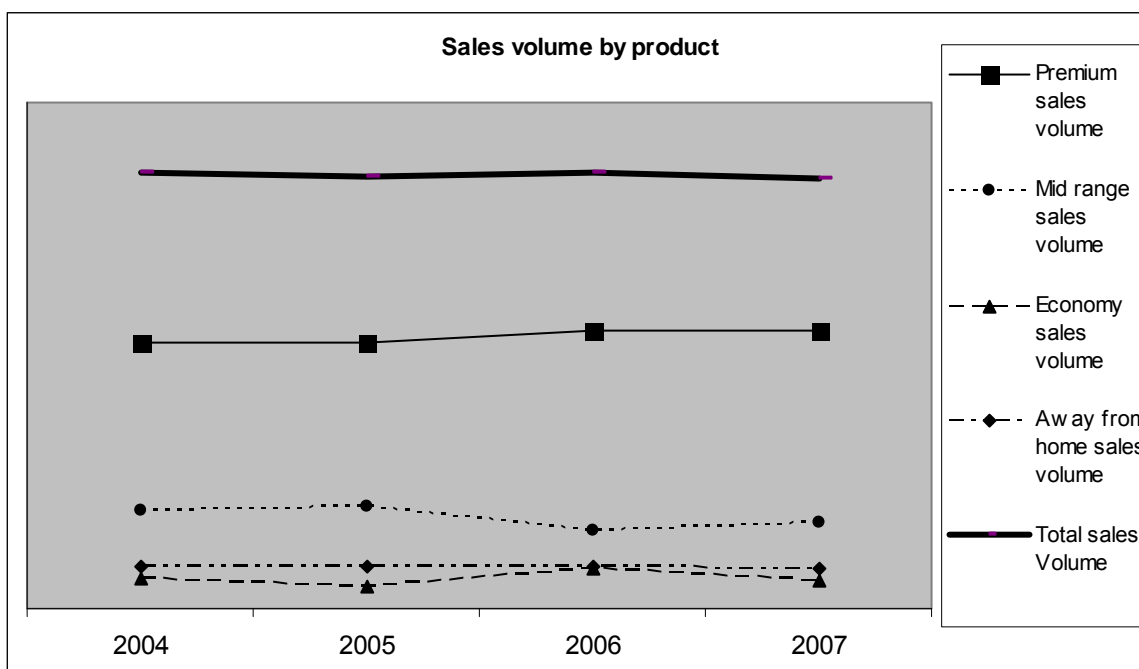
basis, given difficulties in determining a comparable standard roll across the whole market. Customs has converted the applicants' information to rolls in a further analysis, and noted that the trends were the same over 2004 to 2007, given that the specifications of products did not change over this period.<sup>10</sup>

(In the following analysis, 'Australian industry' means KCA, SCA, ABC and Encore, while 'applicants' refers only to KCA and SCA.)

## 9.1 Volume effects

### 9.1.1 Sales volume

The following chart shows the Australian industry's relative volumes sold into the premium, mid range, economy and AFH sector. As can be seen, the majority of the volume, approximately 85% is sold into the premium and mid range sectors, being the sector of the market that the applicants are claiming material injury.



The analysis shows a pattern of consistent sales volume over the four year period. It should be noted that the applicants did not claim injury in the form of lost sales volumes.

The analysis is at **Confidential Appendix 6**.

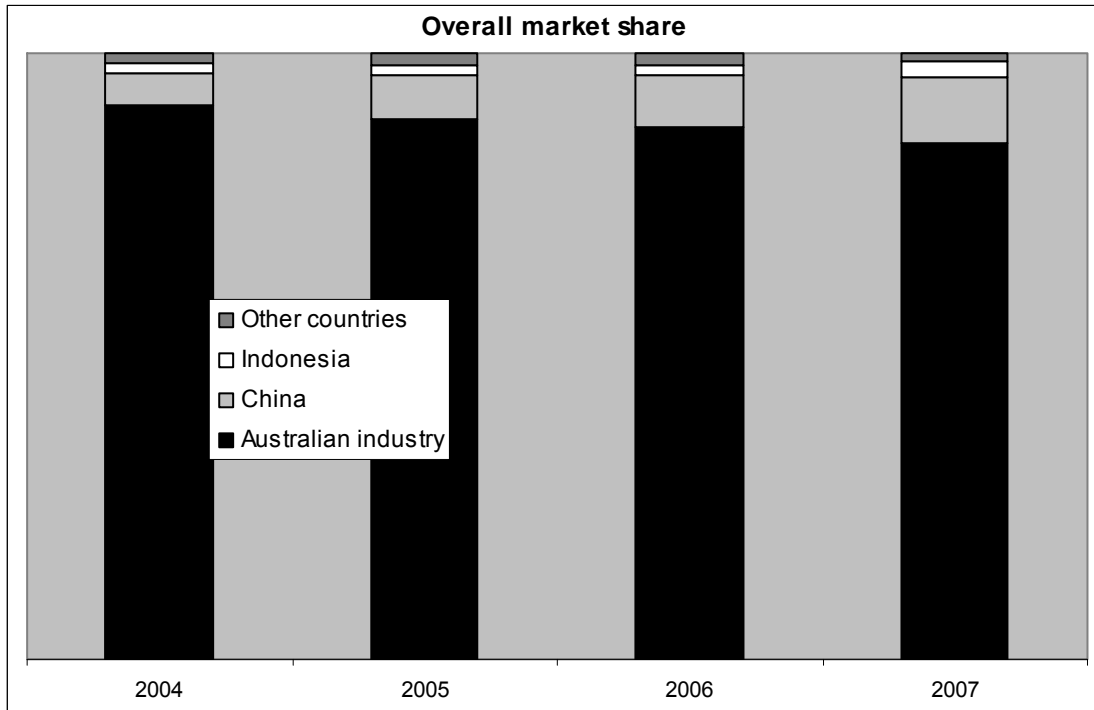
### 9.1.2 Overall market share

As discussed above, Customs has estimated the Australian market for toilet paper using information from the applicants, importers, Customs' import database and scanned retail sales reports. In the absence of verified information from ABC and Encore, Customs has used scanned retail sales reports of the major retail outlets.

<sup>10</sup> This roll based analysis has been omitted from the analysis provided in this report, as it does not show a different trend to the weight based analysis.

One of the applicants, SCA, is also an importer of the product. SCA's imports have been included in the Australian industry's share of the Australian market.

The change in total market share on a product weight basis is detailed in the graph below:



Customs' analysis shows that the Australian industry's<sup>11</sup> share of the market is decreasing in the expanding market for toilet paper (as shown by the graph in Section 6.1 above). The graph also shows a notable increase in the market share of imports from China.

The analysis of the Australian market is at **Confidential Appendix 1**.

<sup>11</sup> Represented by KCA, SCA, ABC and Encore.

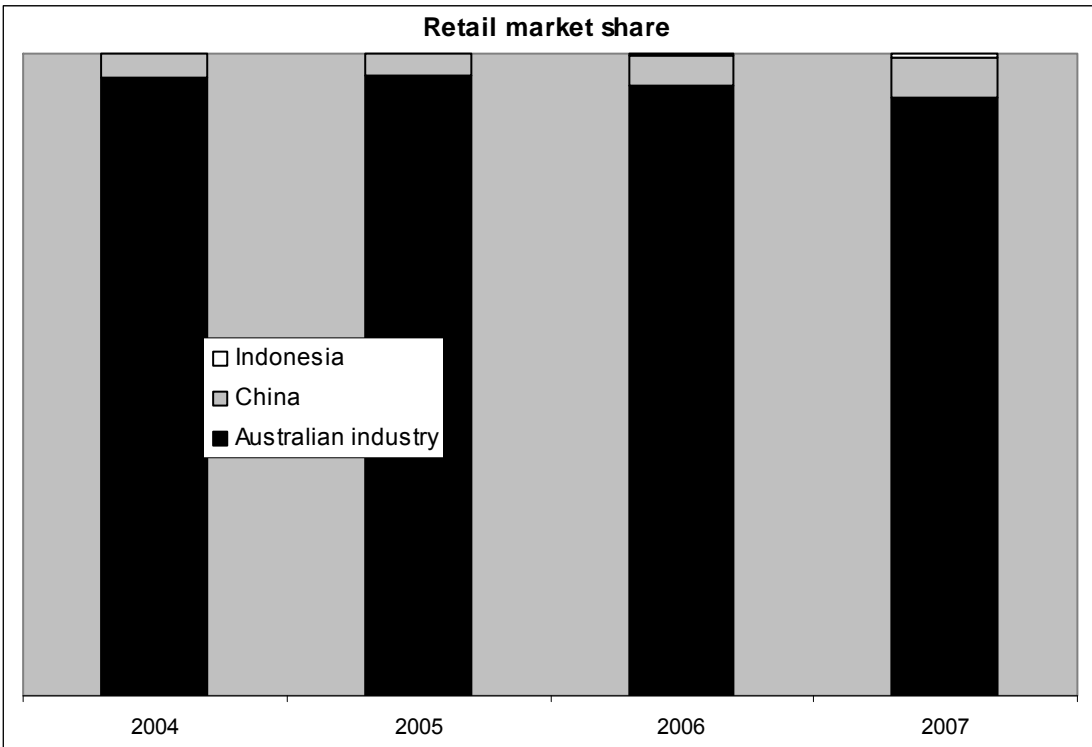
9.1.3 Sector share

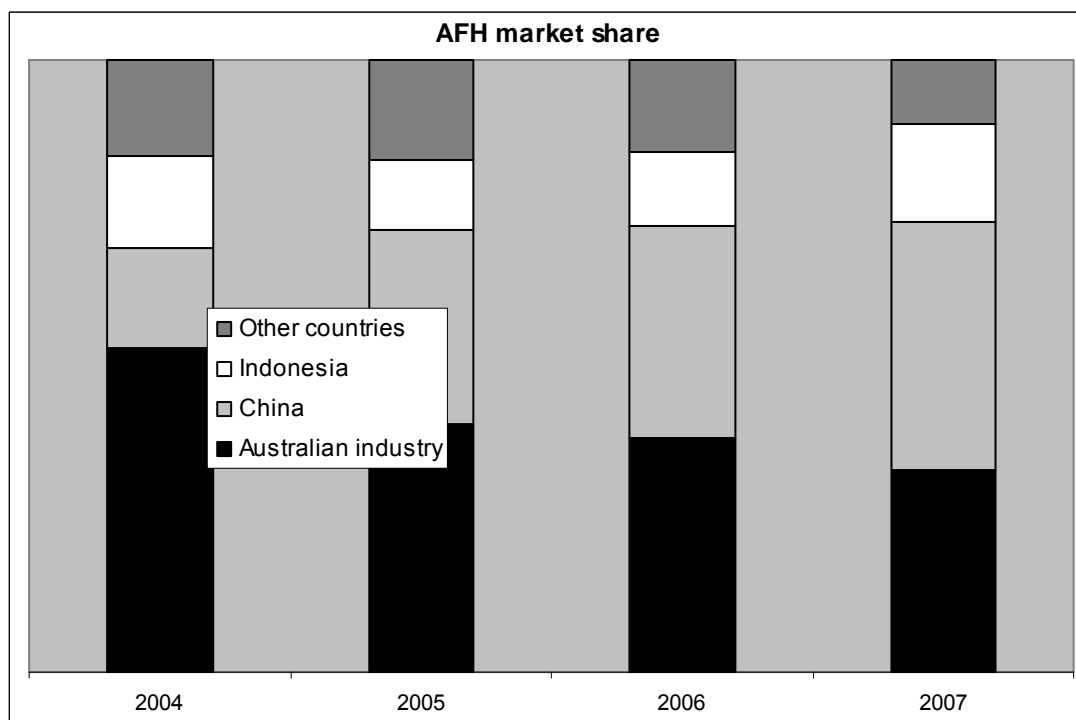
Customs estimated the percentage split in the total market between retail and AFH as detailed in the table below:

	2004	2005	2006	2007
Retail	89%	87%	87%	86%
AFH	11%	13%	13%	14%

As with the sales of the applicants, the majority of sales of toilet paper by all participants in the market are to the retail sector.

The relative market share for the retail and AFH markets are detailed in the following graphs:





There was a decrease in the Australian industry's market share over 2005 to 2007 of approximately 4% on the retail market and 7% in the AFH market. This share has been lost to imports from China and Indonesia.

The analysis is contained in **Confidential Appendix 1**.

## 9.2 Price effects

### 9.2.1 Price depression

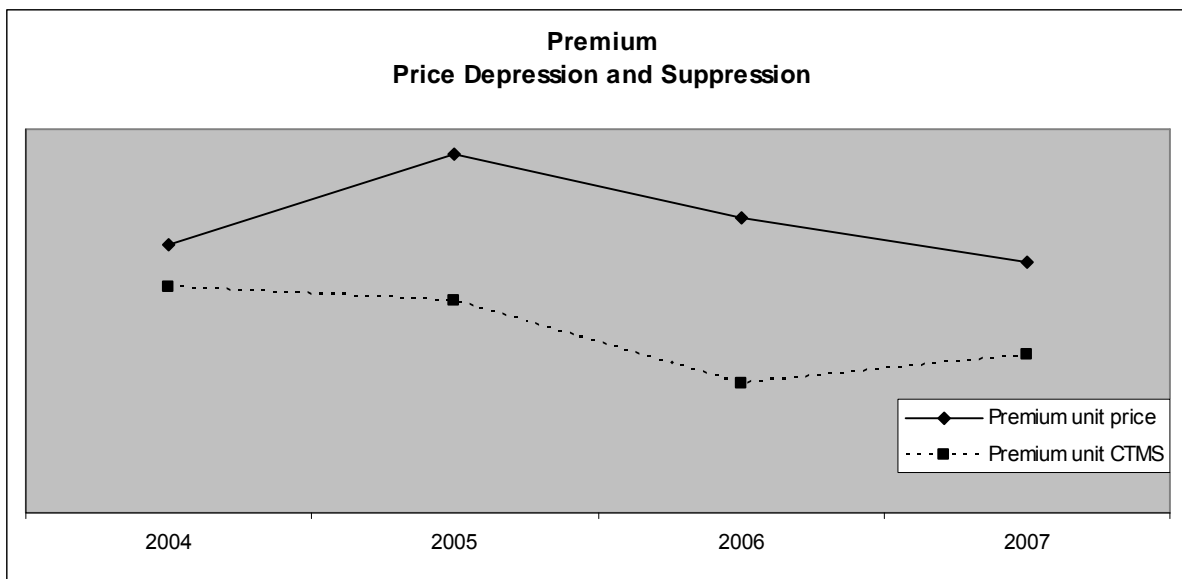
Price depression occurs when there is a reduction in prices. Customs' analysis of the applicants' unit sales price data for premium, mid range, economy and overall is detailed in the price suppression graphs below.

### 9.2.2 Price suppression

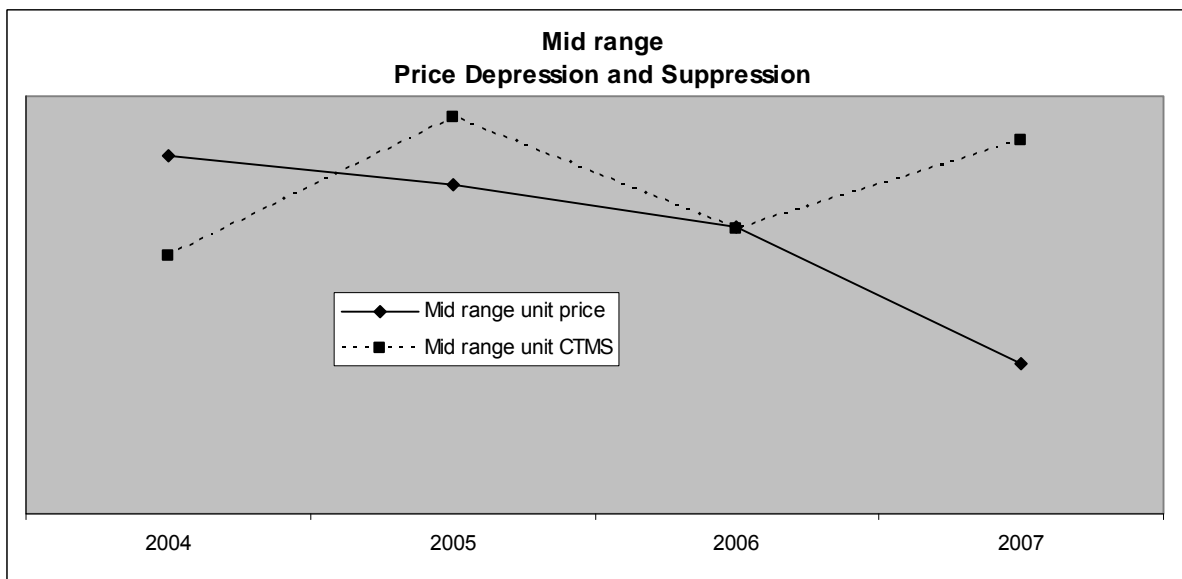
Price suppression is the inability to raise prices in line with cost increases or when the margin between costs and selling price is reduced.

The applicants claimed that the price undercutting by the alleged dumped and subsidised products was forcing the industry members to reduce their prices of like goods, in an attempt to maintain their sales volumes.

Customs' analysis of the applicants' average sales price and cost data for all premium, mid range, economy and overall is detailed in the graphs below:

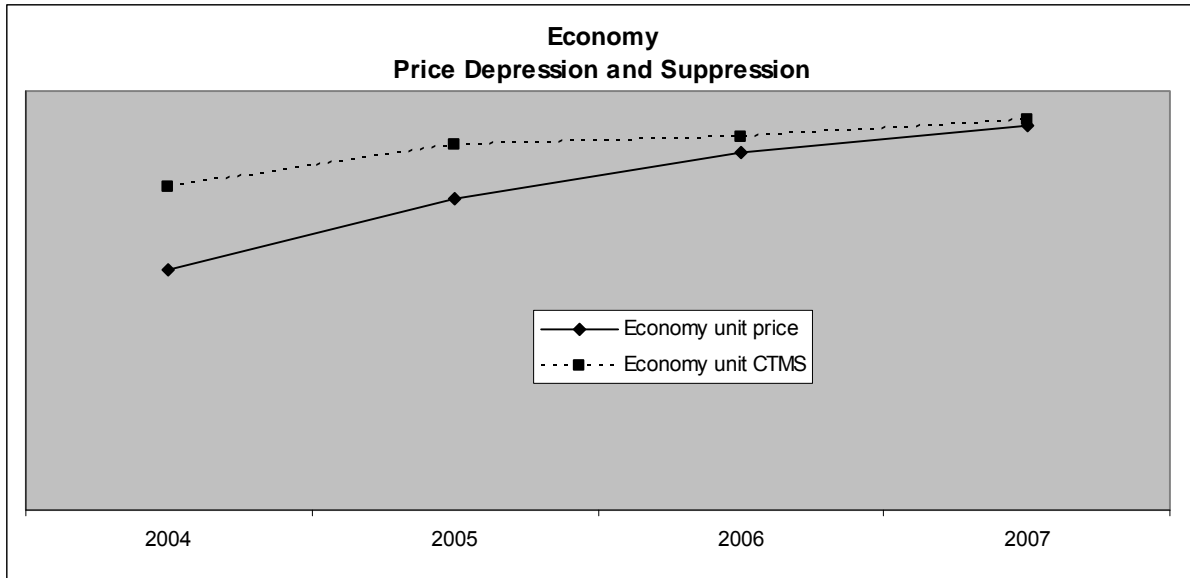


The average unit price of the applicants’ premium products increases over 2004 and 2005, then decreases over 2005 and 2006 in line with decreasing costs<sup>12</sup>, but then continues to decrease over 2006 and 2007, even though the CTMS was increasing (as a result of increasing raw material costs), reducing the margin between costs and selling price and resulting in price suppression.

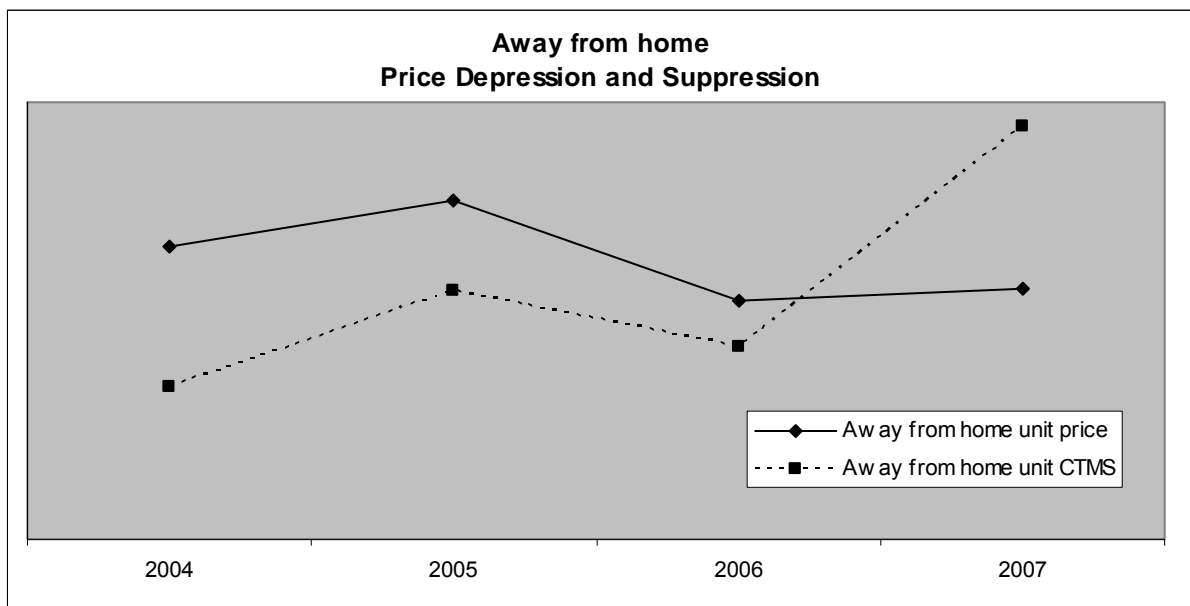


The average unit price of the applicants’ mid range products is decreasing over the entire period of examination. The applicants appear to have recovered from a loss position by 2006, only to return to significant losses by 2007 as the unit prices continues to decrease in a period that the cost to make and sell was increasing (as a result of increasing raw material costs), increasing the negative margin between costs and selling price and resulting in price suppression.

<sup>12</sup> Decreasing raw material costs and decreasing processing costs due to more efficient production.

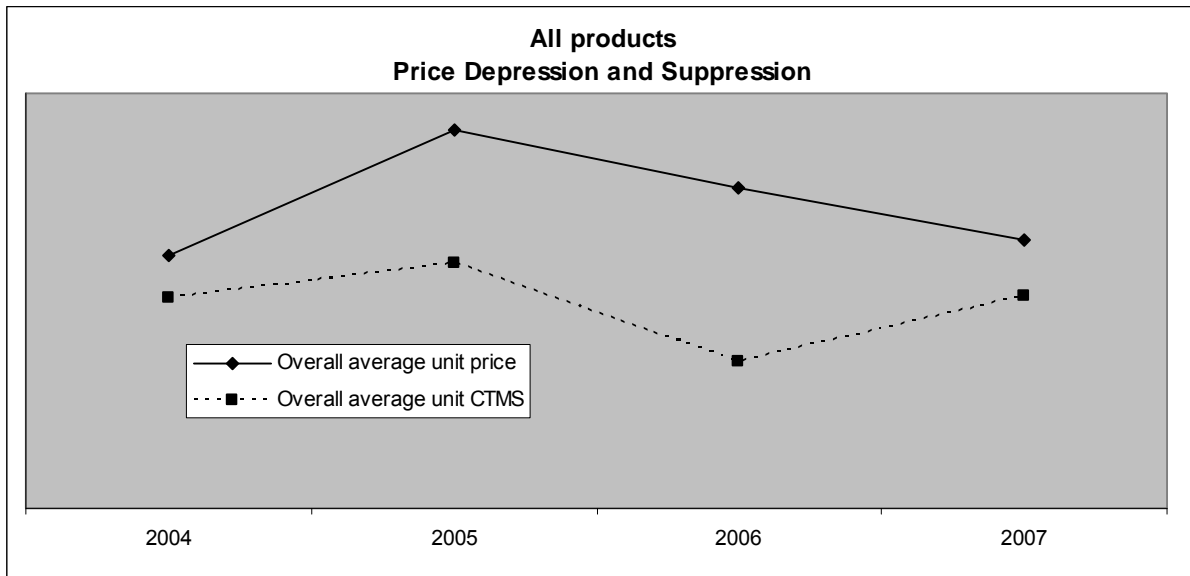


The price performance of the applicants' economy products was steadily improving over the period, as the negative margin between costs and selling price is decreasing. There appears to be no price suppression in relation to the economy products. It should be noted that the economy products are a small proportion of the Australian industry's sales as depicted in the graph in Section 9.1.1 above.



The average unit price of the applicants' AFH products increases over 2004 and 2005 then decreases over 2005 and 2006 in line with decreasing costs<sup>13</sup>. The price increases (although slightly) over 2006 and 2007 at the time that cost to make and sell was increasing at a greater rate (as a result of increasing raw material costs), generating an increasing negative margin between costs and selling price and resulting in price suppression.

<sup>13</sup> Decreasing raw material costs and decreasing processing costs due to more efficient production.



The average unit price of the applicants' products increased over 2004 and 2005, then decreases over 2005 and 2006 in line with decreasing costs<sup>14</sup>, but then continues to decrease over 2006 and 2007, even though the CTMS was increasing (as a result of increasing raw material costs), reducing the margin between costs and selling price and resulting in price suppression.

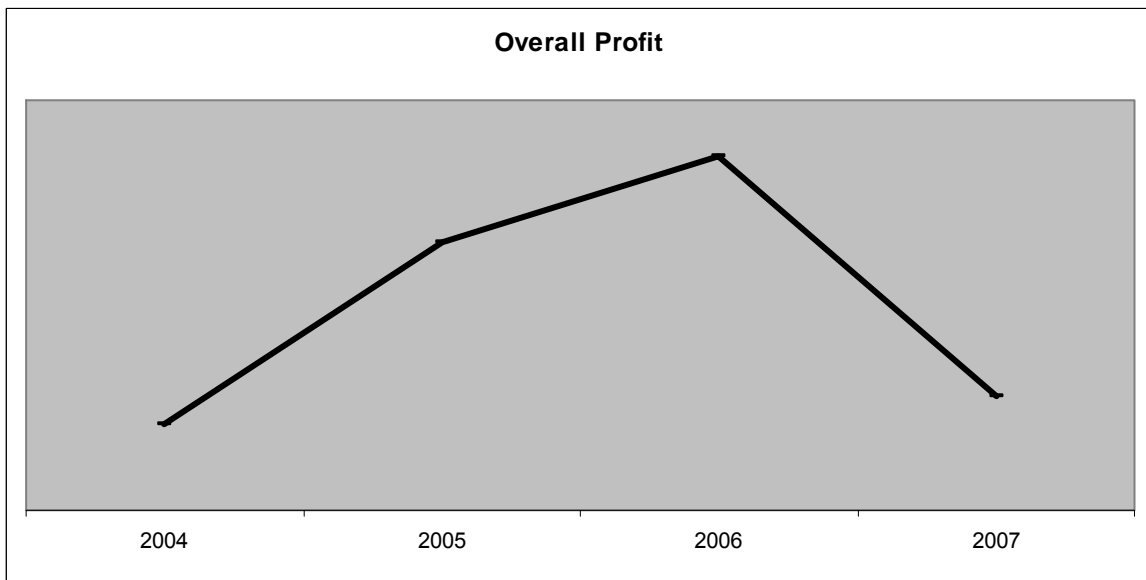
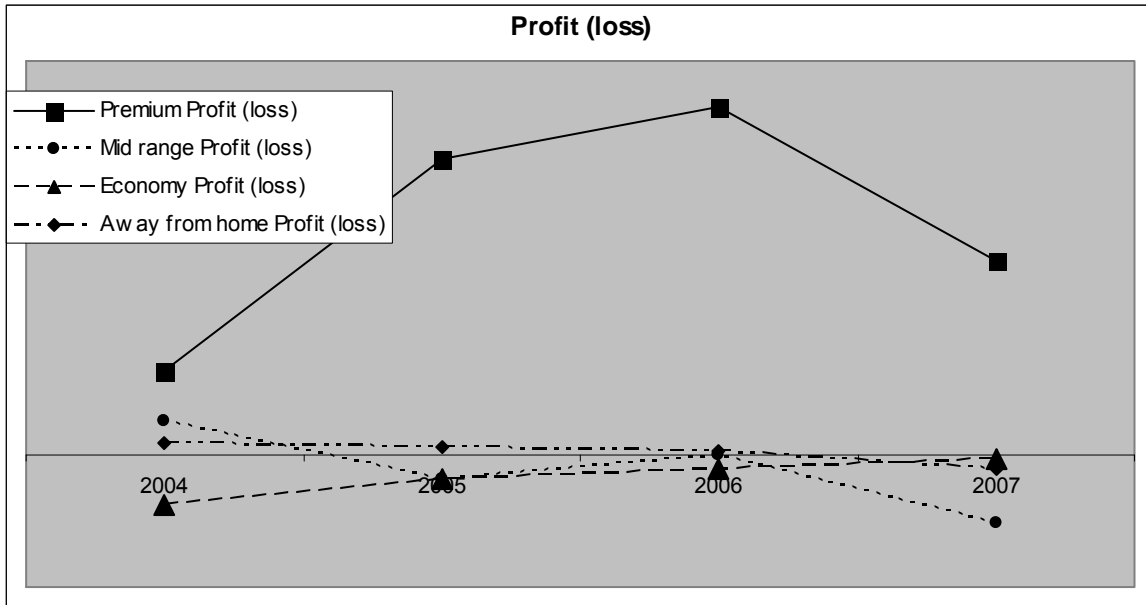
The analysis is contained in **Confidential Appendix 6**.

## 9.3 Profit effects

### 9.3.1 Profit (Loss)

Customs' analysis of the applicants' profit is detailed in the graphs below:

<sup>14</sup> As above.

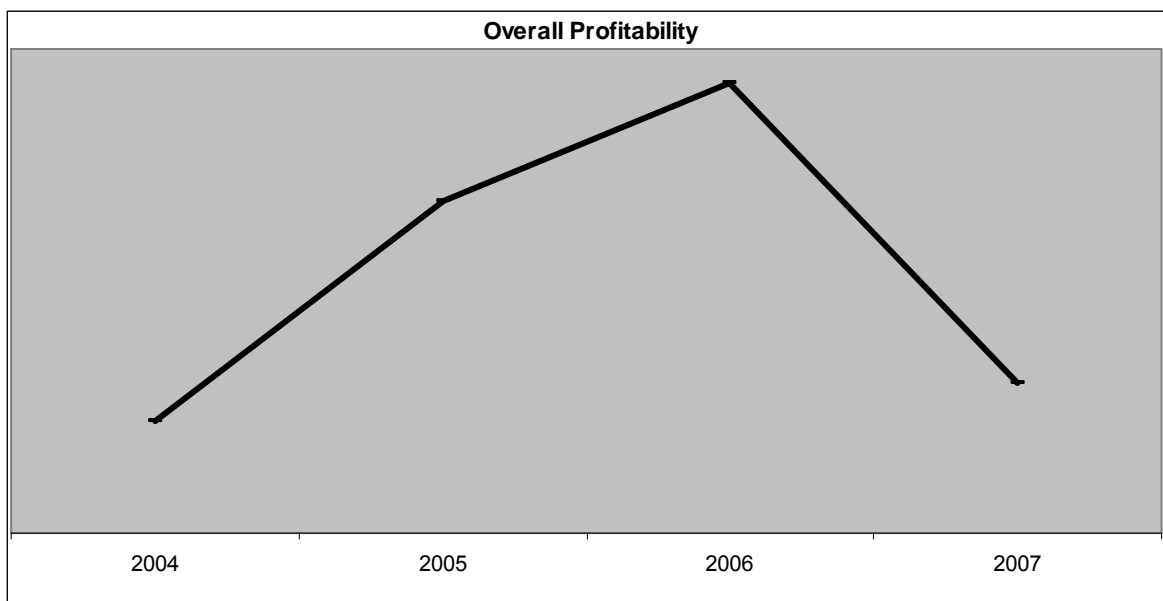
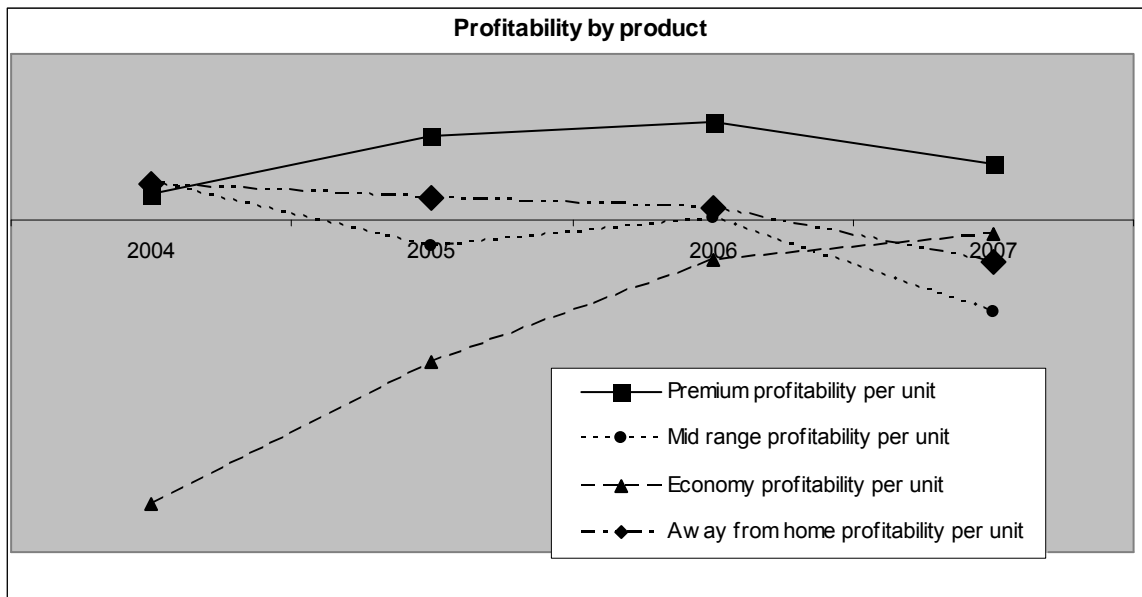


The applicants' overall performance was steadily improving between 2004 and 2006, then there was a significant decrease in profit in 2007 compared to 2006 as a result of an inability to recover increasing costs due to decreasing price.

Given the relative volumes the overall trend is driven by the performance of the premium and mid range products.

**Profitability**

Customs' analysis of the applicants' profitability is detailed in the graphs below:



The applicants' overall performance is steadily improving between 2004 and 2006, and then there was a significant decrease in profitability in 2007 compared to 2006 as a result of an inability to recover increasing costs due to a decreasing price.

Given the relative volumes the overall trend is driven by the performance of the premium and mid range products.

The analysis is contained in **Confidential Appendix 6**.

#### 9.4 Other injury indicators

The applicants consider that the injurious imports have affected a range of "other economic factors" which reflect the relative economic health of the Australian industry's performance. The applicants claim that increases in imports from China and Indonesia have also resulted in:

- reductions in return on investment;
- reduced attractiveness to re-invest;
- underutilisation of production assets; and
- increases in inventory levels of like goods.

#### **9.4.1 Reduced return on investment and attractiveness to re-invest**

Customs has examined the applicants' information in relation to return on investment. The significant capital investment in 2004 has not generated the anticipated profit. Declines in profit and profitability (as discussed above) have resulted in a significant reduction in the company's return on investment.

#### **9.4.2 Underutilisation**

Information provided by one of the applicants in relation to capacity utilisation indicates that the company has historically had spare capacity. There has been a slight reduction in capacity utilisation since the increase in imports from China and Indonesia of the goods, but not a significant downturn. This applicant indicated that an increased proportion of production was going into stock and capacity underutilisation would increase as the goods gained a greater foothold in the market. Customs found no evidence of injury in the form of underutilisation.

#### **9.4.3 Increased inventory levels**

Data provided by one applicant supported its claim that inventory levels had increased. The figures show that the stock level at the end of 2007 was higher than the level at the beginning of 2006. Customs did not consider this evidence of injury.

#### **9.4.4 Assets**

Injury in relation to asset levels was not claimed by the applicants. Customs examined the applicants' information and found no indication of injury.

#### **9.4.5 Capital investment**

Injury in relation to the level of capital investment was not claimed by the applicants. Customs examined the applicants' information and found no indication of injury.

#### **9.4.6 Research and development**

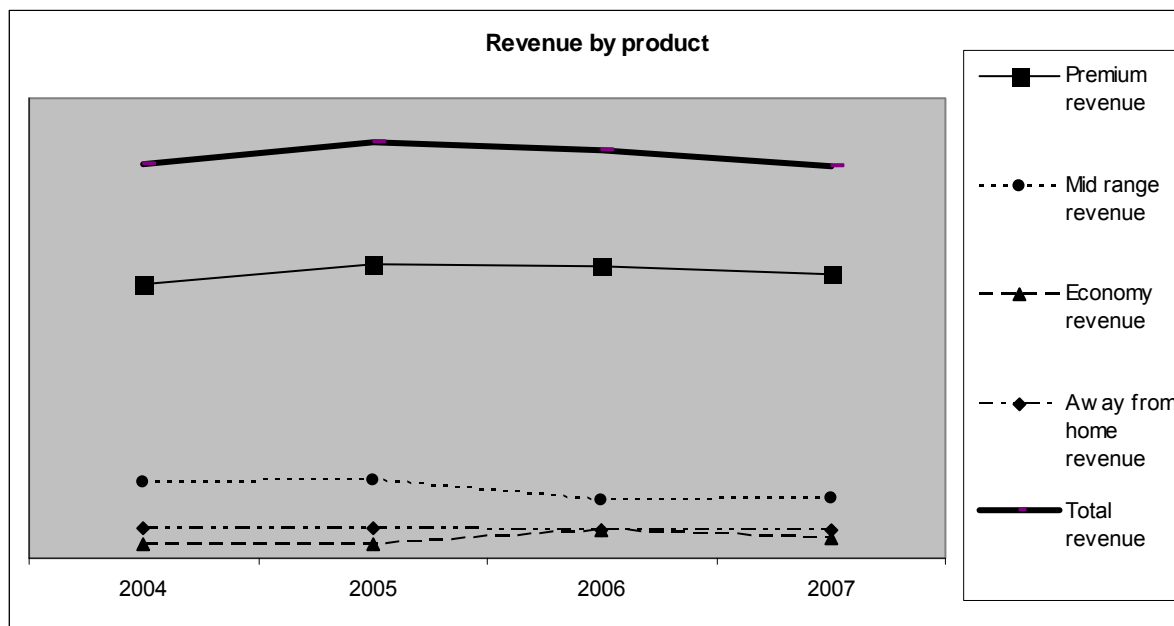
Injury in relation to the level of research and development was not claimed by the applicants. Customs examined the applicants' information and found no indication of injury.

#### **9.4.7 Employment**

Injury in relation to employment was not claimed by the applicants. Customs examined the applicants' information and found no indication of injury.

### 9.4.8 Revenue

Customs analysis of the applicants' total revenue in relation to all products is detailed in the graphs below:



The analysis shows a general increase in revenue in 2004 to 2005 and then slightly decreasing revenue over the years of 2005 to 2007, even though sales volumes have remained relatively stable. As with sales volumes it should be noted that the applicants did not claim injury in the form of lost revenue.

Customs considers that the decrease in revenue from 2005 to 2007 is injury suffered by the applicants, as a result of a decreasing sales price.

The analysis is at **Confidential Appendix 6**.

### 9.5 Conclusion

Customs is satisfied of the following in relation to the economic condition of the Australian industry, represented by the applicants (in the absence of relevant information from the other Australian industry members):

- the Australian industry has not experienced a loss of sales volume (before or after the inclusion of an estimate of non-cooperating Australian industry members sales);
- the Australian industry has experienced a loss of market share (before and after the inclusion of an estimate of non-cooperating Australian industry members sales);
- the Australian industry has experienced a depression in price since 2005 for premium, mid-range and AFH products (being the majority of sales);
- the Australian industry has experienced price suppression since 2006 for premium, mid-range and AFH products (being the majority of sales) as a

result of an inability to increase price to recoup increasing raw material costs; and

- the Australian industry has experienced loss of profit and profitability since 2006 for premium, mid-range and AFH products (being the majority of sales) as a result of an inability to increase price to recoup increasing raw material costs.

## 9.6 Submissions and Analysis

### 9.6.1 Woolworths

#### 9.6.1.1 Capacity

In their response to the SEF, Woolworths:

- stated that Customs' understanding of ABC having excess capacity is incorrect,
- claimed that there was no statement made by KCA or finding by Customs that KCA could either in part or whole meet the increased demand of the expanding market that the Australian industry says it lost to the imported goods from Indonesia and China, and
- claimed that there is no actual evidence on what is the spare capacity of KCA and that SCA and ABC have reached capacity constraints.

In respect of ABC's capacity Customs notes that ABC stated that it was currently operating at full capacity. The company also stated that it is planning to increase capacity.

In respect of KCA, Customs reviewed the information provided by KCA concerning capacity utilisation during the verification visit in May 2008<sup>15</sup>. This information showed that the company historically had some spare capacity and that there had been a slight reduction in capacity utilisation (therefore a slight increase in spare capacity) since the *Select* brand appeared on the market.

It should also be noted that the loss of market share was only one injury indicator and more compelling indicators of injury were price suppression, loss of profit/profitability. Customs made no mention of loss of market share in the conclusion on causal link in section 9.3.11 of the SEF focussing instead on the movement in price and the impact on profit.

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<sup>15</sup> as detailed in the KCA visit report on the public record.

### 9.6.1.2 Base year

In their response to the SEF, Woolworths:

- stated that Customs consideration of what is the correct base year is inadequate and that if the correct base year of 2004 is adopted, as required by the Ministerial Direction, no material injury has been suffered,
- claimed that in its past submissions it addressed what it considers to be the correct legal interpretation to determine whether there has in fact been a material loss of profit and that these claims were not addressed in the SEF in a meaningful way, and
- stated that Customs should only look at actual historical profit and not potential profit and that the correct position is to look at the entire injury analysis period commencing in 2004 and to determine on that basis what the industry rate of profit has been.

Customs has used 2005 as this is the most recent year unaffected by the dumped product. A number of factors made this the most appropriate choice. The year 2005 followed a year of substantial capital investment and production improvement by the Australian industry. For KCA during the period 2004 to 2005 there had been significant capital investment. During 2005 to 2006 SCA was implementing cost reduction strategies to improve performance – something Customs observed in the verification process.

Given the change in production capacity and production costs, it was considered more appropriate to use 2005 as the base year. Customs does not consider that this approach conflicts with the Ministerial Direction in any respect.

### 9.6.1.3 Performance of the applicants as representative of the industry

In their response to the SEF, Woolworths submitted that Customs should not accept that the applicants are representative of the Australian industry for the purpose of price and profit. Also, in an earlier submission of 24 October 2008, Woolworths submitted that (in the absence of ABC information) there is no demonstrable evidence that ABC has suffered material injury as ABC is performing well, which is evidenced though increased sales.

As noted above, in the absence of sale and cost information from ABC and Encore, Customs view is that the applicants, as the major Australian producers in terms of domestic production (in excess of 50%), may reasonably be taken to be representative of the Australian industry as a whole for the purposes of the price and profit injury indicators.

Customs view is that a determination in relation to injury to ABC has not been possible in this investigation. Customs therefore used the verified information that was available, being the information provided by the applicants.

### 9.6.1.4 Occurrence of price suppression

In their response to the SEF, Woolworths stated that Customs has acknowledged that price suppression occurred in 2005; accordingly price suppression pre-dated the *Select* brand.

The SEF did not find that price suppression occurred in 2005. Woolworths may have been confused on this matter due to Custom describing a period of price reduction during a period of time that costs were also decreasing. This reference was not in relation to the 2005 year.

#### 9.6.1.5 Impact of changes in the price of pulp

In their response to the SEF, Woolworths stated that the profit driver is the price of pulp and that the price of pulp declined just as the *Select* brand came onto the market. In an earlier submission of 17 September 2008, Woolworths advised that the introduction of the *Select* brand happened at a time of a significant increase in the cost of pulp.

Customs notes that pulp prices are subject to some volatility and had varying effects on price over the analysis period. Refer to further discussions regarding the price of pulp in section 10.4.1.3.

#### 9.6.1.6 Return on investment

In their response to the SEF, Woolworths:

- stated that Customs cannot accept the industry's claims that its return on investment has been inadequate at face value without some evidence that the return on investment was in fact realistic in all the circumstances,
- submitted that Customs is required to have regard to the historical data on rates of return in a particular industry and there is no analysis suggesting this task has been undertaken, and
- stated that there is no reference in the application to any significant capital investment made in 2004 by either applicant.

In response Customs notes that the appendices to the application included the levels of capital investment between 2004 to 2007 and that Customs reported significant capital investment by KCA in the visit report.

Customs is satisfied that the declining profit levels from 2005 to 2007 (as noted in the KCA visit report and for the industry as a whole) following the significant capital investment in 2004 demonstrates that the return on this investment is decreasing.

### **9.6.2 Other interested parties submissions**

#### 9.6.2.1 Different cost structures of the various Australian industry members

In response to the SEF, Dr Richard Whitwell submitted that due to the different cost structures of the various Australian industry members for toilet paper, there would likely be different impacts on them caused by the dumped toilet paper.

Customs was able to verify financial data from SCA and KCA. As above, Customs was not able to verify data from the remaining Australian industry members ABC and Encore and has instead used best available information for use in its analysis.

Customs, while noting there are differences in costs, has nevertheless concluded that the injury to the Australian industry as a whole is material.

#### 9.6.2.2 Market share analysis

Dr Whitwell further submitted that Customs injury analysis in the SEF excluded imports by the Australian industry. In clarification, Customs has included (during the investigation period) imports by the Australian industry for the purposes of the Australian industry's market share analysis, but has not included the Australian industry's imports for purposes of assessing domestic production costs.

#### 9.6.2.3 ABC's data required for a realistic assessment of total market

In response to the SEF, Rapidclean Perth submitted that:

"There can be no adequate or realistic assessment of the total market without ABC's volume and performance numbers".

During the investigation Customs made several requests to ABC for certain information. ABC was also visited by Customs. In the absence of complete information from ABC, Customs has estimated its production and sales volumes for the purposes of standing and market share. ABC declined to provide sales and cost information to Customs.

As above, Customs takes the view that the applicants, as the major Australian producers in terms of domestic production (in excess of 50%), can be taken to be representative of the Australian industry for injury analysis purposes. Where possible, Customs has included known ABC data (received from other sources), in the analysis. In the absence of verified information from ABC, Customs has used scanned retail sales reports, of the major retail outlets.

#### 9.6.2.4 Confidence in cost data of applicants

In response to the SEF, RapidClean Perth claimed that without a complete cost audit, Customs cannot establish the applicant's costs and profitability.

Customs is satisfied it has sufficient, reliable and relevant verified information from KCA and SCA.

#### 9.6.2.5 Discussion on marketing strategies of KCA and SCA

In response to the SEF, Midstate Pty Ltd and RapidClean Perth claimed that Customs needs to consider the marketing strategies of KCA and SCA in some markets where they set prices below the distributor price for selected end users, and "*[i]n effect in many instances they are competing directly against distributors*". Customs is satisfied that the visits/reports to KCA and SCA covered the sales and marketing strategies for toilet paper by the two applicants and does not consider the issues raised by Midstate Pty Ltd and RapidClean Perth to be determinative.

## 10 HAS DUMPING CAUSED MATERIAL INJURY

### 10.1 Applicants' claims

The applicants claim that dumped imports from China and dumped imports from Indonesia have increased market share (by approximately 5% since 2005) at the expense of sales of Australian production. Coinciding with the introduction of Woolworths' *Select* range of toilet paper in late 2006, imported toilet paper from China and Indonesia has gained a significant proportion of the growth in the Australian market.

The applicants claim that the increased volumes of injurious imports from China and Indonesia have been at declining prices since the fourth quarter of 2006 and have caused the Australian industry to respond through price reductions of both premium and mid range products to maintain sales volumes. The Australian industry lost market share, as prices undercut Australian equivalents by up to 20%. The applicant industry's volumes in 2007 are at levels marginally below those achieved in 2004 and 2005, however, sales of imported Chinese and Indonesian toilet paper have increased market share at the applicants' expense.

The applicants allege that there has been erosion in the gap between the premium and mid range products forcing deeper cuts in the promotional pricing of mid range products.

### 10.2 Claims by other interested parties

#### 10.2.1 Paper Force, GHY and Pindo Deli

The representative for Paper Force, GHY and Pindo Deli claimed that the materiality of any injury experienced by the industry cannot be determined without information on the economic performance of ABC during the injury analysis period. The representative claimed that the circumstances surrounding ABC, via its non-participation in the investigation, the successful performance of its *Quilton* brand and the expansion of its production facilities, indicate that ABC has not experienced the injury alleged by the applicants.

The representative claimed that for it to be established that the awarding of the contract to supply Woolworths *Select* toilet paper to Paper Force in May 2006 was the cause of material injury in 2007 through the effects of dumping it must be established that the contract was awarded on the basis of price and that price was dumped.

The representative highlighted the appreciation of the Australian dollar and the impact this has had in reducing Woolworths' landed cost and how this would have put significant price pressure on the applicants' prices.

The representative noted the lack of reference to material injury in the AFH products sector.

The relativities of the shelf prices of the various brands of premium grade toilet paper was also raised as an aspect that should be examined to provide insight into consumer demand.

## 10.2.2 Woolworths

Woolworths stated that there is a change in consumer spending patterns towards more ply and larger packs. Woolworths claims that its *Select* product price per roll is competitive and that growth of *Select* market share is a result of a superior product at an acceptable price.

Woolworths stated that it is able to sell the *Select* brand at a price below that of the applicants, due to the different cost structure. Woolworths does not have the burden of marketing and advertising that the applicants have, and has lower production costs. Woolworths considers that the ABC *Quilton* product is the price leader in the retail premium market, while still advising that the *Select* brand sells at a price which is also below the *Quilton* price. Woolworths claim that Woolworths *Select* can not have a greater impact on the market than the *Quilton* product.

Woolworths advised that the introduction of the *Select* brand happened at a time of a significant increase in the cost of pulp.

## 10.3 Customs assessment

### 10.3.1 Cumulative effect of exportations in assessing material injury

Subsection 269TAE(2C) provides for consideration of the cumulative effect of exports from different countries if, after having regard to:

- the conditions of competition between the exported goods; and
- the conditions of competition between the exported goods and like goods that are domestically produced;

the Minister is satisfied that it is appropriate to do so.

During the investigation it was established that:

- a number of importers acquired toilet paper from both China and Indonesia;
- some importers of toilet paper purchase and sell both the locally manufactured product and various imported product to a similar customer base for the same end-use;
- in some cases, imported product from China is virtually identical to imported product from Indonesia;
- customers generally accept that the imported products compete with each other and with locally manufactured product; and
- the toilet paper produced by the Australian industry is considered like goods to the imported toilet paper from China and Indonesia.

Customs also found that:

- there is direct competition between the toilet paper imported from the nominated countries; and

- there is direct competition between the imported toilet paper and the toilet paper produced by the Australian industry.

Therefore Customs has concluded it is appropriate to consider the cumulative effect of exports from China and Indonesia.

### **10.3.2 Dumping**

Customs has established that suppliers from China have exported toilet paper to Australia at dumped prices during the investigation period. The weighted average dumping margin calculated is in the range 5% to 25%.

Customs has established that suppliers from Indonesia have exported toilet paper to Australia at dumped prices during the investigation period. The weighted average dumping margin calculated is in the range 33% to 45%.

### **10.3.3 Volume of dumped imports**

All toilet paper imported, except for that exported by Vinda Jiangmen, during the investigation period was dumped. The volume of dumped imports during the investigation period is not negligible in terms of s269TDA(4).

### **10.3.4 Price undercutting (price of Australian manufacturer to retailer)**

Price undercutting occurs when imported product is sold at a price below that of the Australian manufactured product. Customs compared sales prices of the applicants, and where possible other Australian industry members, to the price from the overseas supplier to the same customers in Australia (including into store costs), during the investigation period, using:

- detailed sales data provided by the industry members; and
- detailed sales and purchase data provided by importers.

Unlike analyses above, Customs considered it appropriate to compare the products on a roll basis for this purpose, given:

- the considerable difference in the weights of individual rolls (as can be seen in Sections 6 above);
- that purchasing decisions are more likely driven by rolls, or pack sizes (not weight); and
- accurate information on the number of rolls was available.

Customs undertook the analysis on an annual average price and then a more detailed monthly average price basis.

The analysis showed that through 2007 the imported premium product undercut the Australian industry premium product price by more than 10%. The imported premium product also during some months of 2007 (and overall for the year) undercut the Australian industry mid range products by more than 5%.

The analysis showed that through 2007 the imported economy product undercut the Australian industry economy product price by more than 20%.

The analysis is contained in **Confidential Appendix 7**.

#### 10.3.4.1 Submissions and Analysis

##### Point of sale in the price undercutting analysis

In their response to the SEF, Woolworths state that it is not clear where the price undercutting analysis is being conducted on the sale between the overseas manufacturer and Paper Force or between Paper Force and Woolworths.

As discussed above Customs used the price from the overseas supplier to the same customers in Australia. In relation to Woolworths, Customs constructed an into store sales price from Paper Force to Woolworths.

##### Details of the price undercutting analysis

In their response to the SEF, Woolworths claims there is no graphic indicator to assist in understanding the undercutting analysis. Woolworths claim that there is no evidence that there has been regard given to

- the various sizes of toilet rolls in the price undercutting analysis;
- the various pack sizes;
- the prices charged by the applicants products compared to other products in the market place; and
- the frequency of any price undercutting (to see if it could influence the pricing behaviour of all products in the market place.

Customs price undercutting analysis compared prices on a roll basis. The price of a pack was divided by the number of rolls, to establish the roll price and double length has been treated as two rolls. Weight was considered not appropriate as consumers buy rolls (or more precisely a pack of rolls) not weight of toilet paper. Further the use of weight was thought to distort the analysis, given the varying weights of premium products.

As Customs was comparing the into store cost of the imports with the purchases from the applicants, Customs analysis was restricted to certain periods given the infrequency of imports (compared to domestic purchases). Customs was unable to analyse other products in the market, such as *Quilton*, because no verified sales information was provided to Customs. Customs was provided with the purchase information by Woolworths. Customs also notes that this information (received following the visit to Woolworths on 17 September 2008), was unverified, and shows a different price to the verified sales price of the applicants to Woolworths. As such, this information was of limited value to Customs.

##### Price undercutting of the mid range products

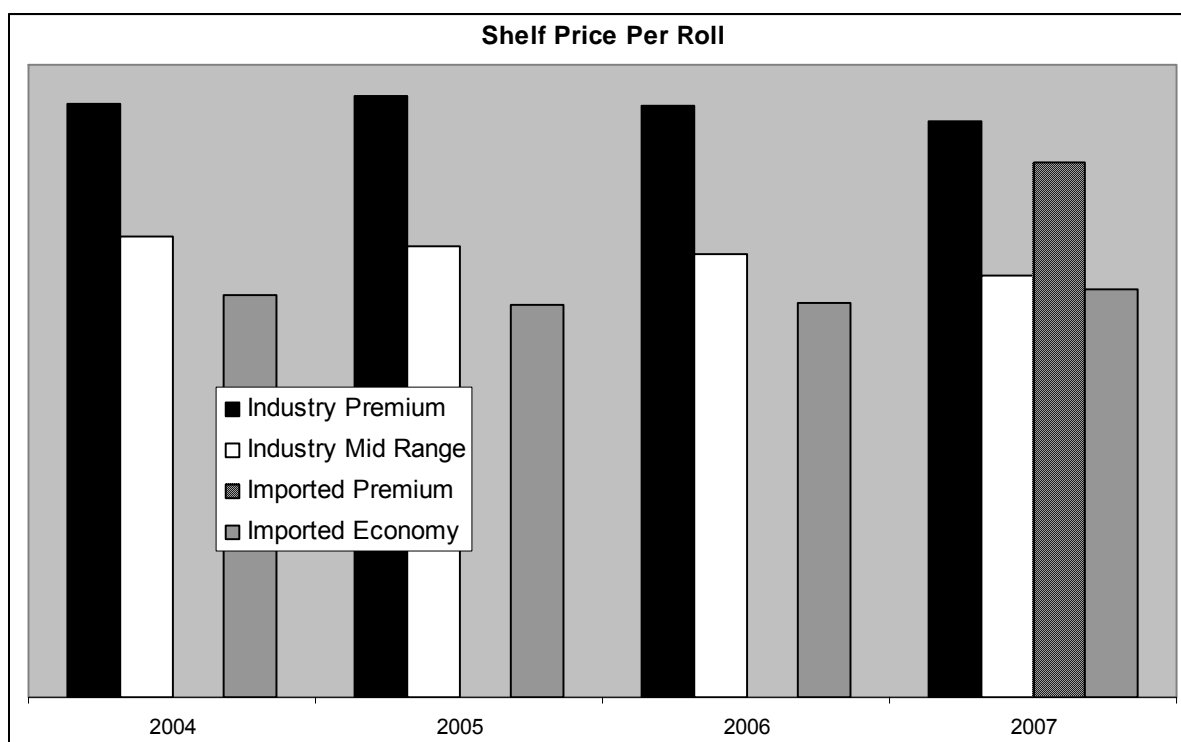
In their response to the SEF, Woolworths:

- questioned the conclusion reached in relation to price undercutting of the mid-range brand as the applicants have not claimed that the imports undercut the mid-range, but rather that the price differential was closing, and
- stated that there was no evidence that the price undercutting at the mid range level which was only occasional would have caused the price suppression in that sector.

It is important to note that the application presented information concerning the price on the retail shelf to the consumer. Customs price undercutting analysis was at a different level. Customs analysis compared the applicants' price to the retailer to the cost into store of the imported product by the retailer. This information was not available to the applicants. Customs analysis was restricted to certain periods given the infrequency of imports (compared to domestic purchases).

### 10.3.5 Price undercutting (price of retailer to Australian consumer)

Given the strong correlation between the shelf prices that consumers pay and the price received by the manufacturer, Customs also considered the price sold by the major retailers (in the scanned retail sales reports) to consumers. The following graph depicts the retail shelf prices of the industry's and imported products<sup>16</sup>.



In 2007, the imported premium product undercut the average shelf price per roll of the industry's premium products.

<sup>16</sup> There was insufficient detail to identify in the independent data the economy brands produced by the Australian industry.

The imported economy product undercut all other products throughout the entire injury analysis period. It should be noted that while the Australian industry does not appear to have experienced injury in this sector (as discussed in Section 8 above), it is not the area of major concern for the applicants, given that only a small percentage of sales go into this sector.

It should be noted that the shelf price is the price received by the major retailers and is not the price received by the Australian manufacturers. While an analysis of shelf price can provide some insight into the demand and positioning of products in the market, its use in the injury and causation analysis is limited as it is at the point of the sale to the major retailers that any injury to the Australian industry would be experienced.

The analysis is contained in **Confidential Appendix 2**.

#### 10.3.5.1 Submissions and Analysis

In their response to the SEF, Woolworths considered that the price undercutting analysis at the retailer to consumer level is flawed for the reason that it did not purchase the *Select* product at dumped prices.

Custom did not rely on this analysis. As discussed above the price undercutting analysis at the retailer to consumer level is less important as it is at the point of the sale to the major retailers that any injury to the Australian industry would be experienced.

#### **10.3.6 Price undercutting (price to AFH customers)**

Customs compared the sale price of the AFH products of the applicants to the sales of imported products, by the major importers of AFH from China and Indonesia ensuring comparable level of trade and terms of sale. Customs noted that the sales of the major importers of AFH undercut the price of the applicant by between 10%-20% during 2007.

The analysis is contained in **Confidential Appendix 8**.

#### **10.3.7 Volume effects**

Customs observes that while sales volumes remained constant over the period 2004 to 2007, the Australian industry was losing market share, as the Chinese and Indonesian exporters were meeting the demand in the expanding market. It again should be noted that the applicants did not claim injury in the form of loss of volume, but did claim a loss of market share on the basis that due to the price of the imported products they were unable to capture any of the increased demand, even though one of the applicants and, from Customs understanding, ABC had excess capacity.

#### **10.3.8 Price effects**

As discussed above, the average unit price of the applicants' products increased over 2004 and 2005, then decreased over 2005 and 2006 in line with decreasing costs, but then continued to decrease over 2006 and 2007, even though the cost to make and sell was increasing (as a result of increasing raw material costs), reducing the margin between costs and selling price and resulting in price suppression.

With the imported product undercutting the applicants' products, the applicants were unable to increase their prices to recoup the increasing costs.

### **10.3.9 Profit effects**

The applicants' overall performance improved steadily between 2004 and 2006, then there is a significant decrease in profit in 2007 compared to 2006 as a result of an inability to increase price to recover increasing costs.

### **10.3.10 Other possible causes of injury**

Section 269TAE(2A) requires consideration of whether injury to an industry is being caused, or threatened, by a factor other than dumped imports.

The applicants stated that they cannot identify any factor(s) other than import competition from injurious imports as the cause of material injury to the Australian industry during 2007.

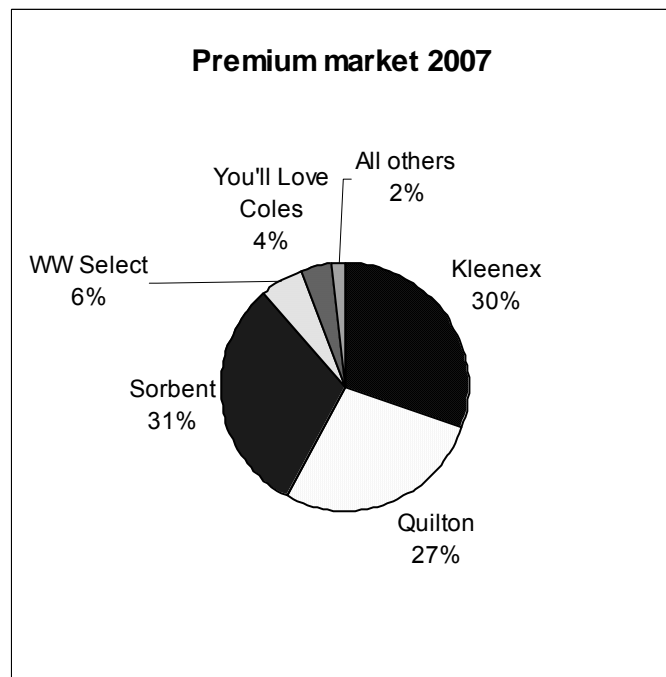
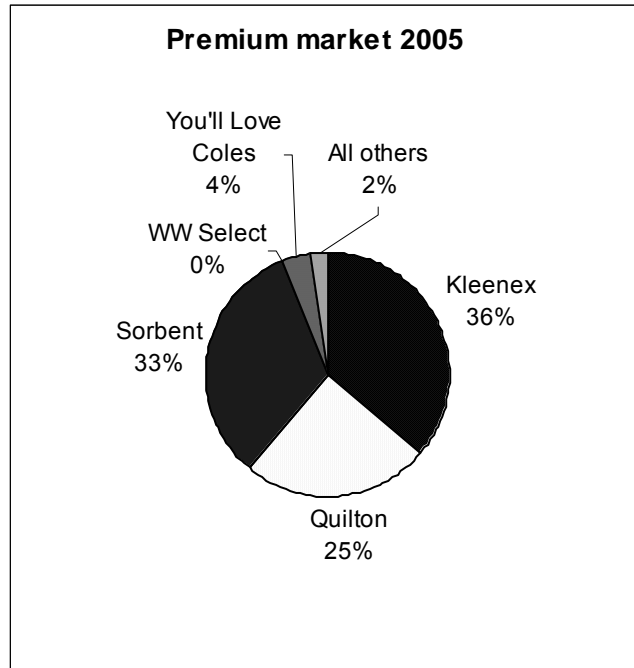
#### Increased competition due to new Australian manufacturer

Some interested parties have claimed that the injury experienced by the applicants is attributable to competition from the third largest Australian manufacturer ABC. It is Customs understanding that ABC was present throughout the whole analysis period.

As discussed previously, ABC and the other Australian industry have declined to provide sale and cost information to Customs. It is therefore not possible for Customs to assess the economic performance of these companies.

In the absence of sale and cost information from ABC and Encore, Customs takes the view that the applicants, as the major Australian producers in terms of domestic production (in excess of 50%), can be taken to be representative of the Australian industry for injury analysis purposes. Where possible though, Customs has included known ABC data (received from other sources), in the analysis.

Customs notes through the analysis of retail data (sales from the retailer to the consumer) that ABC's main retail product, *Quilton* has increased its share in the market in 2007 when compared to 2005 by only 2% while the brands of the applicants have combined lost share of 8% (and so the industry with the inclusion of ABC a combined lost market share of 6%), as detailed in the graphs below:



Refer **Confidential Appendix 2.**

On analysis of the sale price to a major retailer, Customs noted that the imported product also undercut the price of the ABC premium product on a roll basis. The downward movement in price of the applicants' premium brands appears to be following the movement of the imported premium brand, not ABC's.

Customs acknowledges that the applicants may have experienced injury from the emergence and growth of ABC but it is important to note that the requisite test is whether or not the dumped imports caused injury to the Australian industry and whether that injury is material.

Refer **Confidential Appendix 9.**

### The loss of the Woolworths 'tender'

The representative of Paper Force, GHY and Pindo Deli claimed that for Customs to establish that the awarding of the contract to supply Woolworths *Select* toilet paper to Paper Force in May 2006 was the cause of material injury in 2007 through the effects of dumping, it must be established that the contract was awarded on the basis of price and that price was dumped.

As above the information Customs has available in relation to the 'tender' is limited to only the 2007 supply agreement provided by the successful trader and advice from the applicants. Customs sought further details concerning the 'tender' from Woolworths but was unsuccessful in this endeavour.

As with any other such tender process, Customs assumes that there would have been considerations other than price in the awarding of the contract. At the same time, and without indications about the particular weightings involved, Customs is of the view that it would be reasonable to assume that price would have been pivotal to the decision making and as such an important factor in the causation analysis.

### Appreciation of the Australian Dollar

The representative of Paper Force, GHY and Pindo Deli also highlighted the appreciation of the Australian dollar against the US Dollar and the impact this has had in reducing Woolworth's landed cost and how this would have put significant price pressure on the applicants' prices.

Customs notes that the Australian dollar depreciated and appreciated against the US Dollar during the investigation period. Customs does not have any information that suggests the movement in currency affected relevant pricing decisions.

### Different cost structure

Interested parties have raised the different cost structure of the manufacturers of the imported product (lower processing and selling costs) as enabling them to sell for a lower price on the Australian market.

Customs notes that in relation to some of the premium product, the level of undercutting is sometimes greater than the dumping margin.

Customs acknowledges that it is likely that some level of price undercutting is enabled by a difference in cost, but is still of the view that the level of undercutting possible as a result of the dumping margins is significant.

### **10.3.11 Conclusion**

Woolworths claim that growth of *Select* market share is a result of a superior product at an acceptable price. However, that acceptable price is at a level that is dumped and undercuts the price of the products of the Australian industry.

The largest proportion of the toilet paper market is the premium and mid range retail sectors, being 95% of the retail sector and 82% of the total toilet paper market. It

would appear based on the information available to Customs that more than 85% of the Australian industry sales go into these sectors.

Of these sectors, Woolworths *Select* holds

- 6% of the premium market; and
- approximately 3% of the total toilet paper market.

Market shares are at **Confidential Appendix 2**.

The applicants submitted that as a result of the price at which the product is selling on the market it is impacting on not only the premium retail sector, but also the mid range retail sector.

Imports of Woolworth's *Select* were found to be dumped in the range of 5-10% from China and 37%-42% from Indonesia. As a result of this dumped purchase price, Woolworths was able to sell the product at a lower shelf price to customers, while still maintaining the desired profit margin.

This lower shelf price was between 5%-10% below the average shelf price of the Australian industry's premium products and only very marginally above the average shelf price of the Australian industry's mid range products. The applicants, in an attempt to maintain sales volume (for both premium and mid-range products) negotiated with the major retailer to lower their shelf prices. This lower shelf price then requires a renegotiated lower purchase price (sale from Australian manufacturer to the retailer).

Customs observed a reduction in price from 2005, a year prior to the emergence of the *Select* product, in 2006 and 2007. This created price suppression, which was made worse by a period of increasing raw material costs, a cost, that could not be passed on to customers through the increasing of prices. Customs considers that this price depression and price suppression resulted in reduced profitability and a material loss of profits.

While the AFH market is only approximately 14% of the total market, Customs observed that the applicants had experienced price depression since 2005 and price suppression, loss of profit and loss of profitability as a result of an inability to increase price to recoup increasing raw material costs. Customs also observed that the imports into this sector were dumped and undercut Australian industry prices. Customs considers it reasonable to find (as with the retail market) that as a result of a dumped purchase price, importers were able to sell the product at a lower price to customers and undercut the sales price of the Australian industry. Customs considers the Australian industry has also experienced injury in the AFH sector.

## 10.4 Submissions and Analysis

### 10.4.1 Woolworths

#### 10.4.1.1 Select share of the market

In their response to the SEF, Woolworths claimed that in the premium market in which it directly competes, *Select* holds only 6% of the market and only 3% of the total market and is available in only one retailer. In an earlier submission of 24 October 2008, Woolworths claimed that for Customs to be in a position to make any

finding of material injury it would need to ignore market segmentation and be satisfied that:

- the applicants were particularly vulnerable,
- they needed the 4% market share occupied by the *Select* Brand in order to survive, and
- the toilet tissue market did not make any distinction based on quality and that price was the only determinative feature.

In another submission of 17 September 2008 Woolworths stated that the shift to the *Select* premium 4 ply brand must be attributed to consumer preference and a change in consumer demand which, it was submitted, is nothing to do with whether a product is dumped or not or even if there was undercutting.

In response to these submissions Customs considers it is important to note that while *Select* is only 3% of the total market, its 6% share of the premium retail market is directly impacting 85% of the applicants' sales (being their premium and mid-range products). The applicants did not claim a loss of sales volume, and placed limited emphasis on loss of market share. The applicants focussed on the impact of the *Select* product on the price of the applicants' products and the price depression and suppression were claimed to be the major contributors to the injury. Customs remains of the view that price is a determining factor when deciding between premium products.

Customs price undercutting analysis included consideration of the market segment, by comparing imported premium product to domestically produced premium product. A secondary analysis considered the pricing impact of the imported premium product on other products, by comparison to the price of mid range products.

#### 10.4.1.2 Negotiation of lower sale price following reduction in retail shelf price

In their response to the SEF, Woolworths claim that the discussion regarding the lower shelf price of 5% to 10% requiring the applicants to negotiate a lower purchase price to retailers was never raised in any of the visit reports to KCA, SCA or ABC. Woolworths also submitted that no evidence has been put forward to substantiate such a claim and that it was first raised in the conclusion to the SEF.

In this respect Customs placed reliance on part of the Customs visit report to SCA<sup>17</sup> regarding the renegotiation of price during a promotion<sup>18</sup>. Customs considers it reasonable to assume that if the manufacturer wished to sell their product at a lower shelf price, then the rebate to the retailer would remain the same and the net price back to the manufacturer would be lower. Customs notes that no contrary view has been provided in responses to the SEF.

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<sup>17</sup> A non-confidential version of his report is available on the public record.

<sup>18</sup> A promotion is a period of selling the product at a lower shelf price, where the difference between the regular and promotion price, would be paid back to the retailer in the form of a rebate.

#### 10.4.1.3 Prevention of price increase

In their response to the SEF, Woolworths stated that no attempt has been made to indicate on what basis the presence of the *Select* brand prevented the price increases across the market generally, or the price the applicants would have otherwise maintained. Woolworths submitted that there was no consideration of whether prices could in fact rise to recover costs.

Customs is of the view that the price undercutting by the *Select* brand of the applicants products prevented any price increase (and in fact resulted in a price decrease). The increase in costs resulted from increases in the main raw material pulp and, as all producers would be equally affected, Customs' view is that it is reasonable to assume that all producers would need to increase price to recover this cost increase.

#### 10.4.1.4 Price benefit of dumping margins

In their response to the SEF, Woolworths:

- claimed that it dealt with Paper Force and not the overseas manufacturers and accordingly the price Woolworths paid did not have the benefit of the dumping margins, as specified in the SEF, for imports from China and Indonesia,
- stated that in circumstances where Paper Force interceded between the overseas manufacturers and Woolworths, Customs cannot assume that the dumping margins had an effect in the pricing of the *Select* product, and
- concluded that Woolworths has not had the benefit of any dumping margins.

As stated in the SEF Customs found that throughout 2007 the imported premium product undercut the Australian industry premium product price by more than 10%. The imported premium product, during some months of 2007, undercut the Australian industry mid range products by more than 5%. Customs considers it reasonable to conclude that the dumping margins did have an effect on the pricing of products and gave a cost advantage to the importer Woolworths.

#### 10.4.1.5 Lost tender

In their response to the SEF, Woolworths stated that the applicants did not have the manufacturing capacity to produce the 4 ply product. Woolworths submits that Customs has ignored the fact that the applicants lost the right to manufacture the *Select* product.

A 4 ply product, while currently not made by either of the applicants, falls within the definition of the goods. The 1, 2 and 3 ply premium products made by Kleenex, SCA and ABC respectively are considered to be like goods. Customs consideration is not that the applicants have lost a tender but that the products have been exported at a dumped price and these prices have influenced the prices which can be achieved in the market.

In their submission to the SEF, the representative for GHY, Pindo Deli and Paper Force submitted that the comparison of export price and normal value was not made

at as nearly as possible the same time as it related to imports by Woolworths. In an earlier submission of 22 September 2008 the representative submitted that the relativity of normal values and export prices at the time that the 'tender' from Woolworths to Paper Force was awarded (May 2006) needed to be addressed rather their relationship during the investigation period.

Customs is not persuaded by this argument. The investigation period in this investigation was set for a 12 month period. (1 January 2007 to 31 December 2007) This length of period is generally adopted because it provides for an assessment of dumping based on export prices and normal values established over a period that will reasonably take account of seasonal and other short term cyclical factors. Furthermore, the period was the most recent one year period (aligned to the appropriate quarterly financial reporting period) which accords with accepted international practice<sup>19</sup>. It is the view of Customs that the use of a longer investigation period would place too onerous a burden on Customs, exporters and importers.

There has been no assessment of whether or not the imports were dumped for any period preceding 1 January 2007. This does not present any problems for causal link analysis because it is not necessary that causal link between dumping and material injury be established throughout the whole of the injury analysis period. However, Customs has paid particular attention to the one year investigation period when forming views on the nature and degree of competition between imported and locally manufactured products and in considering whether dumping has caused material injury. Exports by Pindo Deli and GHY at dumped prices, which were a consequence of the 'tender', were so considered.

The investigation considered the economic condition of the industry using available data from 1 January 2004. The purpose of the considerably longer injury analysis period is to allow for a comprehensive assessment of injury that can include trend analysis in respect of volume of imports from the nominated and other countries, relative prices and market shares of locally manufactured and imported products, and the overall performance of the Australian industry. This is also an accepted international practice<sup>20</sup>.

#### 10.4.1.6 Woolworths cost to bring imported product to the customer

In their response to the SEF, Woolworths claim that the argument put forward by the applicants in relation to the dumped prices allows Woolworths to maintain the same profit margin, while selling at a lower price ignores the additional costs to Woolworths in the bringing the product to the customer.

Customs price undercutting analysis compares the into store cost to Woolworths of the applicants products to the into store cost of the imported products. It therefore

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<sup>19</sup> The approach is also consistent with recommendations made by the WTO Antidumping Practices Committee

<sup>20</sup> The recommendations of the WTO Antidumping Practices Committee state that, as a general rule, the period of data collection for injury investigations normally should be at least three years.

does not ignore the additional cost to Woolworths of bringing the import product to the customer.

#### 10.4.1.7 Applicants' prices to other retailers

In their response to the SEF, Woolworths stated that there is no evidence that what occurred in Woolworths' supermarkets in any way affected, by way of price suppression, what was going on in other market such as Coles. Woolworths stated that Customs has not sought to visit any of the other major retailers such as Coles.

In an earlier submission of 24 October 2008 Woolworths stated that:

- at a broader level there is also no evidence to suggest that the price of toilet tissue sold to other major retailer Coles, Franklins, IGA etc were at prices different from those sold by Woolworths, and
- given the applicants have not sought to argue that the price of the *Select* Brand obliged Coles and other retailers to reduce the price of toilet tissue supplied by the applicants in their supermarkets, there is no basis for Customs to make any findings of material injury at all in respect of the sales in this segment of the market.

In another submission of 17 September 2008 Woolworths stated that:

- if (KCA sales) information showed a decline in sales in retailers apart from Woolworths this would support Woolworths conclusion that the decline in its stores is due to factors such as ABC Quilton and a consumer preference for quality,
- no indication is given as to whether there is different pricing for different retailers or whether the sales performance of SCA's brands in retailers other than Woolworths differs, and
- although it is appropriate as an analytical tool to consider each segment of the market, an overall evaluation of material injury can only be made by having regard to the impact of the Woolworths *Select* Brand Product on the entire Australian industry producing the like goods having regard to the entire retail market. The entire retail market includes other retailers such as Coles and not just Woolworths

Customs sought information from Coles<sup>21</sup> and requested its co-operation in this investigation. In particular, Customs invited Coles to comment on the following matters:

- the toilet paper market in Australian in general;
- the price leaders in the market;
- changing consumer preferences; and

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<sup>21</sup> The relevant letter to Coles was placed on the public record on 17 September 2008 and Coles' response was placed on the public record on 8 October 2008.

- the impact of the emergence of the manufacturer ABC Tissue on the market.

Customs has compared the price to Woolworths with the price to other retailers on a product basis<sup>22</sup>. Customs noted a difference in price and considered this in the analysis.

It is important to note that material injury is determined by having regard to the impact of dumped imported product on the overall performance of the applicants (which includes all sales to all retailers). In this case the price injury caused by the price undercutting of the *Select* product is significant enough to be still apparent even when looking at the overall performance of the industry (including all products, to all markets and to all customers).

#### 10.4.1.8 Indonesian imports and price undercutting

In their response to the SEF, Woolworths submitted that:

- Customs needs to consider that imports from Indonesia were only in respect of one of the *Select* brand products and total imports from Indonesia for this period was 3% of total imports, and
- any price undercutting would have to have regard to the Indonesian level of dumping and therefore consequent price undercutting should be confined to that product and cannot be attributed to other products with the *Select* brand range (being sourced from China).

Customs is unclear as to the grounds Woolworths has to assert that price undercutting would be restricted only to those products from Indonesia.

Customs has considered the into store cost of both the imported product from China and Indonesia in its price undercutting analysis at the sale price to retailer level. Customs has noted price undercutting by products from both sources.

#### 10.4.1.9 Analysis of Quilton Brand

In their response to the SEF, Woolworths stated that the analysis of the *Quilton* brand is not based on probative evidence and that Customs comments are unclear and imprecise.

Custom used the scanned retail information in the absence of any verified information of ABC, following the company declining to provide the necessary information for a more precise analysis.

#### 10.4.1.10 Sales price of imported product

In their response to the SEF, Woolworths stated that the price the *Select* brand came into the market was at the price point of ABC's Quilton brand.

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<sup>22</sup> Confidential Attachment SALE3 to SCA visit report refers.

In an earlier submission of 24 October 2008 Woolworths stated that:

"One reason why dumped product may not lead to any material injury is that the goods that are imported are not sold at dumped prices. This arises where the importer sells the product at the equivalent price of other non dumped product. In this case the applicants had in the application argued that the material injury can be measured at the retail level at which the product is sold. In this case there is no evidence to suggest that the *Select* Brand was sold other than at the normal commercial selling prices of other brands in the market place. Indeed there is no evidence to suggest in any way that the *Select* Brand was in any way the price leader in the market place."

Customs remains of the view that injury to the industry is at the point of sale from the manufacturer to the retailer, not the retailer to the consumer. The applicants have asserted that the retail shelf price is connected and is impacting on its sales price to the retailer. Customs considers this a reasonable assumption and notes that the connection between the purchase price of the retailer and the sales price of the retailer varies depending on the product.

#### 10.4.1.11 Promotional activities and store placement

In their response to the SEF, Woolworths stated that Customs failed to address its previous submissions on the role of promotional activity and in store placement

In an earlier submission of 24 October 2008 Woolworths stated that its promotional activities have not been at the expense of the applicants' products.

In another submission of 17 September 2008 Woolworths stated that:

- there has been no discrimination in relation to promotional activity or shelf space against any KCA toilet roll product following the introduction of the Woolworths *Select* Brand
- data provided to Customs showing that the number of promotional slots given to the applicants did not decline between 2006 and 2007, and
- there also does not appear to have been any consideration of the comparative effect of KCA's Hi/Lo pricing strategy as opposed to Woolworths' "Everyday Low Price" for *Select* Brand.

Customs notes the difference in the price of the applicants' products during normal trading and during a promotional period. The prices used by Customs in the analysis were net of all discounts and rebates. The average price was then determined on a quarterly and annual basis. It was these prices that were used in the price depression, price suppression and price undercutting analysis. It is Customs view that the use of average net prices removes the comparative effect of the different pricing strategies employed.

#### 10.4.1.12 Economies of scale and cost efficiencies

In their response to the SEF, Woolworths:

- expresses concern that it's previous submissions putting the position that any disadvantages suffered by the applicants are due to Woolworths

economies of scale and the inherent efficiencies of the *Select* brand are given no real consideration in the SEF, and

- claimed that Woolworths has provided Customs with detailed information on successive occasions which founds an alternative theory of causation.

In another submission of 17 September 2008 Woolworths stated that:

"the reason for the difference in price [between the applicants' products and *Select*] is explained by reasons other than dumping or subsidisation. *Select* Brand has a different cost structure. As a proprietary branded product exclusive to Woolworths, *Select* Brand does not require a sales force or have the burden of marketing and advertising costs. There are also inventory advantages by virtue of the goods being made to order. Further, as an imported product it has the advantages of lower labour and production costs quite unrelated to any subsidisation or dumping. Economies of scale exist. APP are the 3rd largest pulp producer in the world and own and manage their own forest and production sites in China and Indonesia. The volume capacity of their production sites dwarf Australian supply."

Customs noted Woolworths advice that economies of scale and the inherent efficiencies of the *Select* brand was a cost advantage that enabled Woolworths to sell its product at a sufficient margin to ensure that the Woolworths *Select* toilet paper achieved a suitable profit corresponding to the margin achieved by other products in the *Select* range.

The amount of this cost advantage is the difference between the into store cost of the imported product and that of the applicants product. Customs noted that this was greater than 10%. Customs also determined that the imported product was sold to Australia at a dumped price. Therefore the cost advantage was partly the result of a dumped price and also in part the result of efficiencies - most likely (as Woolworths has argued) the result of a different level of advertising and promotional expenses.

To make an adjustment in the price undercutting analysis to quantify the cost advantage due to the differences in advertising costs, Customs would need to be satisfied that the cost has a direct impact on the price. Customs does not have that level of information and cannot be so satisfied.

#### 10.4.1.13 Price of pulp

In their response to the SEF, Woolworths submitted that the loss of profit between 2006 and 2007 by the applicants was due to cost increases but it was not caused by the introduction of *Select*, except insofar as it resulted in increased competition. Also in an earlier submission of 17 September 2008 Woolworths stated it is clear that an underlying driver of the profit and profitability for the applicants is the cyclical nature of the price of pulp.

Customs notes that the increase in cost over 2006 and 2007 was approximately 3% and the dumping margins for China were in the range of 5% to 10% and 33% to 45% for Indonesia. Customs considers it reasonable to conclude in the absence of the cost advantage as a result of the dumped price, the applicants would have been able to increase their price to recoup the 3% cost increase.

#### 10.4.1.14 Driver of price undercutting

In their response to the SEF, Woolworths:

- submitted that it was as a result of fair competition in the retail market that the applicants had to reduce their prices, and that these prices were determined not by dumping but by market forces in circumstances where Woolworths paid a fair price to Paper Force for the *Select* product,
- claimed that as the price undercutting was sometimes greater than the dumping margin, then the price undercutting cannot be seen to be the result of dumping margins. (in this respect Woolworth's compared the lower end dumping margin of just China imports, being 5% with the upper end price undercutting percentage of 20%), and
- claimed that this level of price undercutting cannot be attributed to lower price dumped goods which clearly demonstrates that other factors are at play in the market.

Customs is of the view that the higher level of undercutting is a result of both dumping and a competitive advantage due to a different cost structure. Customs considers it reasonable to conclude that the dumping in the range of 5%-10% attributed to the price undercutting by a similar magnitude. In the absence of dumping it would be reasonable to conclude that the undercutting would be less.

#### 10.4.2 **Other interested parties**

##### 10.4.2.1 Impact of ABC

In response to the SEF, Pro-Clean Cleaning submitted that a balanced view needs to be taken by Customs concerning the impact of ABC in the premium range of the Australian market as "ABC (an Australian manufacturer) has been able to expand and grow their market share and be cheaper than importers."

As above in the absence of sale and cost information from ABC (and Encore), Customs takes the view that the applicants, as the major Australian producers in terms of domestic production (in excess of 50%), can be taken to be representative of the Australian industry for injury analysis purposes. Where possible Customs has included known ABC data (received from other sources), in the analysis.

##### 10.4.2.2 Increased competition between industry members

In response to the SEF, RapidClean Perth claimed that as the market leaders KCA and SCA are setting the market price any decline in prices and margins is due to competition between the two companies.

Customs has considered the relative pricing of the different brands in its assessment of injury. It is Customs view that the increased competition in the market, as a result of the price at which the imported product has entered the market (which is lower than both the applicants) has caused a decline in prices and margins of the applicants.

#### 10.4.2.3 Competition from converters that source parent reels from the applicants

In response to the SEF, RapidClean questioned whether consideration had been given to the role of paper converters such as Caprice and Dovat who source their raw material (reels) from KCA. RapidClean stated that they are able to convert the material and sell comparable products into the market well below KCA & SCA.

As part of the investigation Customs visited the importer Caprice. It was Customs understanding following discussions and verification of Caprice information, that the materials purchased from KCA were not used for the production of like goods. As such, the products that Caprice did sell, which competed with the applicants products was all imported.

Customs can not comment on the role of Dovat, as no information has been provided to Customs in relation to this company.

#### 10.4.2.4 Factors other than price

In response to the SEF, Rapidclean Perth claimed that that retailers and AFH distributors consider factors other than price in a buying decision (such as strategies to establish a private label to ensure competition) and that "*large dominant suppliers are less proactive if they do not have competition*".

Customs has considered a range of factors in its assessment of injury in this investigation, including non-price factors referred to by RapidClean Perth. As above and on balance Customs remains satisfied that the necessary causal link between the dumping of the goods and the injury incurred by the Australian industry has been established.

## 11 WILL DUMPING AND MATERIAL INJURY CONTINUE?

### 11.1 Australian industry claims

The applicants claimed that the failure to impose provisional anti-dumping measures on exports of toilet paper from China and Indonesia will lead to continued dumping and material injury to the Australian industry. In doing so the applicants highlighted the increasing trend of imports of Chinese and Indonesian toilet paper onto the Australian market.

The applicants claimed that at present growth rates, the *Select* brand of toilet paper will have secured in excess of 10% of the Australian market by the end of 2008 at prices which the applicants considers are dumped and unfairly priced. They claimed that industry profit and profitability is estimated to reduce further in 2008 as imports from the nominated countries continue to increase.

### 11.2 Claims by GHY and Pindo Deli

GHY and Pindo Deli have submitted that there is no likelihood of either company exporting Woolworths *Select* toilet paper while this investigation proceeds to its conclusion because Woolworths has concluded its contract commitments with them.

The companies point to a public announcement made by Woolworths in May 2008 advising that the current supply contract for *Select* toilet paper was so concluded as evidence that they will not export prior to the conclusion of this investigation.

In a submission dated 9 December 2008 the companies further advised Customs that there had been no exports of *Select* toilet paper from Indonesia since March 2008 and none from China since May 2008 and that furthermore there is "no foreseeable likelihood of resumption of such exports".

### 11.3 Claims concerning exchange rate movements

In response to the SEF Customs received a number of submissions concerning the movement in relative rate of exchanges following the investigation period. These submissions noted there has been a significant decline in the Australian dollar compared to the Chinese Yuan ( and less significant but still positive decline compared to the Indonesian Rupiah) and that decline should be taken in consideration when assessing whether dumping and material injury will continue. Submissions in this respect were received from Dr Richard Whitwell, Whereabout Supply, RapidClean Perth, Pro-Clean Cleaning Supplies and Midstate Pty Ltd.

### 11.4 Effect of decline in input prices

In a submission dated 30 November 2008, Dr Richard Whitwell submitted that it is unlikely that the relative prices for the imported toilet paper and the input costs for the imported pulp would be of the same order because input prices have been recently declining as costs for raw materials are declining due to increasing global inventories and weak demand.

## **11.5 Claims regarding pulp mills in China**

In response to the SEF, RapidClean Perth claimed that there have been recent closures of numerous pulp mills in China which is expected will have a flow on effects in relation to supply of product to Australia.

## **11.6 Customs assessment**

### **11.6.1 Exchange rate movements**

Customs has assessed data during the investigation period and notes the inherent practical difficulty in predicting exchange rate fluctuations and any impact they may have on future dumping and/or injury. Customs further notes that such impacts are practically and properly addressed through duty assessment and/or reviews under the legislation.

### **11.6.2 Decline in input prices**

Customs has assessed data during the investigation period and again notes the inherent practical difficulty in predicting movement in input prices and any impact they may have on future dumping and/or injury. Customs further notes that such impacts properly addressed through duty assessment and/or reviews under the legislation.

### **11.6.3 Will dumping continue?**

Customs has considered the issues raised relevant to determining whether dumping and material injury will continue. It is evident from information provided to Customs that the volume of toilet paper exported from the nominated countries is considerable and that the volume has increased over the injury analysis period.

Customs notes the export prices of toilet paper from nominated countries were all at significant dumping margins some in excess of 40%.

Customs has carefully considered the claim made by GHY and Pindo Deli that there is no likelihood of their exports continuing while this investigation proceeds and that there is no foreseeable likelihood of resumption of such exports and has carefully reviewed the available evidence to support the claim. Customs notes that the press release from Woolworths is silent regarding the timing of the resetting of the contract arrangements and concludes that the arrangements could be put into place again at any time and further noting the passage of time since May 2008 this could be potentially imminent.

Customs also notes that the press release is clear that the invitation to re-tender will be open to both international and local suppliers making the prospect of a resumption of imports from GHY and Pindo Deli a distinct possibility. Customs is unaware of any progress on this re-supply tender.

Customs considers that it is not possible to predict the impact of the closure of pulp mills in China on the supply of toilet paper to Australia.

Customs has examined exports of like goods following the investigation period, up until 20 days after the SEF was placed on the public record, and note that imports of toilet paper from both China and Indonesia have continued.

In view of the factors existing in the Australian toilet paper market, particularly the growth in the market, Customs considers that dumping will continue if anti-dumping measures are not imposed.

#### **11.6.4 Will material injury continue?**

Customs has reviewed the Australian industry's performance over the injury analysis period and has concluded that toilet paper exported at dumped prices from the nominated countries have caused material injury to the Australian industry.

Customs considers that a continuation of price competition from dumped Chinese and Indonesian imports at the current levels is likely to have a continuing adverse impact on the Australian industry. Customs considers that this impact may be particularly evident in market share, price related injury and reduced profits and profitability.

#### **11.6.5 Conclusion**

Based on the available evidence, Customs is satisfied that exports of toilet from China and Indonesia in the future are likely to be at dumped prices and that continued dumping will cause further material injury to the Australian industry.

Customs is satisfied that the taking of securities is necessary to prevent material injury to Australian industry occurring while the investigation continues.

## 12 ANTI-DUMPING MEASURES

### 12.1 Introduction

Dumping duties may be applied where it is established that dumped imports have caused or threaten to cause injury to the Australian industry producing like goods. The level of dumping duty cannot exceed the margin of dumping, but a lesser duty may be applied if it is sufficient to remove the injury. This lesser duty provision is contained in the WTO Anti-Dumping Agreement and s. 8(5A) of the *Customs Tariff (Anti-Dumping) Act 1975*.

The calculation of the non-injurious price (NIP) provides the mechanism whereby this lesser duty provision is given effect. The NIP is the price that would be sufficient to remove the injury caused to the Australian industry by the dumping. The NIP is defined in s. 269TACA.

Anti-dumping duties are based on FOB prices in the country of export. Therefore a NIP is calculated in FOB terms for the country of export.

### 12.2 Unsuppressed selling price

Customs generally derives the NIP by first establishing a price at which the local industry might reasonably sell its product in a market unaffected by dumping. This price is referred to as the unsuppressed selling price (USP).

Customs' preferred approach to establishing USPs observes the following hierarchy:

1. industry selling prices at a time unaffected by dumping;
2. constructed industry prices – industry CTMS plus profit; or
3. selling prices of undumped imports.

Having calculated the USP, Customs then calculates a NIP by deducting the costs incurred in getting the goods from the export FOB point (or another point if appropriate) to the relevant level of trade in Australia. The deductions normally include overseas freight, insurance, into store costs and amounts for importer expenses and profit.

### 12.3 Australian industry claims

In a submission provided to Customs the applicants proposed using selling prices in a period prior to the commencement of the injurious impact of dumping, adjusted to reflect changes in increased pulp prices and relevant increases in the consumer price index evident over the intervening period to 2008.

### 12.4 Customs' assessment

In its application for anti-dumping measures, the industry claimed that material injury to the Australian industry was caused by dumping commenced towards the end of 2006. Customs has assessed the industry's selling prices in preceding years to establish their suitability for use in calculating a USP.

Customs considers that industry's selling prices in 2005, being the most recent period in which its prices were unaffected by dumping, are suitable for establishing a USP. However, Customs agrees with the industry's claim that prices in this year do not reflect higher raw material costs experienced in 2007.

Accordingly, Customs considers that an adjustment to the selling prices in 2005 is warranted to account for these increased costs. The amount of adjustment has been calculated by comparing the industry's average raw material costs in 2005 to 2007. The percentage increase in costs over the two periods was used to uplift 2005 selling prices to estimate a selling price for 2007 which takes account of recent cost increases.

Customs sought submissions from interested parties following the SEF regarding its preferred option for establishing a USP using applicants' selling prices in 2005 and adjusting for raw material cost increases in 2007. Customs did not receive any submissions.

## 12.5 Calculation of the NIP

The USP is a delivered price to Australian customers. To calculate the NIP, post FOB exportation costs such as overseas freight and insurance, costs incurred in Australia and where appropriate an amount for the importer's profit, are deducted from the USP. Non-injurious price calculation

An example of this calculation follows.

<b>Unsuppressed selling price</b>		<b>100</b>
<b>Less post exportation costs</b>		
Ocean freight & marine insurance	10	
Duty	5	
Port & broker charges	1	
Cartage to store	2	
SG&A expenses	8	
Profit	10	
<b>Total</b>		<b>36</b>
<b>Non-injurious price</b>		<b>64</b>

Customs will use this method to calculate a NIP at the FOB level, based on verified information obtained on Customs visits to the exporter.

The calculation of the NIP is at **Confidential Appendix 10**.

## 12.6 Interim dumping duties

An interim dumping duty may be ascertained:

- as a proportion of the export price; or
- by reference to a measure of the quantity; or
- by a combination of these methods.

Customs recommends that the interim dumping duty be expressed as an amount per kg.

In determining the amount of interim dumping duty payable, the Minister must ascertain an export price, a normal value and a NIP for the goods. The interim duty is based on the difference between the ascertained export price and the lower of the ascertained normal value and the ascertained NIP.

An interim duty is collected on each importation of goods subject to dumping duty notices.

An importer can apply for repayment of any interim duty paid in excess of the actual duty liability. An affected party may seek a review of the interim duty to be paid in future shipments.

The calculation of the NIP is at **Confidential Appendix 11**.

## 13 RECOMMENDATIONS

Customs recommends the Minister impose anti-dumping measures in respect of toilet paper and like goods exported from China and Indonesia to Australia by certain exporters from China and Indonesia.

### Customs recommends the Minister is satisfied:

- in accordance with s. 269TAB(3), sufficient information has not been furnished or is not available to enable the export price of toilet paper exported to Australia from China by exporters other than GHY (all exports) and Fook Woo (in their exports to Merino only), to be ascertained under the preceding subsections of s. 269TAB;
- in accordance with s. 269TAB(3), sufficient information has not been furnished or is not available to enable the export price of toilet paper exported to Australia from Indonesia by exporters other than Pindo Deli, to be ascertained under the preceding subsections of s. 269TAB;
- in accordance with s. 269TAC(6), sufficient information has not been furnished or is not available to enable the normal value of toilet paper exported to Australia from China by exporters other than GHY, Vinda Jiangmen and Fook Woo, to be ascertained under the preceding subsections of s. 269TAC;
- in accordance with s. 269TAC(6), sufficient information has not been furnished or is not available to enable the normal value of toilet paper exported to Australia from Indonesia exporters other than Pindo Deli, to be ascertained under the preceding subsections of s. 269TAC;
- in accordance with s. 269TACB(2), the weighted average of export prices of toilet paper over the investigation period is less than the weighted average of corresponding normal values over the investigation period in respect of exports of the goods from China except those made by Vinda Jiangmen;
- in accordance with s. 269TACB(2), the weighted average of export prices of toilet paper over the investigation period is less than the weighted average of corresponding normal values over the investigation period in respect of exports of the goods from Indonesia;
- in accordance with s. 269TG(2), the amount of the export price of toilet paper already exported to Australia by all exporters from China except Vinda Jiangmen, is less than the amount of the normal value of those goods and the export price of the goods that may be exported to Australia by those exporters from China in the future may be less than the normal value of the goods and because of that, material injury to the Australian industry producing like goods has been, or is being caused; and
- in accordance with s. 269TG(2), the amount of the export price of toilet paper already exported to Australia by all exporters from Indonesia is less than the amount of the normal value of those goods and the export price of the goods that may be exported to Australia by those exporters from China in the future may be less than the normal value of the goods and

because of that, material injury to the Australian industry producing like goods has been, or is being caused.

- In accordance with 269TAE(2C) that it is appropriate to consider the cumulative effect of exports from China and Indonesia.

**Customs recommends the Minister determine:**

- in accordance with s269TAB(1)(c), having regard to all the circumstances of the exportations, export price of toilet paper exported from China by GHY;
- in accordance with s269TAB(1)(c), having regard to all the circumstances of the exportations, export price of toilet paper exported from Indonesia by Pindo Deli (in their exports to Woolworths only);
- in accordance with s. 269TAB(3), having regard to all relevant information, the export price of toilet paper exported from China by exporters other than GHY (all exports) and Fook Woo (in their exports to Merino only);
- in accordance with s. 269TAB(3), having regard to all relevant information, the export price of toilet paper exported from Indonesia by exporters other than Pindo Deli;
- in accordance to s. 269TAC(2)(c), the cost of production for toilet paper by Fook Woo, and on the assumption that the goods, instead of being exported, had been sold for home consumption in the ordinary course of trade, determine the SG&A costs associated with the sale and any profit on the sale and, in accordance with s. 269TAC(9), the adjustments to be made to ensure that the normal value and the export prices are properly comparable;
- in accordance with s. 269TAC(6), having regard to all relevant information, the normal value of toilet paper exported from China by exporters other than GHY, Vinda Jiangmen and Fook Woo;
- in accordance with s. 269TAC(6), having regard to all relevant information, the normal value of toilet paper exported from Indonesia; by exporters other than Pindo Deli:
- in accordance with s. 269TACB(2), by comparison of the weighted average of export prices during the investigation period and the weighted average of normal values during that period, that exports of toilet paper from China, except exports by Vinda Jiangmen, were dumped.
- in accordance with s. 269TACB(2), by comparison of the weighted average of export prices during the investigation period and the weighted average of normal values during that period, that exports of toilet paper from Indonesia.

**Customs recommends the Minister direct:**

- in accordance with s. 269TAC(8), the price paid or payable for like goods sold by GHY be taken to be such a price adjusted for differences between domestic and export sales to ensure fair comparison;
- in accordance with s. 269TAC(8), the price paid or payable for like goods sold by Pindo Deli be taken to be such a price adjusted for differences between domestic and export sales to ensure fair comparison; and
- in accordance with s. 8(5) of the *Customs Tariff (Anti-Dumping) Act 1975*, that the element of interim dumping duty payable on toilet paper the subject of a notice under s. 269TG(1) or s. 269TG(2) be ascertained by reference to a measure of the quantity (in kilograms) of those particular goods.

**Customs recommends the Minister declare:**

- in accordance with s. 269TG(2), by public notice, that s. 8 of the *Customs Tariff (Anti-Dumping) Act 1975* applies to like goods that are exported to Australia by all exporters from China except Vinda Jiangmen after the date of publication of the notice; and
- in accordance with s. 269TG(2), by public notice, that s. 8 of the *Customs Tariff (Anti-Dumping) Act 1975* applies to like goods that are exported to Australia by all exporters from Indonesia after the date of publication of the notice.

## 14 EVIDENCE RELIED UPON

In formulating the recommendations in this report, Customs had regard to:

Topic	Section of report detailing facts relied upon	Evidence relied upon
Goods under consideration	5	Industry submission and submissions of other interested parties.
Like goods	6	Industry submission and information gathered during industry visits.
Australian industry	6	Industry submission and information gathered during industry visits.
Australian market	7	Industry submission; information gathered during industry and importer visits, and Customs' commercial database.
Export price	8	Exporter submission, information gathered during importer and exporter visits, and Customs' commercial database.
Normal value	8	Exporter submission and information gathered during exporter visit.
Economic condition of the industry	9	Industry, exporter and importer submissions; information gathered during industry, exporter and importer visits, and Customs' commercial database.
Has dumping caused material injury?	10	Industry, exporter and importer submissions; data collected during industry, exporter and importer visits, and Customs' commercial database.
Will dumping and material injury continue?	11	Industry, exporter and importer submissions; data collected during industry, exporter and importer visits, and Customs' commercial database.
Anti-dumping measures	13	Industry, exporter and importer submissions; data collected during industry, exporter and importer visits, and information on Customs' commercial database

**15 APPENDICES**

Confidential Appendix 1	Market share analysis
Confidential Appendix 2	Retail price and market share analysis
Confidential Appendix 3	Imports
Confidential Appendix 4	Dumping margins Indonesia
Confidential Appendix 5	Dumping margins China
Confidential Appendix 6	Economic condition of the Australian industry
Confidential Appendix 7	Retail Price Undercutting Analysis
Confidential Appendix 8	AFH undercutting analysis
Confidential Appendix 9	Retailer cost and sales analysis
Confidential Appendix 10	NIP calculation
Confidential Appendix 11	IDD calculation