



The Macao Money Machine

Profit Shifting and Tax Leakage in Indonesia's Pulp Exports

FORUM PAJAK BERKEADILAN



Citation

Forum Pajak Berkeadilan et al. 2020. The Macao Money Machine: Profit shifting and tax leakage in Indonesia's pulp exports. November. Jakarta, Indonesia.

Dalam bahasa Indonesia:

Forum Pajak Berkeadilan et al., 2020, Mesin Uang Makao: Dugaan Pengalihan Keuntungan dan Kebocoran Pajak pada Ekspor Pulp Indonesia, November 2020, Jakarta, Indonesia.

Acknowledgement

The organizations publishing this report would like to thank a number of reviewers for their thoughtful comments on drafts of this report. These reviewers include experts at Finance Uncovered, as well as other individuals who wish to remain anonymous. The responsibility for the material contained in this report is that of the publishing organizations alone.

Disclaimer

This report has been prepared based on publicly available information and data obtained from numerous sources as cited. No independent verification of the sources cited has been undertaken, and where the authors express any opinion, it is the authors' opinion only and is not intended as specific advice to any particular party or person.

APRIL Group and PT Toba Pulp Lestari Tbk were delivered a detailed summary of findings prior to the report's publication, and their responses are included in this report.

Cover photo: AndyHe829 / Wikimedia Commons

The Macao Money Machine

Profit Shifting and Tax Leakage in Indonesia's Pulp Exports

NOVEMBER 2020



CONTENTS

ABBREVIATIONS AND ACRONYMS	iv
EXECUTIVE SUMMARY	v
SECTION I. INTRODUCTION	1
1. Purpose and scope of the report	1
2. Indonesia's low tax collection rates	2
3. Profit shifting and tax leakage	3
4. Profit shifting in Indonesia's dissolving pulp exports	4
SECTION II. DISCREPANCIES IN INDONESIA'S DISSOLVING PULP TRADE WITH CHINA	8
5. Gaps in trade data between Indonesia and China	8
6. Indonesia's only producer of dissolving pulp until 2016	8
7. Exports of pulp from Belawan port in North Sumatra	12
8. Statistical correlation between Indonesia's exports of "Toba Cell Eucalyptus Pulp" and China's imports of dissolving pulp	16
9. DP Macao's role in marketing Toba Pulp's products to international buyers	17
10. Toba Pulp's product mix specified in DP Macao's sales data	21
SECTION III. PROFIT SHIFTING BY TOBA PULP	25
11. What incentives exist to report dissolving pulp as paper-grade pulp?	25
12. Estimating DP Macao's apparent income from marketing for Toba Pulp	28
13. Estimating Toba Pulp's apparent under-statement of revenues	30
14. Toba Pulp's reported profit and corporate tax payments	32
15. More accurate reporting since 2017	33
SECTION IV. INDICATIONS OF SIMILAR PROFIT SHIFTING PRACTICES BY THE APRIL GROUP	35
16. APRIL's dissolving pulp production during 2016–2018	35
17. Mismatch in Indonesia-China trade data in 2017 and 2018	37
18. APRIL's dissolving pulp exports to China	39
19. APRIL's apparent under-statement of revenues	40
SECTION V: GOVERNANCE REFORMS TO ADDRESS TAX LEAKAGE FROM PROFIT SHIFTING	43
20. Scope of the problem for Indonesia and the world	43
21. Regulatory reform efforts to curb profit-shifting practices	44
22. Improving export performance while increasing Customs vigilance	47
SECTION VI: CONCLUSION	48
23. Summary of findings	48
SECTION VII: RECOMMENDATIONS	50
24. Recommendations for the Government of Indonesia	50
SOURCES CITED	51
APPENDIX A: PT TOBA PULP LESTARI TBK'S RESPONSE TO TEMPO MAGAZINE ARTICLES OF FEBRUARY 3–9, 2020	60
APPENDIX B. RESPONSE OF PT TOBA PULP LESTARI TBK TO THE MAIN FINDINGS OF THIS REPORT	61
APPENDIX C. RESPONSE OF THE APRIL GROUP TO THE MAIN FINDINGS OF THIS REPORT	62
APPENDIX D: DOCUMENTATION OF SUKANTO TANOTO'S ROLE AS THE ULTIMATE CONTROLLING SHAREHOLDER OF PT TOBA PULP LESTARI TBK, DP MACAO, AND SATERI	63

LIST OF FIGURES AND TABLES

Figure E-1. Dissolving pulp sent from Indonesia to China, 2007–2018	v
Figure 1. Overlapping beneficial ownership of Toba Pulp, APRIL, Sateri, and Royal Golden Eagle (RGE) Group International	5
Map 1: Locations of pulp mills, ports, VSF mills, and countries involved in ownership or trading from Toba Pulp and/or APRIL's Kerinci mill	7
Figure 2. Dissolving pulp sent from Indonesia to China, 2007–2016	9
Figure 3. Toba Pulp annual production capacity of dissolving pulp and BHKP paper-grade pulp	9
Figure 4. Volume of Toba Pulp's total pulp production (2007–2016) and sales (2011–2016)	12
Figure 5. Comparison of pulp exported from Belawan port and Toba Pulp sales volumes, 2007–2016	13
Figure 6. Example of export record of Toba Pulp shipment to DP Macao classified as HS Code 470329 with "Toba Cell Eucalyptus Pulp" description	14
Figure 7. Comparison of paper-grade BHKP and dissolving pulp	14
Table 1. Definitions of HS Codes 470329 and 470200	15
Figure 8. Toba Pulp's exports of "Toba Cell Eucalyptus Pulp" (HS 470329) and China's imports of dissolving pulp (HS 470200) from Indonesia, April 2010–December 2016	16
Figure 9. Value of Toba Pulp's total sales and sales to DP Macao, 2008–2016	18
Figure 10. Sukanto Tanoto as ultimate controlling shareholder of Toba Pulp Lestari, DP Macao, and Sateri	19
Figure 11. Trading relationship among Toba Pulp, DP Macao, SC International Macao (after September 2010), and dissolving pulp buyers	19
Table 3. Volume in tons of dissolving pulp reported by Indonesia, China, and Sateri	22
Table 2. DP Macao sales of dissolving pulp during 2008, 2009, and January–June 2010	22
Figure 12. Annotated excerpts from Sateri Holdings Limited's 2010 listing prospectus for the Hong Kong Stock Exchange	23
Figure 13. Average per ton import price to China (CIF) of BHKP paper-grade pulp and dissolving pulp, 2007–2018	25
Table 4. DP Macao sales of BHKP paper-grade pulp and dissolving pulp during 2008, 2009, and January–June 2010	26
Figure 14. Average unit price of Toba Pulp's exports and of China's dissolving pulp imports from Indonesia, 2008–2016	26
Figure 15. Average unit price of United States dissolving pulp exports to China and of China's dissolving pulp imports from the United States, 2007–2017	27
Table 5. Sample shipment-level data of Toba Pulp exports from Indonesia to DP Macao and China mill imports of dissolving pulp from Indonesia	28
Figure 16. Estimated distribution of per ton import price to China of dissolving pulp produced and apparently misclassified by Toba Pulp, December 2007–2016	29
Figure 17. Estimated distribution of total value of Toba Pulp's dissolving pulp exported and apparently misclassified from Indonesia to China, December 2007–2016	31
Table 6. PT Toba Pulp Lestari Tbk's reported pulp production, sales, net profit, and corporate income tax, 2007–2016	32
Figure 18. Dissolving pulp production at APRIL's Kerinci mill in Riau Province, Sumatra, 2016–2018	36
Figure 19. Dissolving pulp sent from Indonesia to China, 2016–2018	38
Figure 20. Estimated distribution of per ton import price to China of dissolving pulp produced and apparently misclassified by the APRIL Group in Indonesia, 2016–2018	41
Figure 21. Estimated distribution of total value of the APRIL Group's dissolving pulp exported and apparently misclassified from Indonesia to China, 2016–2018	42
Figure 22. PMK-213 documentation requirements for related party transactions	45
Figure 23. Excerpts from Sateri Holdings Limited's listing prospectus on the Hong Kong Stock Exchange in 2010	64
Figure 24. Excerpt from PT Toba Pulp Tbk public announcement showing common ownership of Toba Pulp, Pinnacle Company Limited, and DP Macao, as of November 22, 2017	66
Figure 25. Excerpts from Bracell Limited notice of privatization on August 30, 2016	67
Figure 26. Excerpts from PT Toba Pulp Lestari Tbk's Annual Report 2018	69
Figure 27. Excerpts from Circular of Sateri Holdings Limited on November 4, 2014	70

ABBREVIATIONS AND ACRONYMS

AEO	Authorized Economic Operator
AE pulp	Acacia Eucalyptus pulp
APRIL	Asia Pacific Resources International Limited Group
BEPS	Base Erosion and Profit Shifting
BHKP	Bleached hardwood kraft pulp
BKPM	Badan Koordinasi Penanaman Modal, or Indonesia's Capital Investment Coordinating Board
BPS	<i>Badan Pusat Statistik</i> , Indonesia's Central Statistics Bureau
BVI	British Virgin Islands
CbC	Country-by-country
CEISA	Customs-Excise Information System and Automation
CIF	Cost, insurance, and freight, referring to the price of goods including shipping and insurance costs up to the border of the importing country
DP Macao	DP Marketing International Limited – Macao Commercial Offshore
FOB	Free on board, referring to the price of goods up until they are loaded on a ship prior to being exported
GDP	Gross Domestic Product
HS	Harmonized System
HTI	<i>Hutan Tanaman Industri</i> , or Industrial Forest Plantation
INRU	Trading symbol for PT Toba Pulp Lestari Tbk on the Indonesia Stock Exchange
INSW	Indonesia National Single Window
Kg	Kilogram
KPK	<i>Komisi Pemberantasan Korupsi</i> , Indonesia's Corruption Eradication Commission
LLC	Limited liability corporation
Ltd	Limited
MCAA	Multilateral Competent Authority Agreement
MCO	Macao Commercial Offshore
MNE	Multinational enterprise
NGO	Non-governmental organization
OECD	Organisation of Economic Co-operation and Development
OJK	<i>Otoritas Jasa Keuangan</i> , Indonesia's Financial Services Authority
PMK	<i>Peraturan Menteri Keuangan</i> , or Minister of Finance Regulation
PT	<i>Perseroan Terbatas</i> , signifying a limited liability company in Indonesia
Pte Ltd	Private Limited, signifying a privately-owned company in Singapore
RAPP	PT Riau Andalan Pulp & Paper
RGE	Royal Golden Eagle International Group
RGM	Raja Garuda Mas Group
Rp	Indonesian Rupiah
Tbk	<i>Terbuka</i> , signifying a publicly-traded company in Indonesia
Toba Pulp	PT Toba Pulp Lestari Tbk
Ton	Air-dried ton
TPL	Alternate abbreviation for PT Toba Pulp Lestari Tbk
UN Comtrade	United Nations Commodity Trade Statistics Database
US\$	US Dollar
VSF	Viscose staple fiber

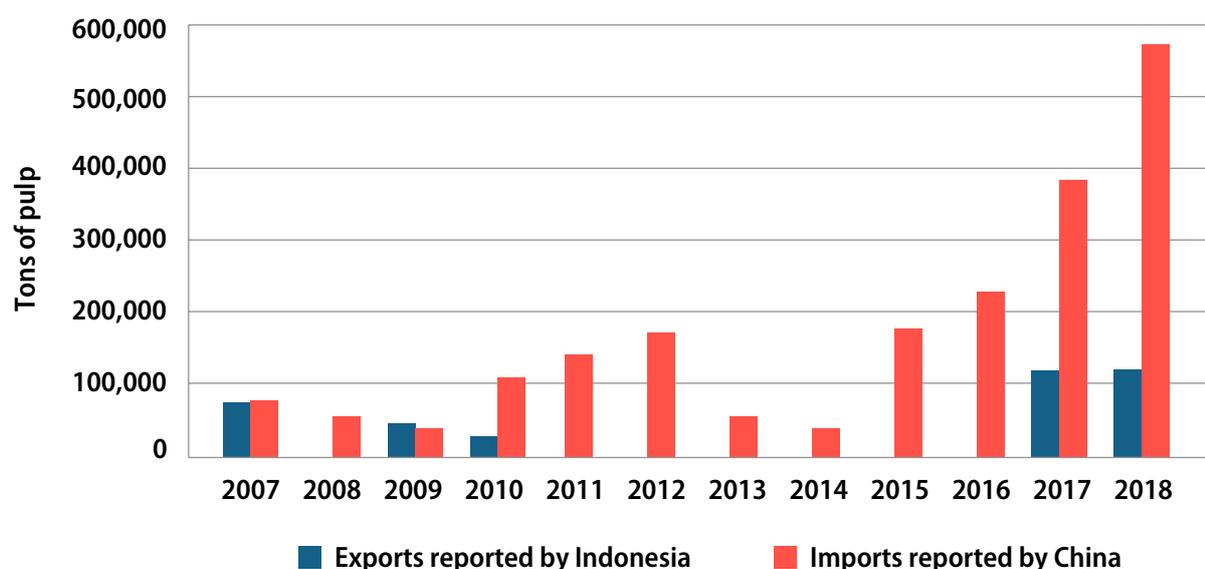
EXECUTIVE SUMMARY

The purpose of this report is to provide the Government of Indonesia and other stakeholders with a detailed analysis of profit shifting practices in the nation's pulp industry. These practices appear to have resulted in the movement of substantial taxable profits generated within Indonesia to at least one offshore tax haven. The use of offshore tax havens by corporate actors has contributed to Indonesia's low tax collection rates, which limit the country's potential to fund infrastructure development, social welfare programs, pandemic response, and other fiscal priorities of the Government.

Discrepancies in Indonesia's dissolving pulp trade with China

A comparison of trade statistics compiled, respectively, by the governments of Indonesia and China highlights major discrepancies in the trade of dissolving pulp, a specialized grade of wood pulp used in the manufacture of textile products. Between 2007 and 2018, China imported over 2.0 million tons of dissolving pulp from Indonesia, according to China's customs data, as reported to the United Nations Commodity Trade Statistics Database. However, Indonesia only exported to China approximately 400,000 tons of dissolving pulp during that same period, 2007–2018, according to official trade data prepared by the Government of Indonesia's Central Statistics Bureau.

Figure E-1. Dissolving pulp sent from Indonesia to China, 2007–2018



Sources: Indonesia data for HS Code 470200 from Badan Pusat Statistik; China data for HS Code 470200 from UN Comtrade.

Profit shifting by PT Toba Pulp Lestari Tbk

By analyzing the mismatch in trade data reported by Indonesia and China for the same trade flow, this report documents the apparent use of profit shifting practices by PT Toba Pulp Lestari Tbk (hereafter Toba Pulp), a publicly listed company which operates a mill in North Sumatra capable of producing both dissolving pulp and paper-grade pulp. During 2007–2016, Toba Pulp apparently reported exports of dissolving pulp as lower-value paper-grade pulp when it was sold to an affiliated marketing company in Macao. The Macao company apparently then re-invoiced the shipments as dissolving pulp and sold them at substantially higher prices to buyers in China. The apparent use of profit shifting practices by Toba Pulp

was first reported in a series of news articles published in February 2020 by a consortium of Indonesian media outlets under the banner of IndonesiaLeaks. Toba Pulp has claimed that its exports during this period were classified “in accordance with the product classification and legal jurisdictions”; and the company’s response to these articles is in Appendix A.

Through analysis of gaps in trade data, audited financial statements, and other reports released by the company and its affiliates, this report estimates that Toba Pulp’s use of this profit shifting arrangement apparently had the effect of under-stating the company’s revenues in Indonesia by approximately US\$ 426 million (Rp. 4.23 trillion) during the decade 2007–2016. In hypothetical terms, if taxed at the contemporary statutory corporate tax rates, which ranged between 25% and 30% during this period, this amount of revenue may have generated an additional US\$ 108 million (Rp. 1.07 trillion) in corporate tax paid to the Government of Indonesia. The report makes no claim, however, that these figures reflect Toba Pulp’s particular tax situation or its effective tax rate.

In response to this report’s summary of findings, Toba Pulp stated, “Regarding the allegation of profit shifting, the Company [Toba Pulp] has produced and sold products at an appropriate price and every year an assessment of appropriate product prices is carried out by an independent consultant. [. . .] As a public company whose shares have been listed on the Indonesia Stock Exchange since 1990, the Company always upholds Good Corporate Governance and remains committed to carrying out operational activities in accordance with the prevailing laws and regulations.”

Toba Pulp’s apparent use of the profit shifting practices documented in this report seems to have ended in early 2017, when it resumed issuing periodic public announcements disclosing the type of product its mill is producing.

Indications of similar profit shifting by the APRIL Group

The report further analyzes the reported sales of dissolving pulp by Asia Pacific Resources International Limited (hereafter the APRIL Group), Indonesia’s second largest pulp producer, which is controlled by the same beneficial owner as Toba Pulp. APRIL has acknowledged producing over 800,000 tons of dissolving pulp during 2016–2018, and there are strong indications that most of this was exported to viscose staple fiber mills in China operated by APRIL-affiliate Sateri. Yet trade data prepared by the Government of Indonesia that were analyzed for this study do not appear to record any dissolving pulp exports from APRIL, its main operating companies, or its known subsidiaries during this period. These and other findings indicate that APRIL apparently used profit shifting practices during these three years that were similar in structure and effect to the ones apparently used by Toba Pulp during the period 2007–2016.

APRIL’s practices appear to have had the effect of under-stating the group’s revenues in Indonesia by approximately US\$ 242 million (Rp. 3.35 trillion) during 2016–2018. In hypothetical terms, if taxed at the statutory corporate tax rate of 25%, this amount of revenue may have generated an additional US\$ 60 million (Rp. 838 billion) in corporate tax paid to the Government of Indonesia. The report makes no claim, however, that these figures reflect either the particular tax situation or the effective tax rate of the APRIL Group, its main operating companies, or its known subsidiaries.

In response to this report’s summary of findings, the APRIL Group stated: “In 2016, RAPP [APRIL subsidiary, PT Riau Andalan Pulp & Paper] conducted a 2-year collaboration for the use and quality improvement of AE [Acacia Eucalyptus] Pulp with Sateri in China, with the hope that AE Pulp can be

used as raw material for the viscose staple fiber industry. [. . .] Since the AE Pulp product was still in the trial development stage, RAPP was still using the HS Code for Kraft or HS Code 4703.290000 until the specifications of this AE Pulp product met the standards expected by the buyer.”

Since January 2019, it appears that APRIL has reported its exports of dissolving pulp under the appropriate product classification (HS 470200).

Stopping profit shifting and tax leakage to boost Indonesia’s development

The findings presented in this report emerge at a time when the Government of Indonesia is attempting to improve revenue collection in order to fund ambitious infrastructure and social welfare programs and to fill a growing budget gap. The movement of taxable profits offshore has been a major contributor to Indonesia’s low tax collection rate of 11% of GDP, which places it behind regional neighbors such as Malaysia, Thailand, and the Philippines. In 2017, Finance Minister Sri Mulyani Indrawati set a target of increasing tax collection to 15% by 2020, and identified profit shifting practices that facilitate tax avoidance as an important regulatory and law enforcement challenge.

If the Directorate General of Taxation were to determine that Toba Pulp and/or the APRIL Group had understated taxable revenues in Indonesia, collection of these could represent a significant boost to tax collection. More importantly, it would send a powerful signal to Indonesia’s corporate sector that the Government will not tolerate profit shifting schemes that facilitate the transfer of profits generated within Indonesia to offshore jurisdictions.

This report does not allege that any of the companies or individuals named in this report have committed legal or regulatory violations in Indonesia or any other jurisdiction. Indeed, the use of profit shifting practices and the channeling of financial transactions through countries with low corporate tax rates are not necessarily illegal and may be legitimate, provided they are conducted in accordance with relevant laws and regulations. However, it is the opinion of the organizations publishing this report that the findings presented warrant careful scrutiny by the Government of Indonesia.

Recommendations for the Government of Indonesia

The coalition of civil society organizations publishing this report calls on the Government of Indonesia to implement the following recommendations:

1. The Directorate General of Taxation should audit the financial statements of PT Toba Pulp Lestari Tbk to determine whether the company has fairly and accurately stated its taxable revenues and fully complied with prevailing laws and regulations concerning transfer pricing and trade invoicing.
2. The Directorate General of Taxation should audit the financial statements of the APRIL Group’s operating, marketing, and holding companies involved in producing and exporting dissolving pulp to determine whether they have fairly and accurately stated their taxable revenues and fully complied with prevailing laws and regulations concerning transfer pricing and trade invoicing.
3. The Financial Services Authority (*Otoritas Jasa Keuangan*, OJK) should review the audited financial statements and other corporate reports filed by PT Toba Pulp Lestari Tbk to determine whether the company has adequately disclosed all information and material facts that they are required to provide to investors and shareholders.

4. The Customs Authority should investigate whether PT Toba Pulp Lestari Tbk and the APRIL Group (and its operating, marketing, and holding companies) are in compliance with all laws and regulations that govern the classification of pulp exports according to the correct HS code and the reporting of prices that legitimately reflect the value of the products being shipped.
5. The Corruption Eradication Commission (*Komisi Pemberantasan Korupsi*, KPK) should investigate whether the Customs Authority has conducted adequate oversight of Indonesia's exports of dissolving pulp and whether the profit shifting practices analyzed in this report have resulted in any fiscal losses to the Government of Indonesia.
6. The Ministry of Finance and KPK should conduct a joint multi-sector assessment to determine whether companies operating in Indonesia's natural resources sectors are using trade misinvoicing and/or abusive transfer pricing schemes to evade corporate tax payments to the Government of Indonesia.



SECTION I. INTRODUCTION

1. Purpose and scope of the report

The purpose of this report is to provide the Government of Indonesia and other stakeholders with a detailed analysis of profit shifting practices in the nation's pulp industry. These practices appear to have resulted in the movement of substantial taxable profits generated within Indonesia to at least one offshore tax haven. The use of offshore tax havens to shield profits from being taxed in Indonesia is a major contributor to Indonesia's persistently low tax collection rates. Inadequate tax collection limits the Government's potential to fund infrastructure, social welfare initiatives, pandemic response, and other policy priorities.

Specifically, the report documents the apparent use of profit shifting by PT Toba Pulp Lestari Tbk (hereafter Toba Pulp) during 2007–2016. The trade practices appear to have involved the misclassification and under-pricing of dissolving pulp sold to an affiliated marketing company based in Macao. Dissolving pulp is a specialized grade of wood pulp used in the manufacture of textile products. The report also presents data indicating that the APRIL Group¹, Indonesia's second largest pulp producer, appears to have engaged in similar profit shifting practices after it began producing dissolving pulp in 2016.

Toba Pulp's apparent use of profit shifting was first reported in a series of news articles published in February 2020 by a consortium of Indonesian media outlets under the banner of IndonesiaLeaks. Following a year-long investigation, this consortium – which included Tempo Magazine^{2, 3, 4, 5}, Katadata⁶, KBR⁷, and Suara⁸ – identified a scheme in which Toba Pulp apparently misclassified dissolving pulp as it was shipped out of Indonesia, so it would be recorded as a lower-priced grade of pulp that is commonly used for paper production. Tempo summarized the consortium's findings as follows:

- 1 The APRIL Group includes twelve companies incorporated in Indonesia, according to its 2017 Sustainability Report. These twelve companies include the two companies that own pulp production facilities at APRIL's mill in Kerinci: PT Riau Andalan Pulp & Paper and PT Intiguna Primatama. APRIL. 2018. *Sustainability Report 2017*. Singapore: Asia Pacific Resources International Holdings Ltd. https://www.aprilasia.com/images/pdf_files/sr/APRIL%20SR%202017_Interactive.pdf.
- 2 *Tempo English*. 2020. "Wood export conjuring tricks." February 4-10, 2020. <https://magz.tempo.co/read/36360/wood-export-conjuring-tricks>.
- 3 *Tempo English*. 2020. "The profit margins are nearly the same." February 4-10, 2020. <https://magz.tempo.co/read/36361/toba-pulp-lestari-head-of-public-relations-norma-patty-handini-hutajulu-the-profit-margins-are-nearly-the-same>.
- 4 *Tempo English*. 2020. "Step siblings from a tax haven." February 4–10, 2020. <https://magz.tempo.co/read/36362/step-siblings-from-a-tax-haven>.
- 5 *Tempo English*. 2020. "Suspicious exports: Toba Pulp Lestari is suspected of falsifying export documentation to reduce its tax liabilities." February 4–10, 2020.
- 6 Katadata. 2020. "Investigasi: Akal-akalan Toba Pulp melipat untung ekspor bubuk kayu." February 7, 2020. <https://katadata.co.id/telaah/2020/02/07/investigasi-akal-akalan-toba-pulp-melipat-untung-ekspor-bubur-kayu/0>.
- 7 KBR. 2020. "Dugaan manipulasi dokumen ekspor Toba Pulp Lestari." February 5, 2020. https://kbr.id/berita/02-2020/dugaan_manipulasi_dokumen_ekspor_toba_pulp_lestari_/102174.html.
- 8 Suara. 2020. "Dari Porsea ke China, dugaan patgulipat di balik ekspor bubuk kayu." February 3, 2020. <https://www.suara.com/bisnis/2020/02/03/071000/patgulipat-di-balik-ekspor-bubur-kayu-porsea-ke-china>.

At end of 2018, the IndonesiaLeaks team unearthed a number of documents showing suspicious transactions had occurred between Toba Pulp and . . . two affiliated companies. The transactions allegedly were done to conceal company profits amounting to hundreds of billions of rupiah between 2007–2016. These delinquent practices are believed to have been carried out by Toba Pulp by manipulating their export records to customs at Indonesian ports.⁹

More succinctly, Tempo concluded: “Toba Pulp Lestari is suspected of manipulating documents for wood pulp exports to China to transfer the company’s profits offshore.”¹⁰ This alleged manipulation of documents, according to Tempo, involved the apparent misclassification of the Harmonized System (HS) code – that is, the code officially used to designate the product being shipped – on Toba Pulp’s export records.

In a response to Tempo issued on February 3, 2020 (see Appendix A), PT Toba Pulp Lestari Tbk’s Board of Director’s stated:

The Company would like to clarify that the HS code used is in accordance with the product classification and legal jurisdictions. Due to customer demand, the Company produced kraft pulp from mid 2010 to mid 2017. Prior to that, Company produced two kinds of pulp. The appropriate HS codes have been declared at the times these products were exported.¹¹

The present technical report provides further documentation and analysis of the apparent profit shifting practices described in the abovementioned media investigation. This report does not allege that any of the companies or individuals named in this report have committed legal or regulatory violations in Indonesia or any other jurisdiction. Indeed, the use of profit shifting practices and the channeling of financial transactions through countries with low corporate tax rates are not necessarily illegal and may be legitimate, provided they are conducted in accordance with relevant laws and regulations. However, it is the opinion of the organizations publishing this report that the findings presented warrant careful scrutiny by the Government of Indonesia. The final section of the report offers recommendations for specific actions the appropriate agencies may take to address the practices described in this report.

2. Indonesia’s low tax collection rates

A nation’s tax to gross domestic product (GDP) ratio is commonly used to measure a government’s capacity to mobilize tax revenues, which are needed to fund public investment and to deliver public services.¹² At 11%, Indonesia’s tax to GDP ratio places it below Malaysia, Thailand, the Philippines, and similarly large developing countries in other regions, such as Brazil.¹³ Such a low tax collection rate risks limiting Indonesia’s development potential, and the Government will need to improve the efficiency

9 Tempo English. 2020. “Wood conjuring tricks.” *Op. cit.*

10 Tempo English. 2020. “Wood conjuring tricks.” *Op. cit.*

11 PT Toba Pulp Lestari Tbk. 2020a. “Response – PT Toba Pulp Lestari Tbk.” Medan, Indonesia. Company announcement. February 3, 2020. <https://www.tobapulp.com/wp-content/uploads/2020/02/Respose-TPL-3-Feb-2020.pdf>.

12 Akitoby, Bernardin, Anja Baum, Clay Hackney, Olamide Harrison, Keyra Primus and Veronique Salins. 2019. “Tax Revenue Mobilization Episodes in Developing Countries.” *Policy Design and Practice* 3 (1): 1–29. <https://www.tandfonline.com/doi/full/10.1080/25741292.2019.1685729>.

13 Akhlas, Adrian Wail. 2020. “World Bank calls for stronger tax collection to bring 115 million Indonesians into middle class.” *Jakarta Post*, January 31, 2020. <https://www.thejakartapost.com/news/2020/01/31/world-bank-calls-for-stronger-tax-collection-to-bring-115-million-indonesians-into-middle-class.html>. World Bank. 2019. “Aspiring Indonesia: Expanding the Middle Class”. Washington, DC: World Bank and Australian Government. January 30, 2019. <https://www.worldbank.org/en/country/indonesia/publication/aspiring-indonesia-expanding-the-middle-class>. United Nations University. 2020. “Government Revenue Dataset.” Accessed on February 24, 2020. <https://www.wider.unu.edu/project/government-revenue-dataset>.

of revenue collection in order to sustain its current fiscal programs.¹⁴ In 2017, the administration of President Joko Widodo (hereafter Jokowi) set a target of increasing tax collection to 15% of GDP and has since undertaken an ambitious fiscal reform agenda to achieve this.¹⁵

Most prominently, the Government adopted Law 11 of 2016 on Tax Amnesty, launching a tax amnesty program aimed at raising tax compliance on the part of individuals and corporations.¹⁶ By encouraging the repatriation of financial assets held offshore, the policy aimed to enlarge the country's tax base and increase government tax revenues. Through March 2017, nearly one million individuals and corporate entities had participated in the program, and over Rp. 4,778 trillion (US\$ 358.63 billion) had been reported to the Tax Office and Rp. 128 trillion (US\$ 9.6 billion) had been generated in revenue.¹⁷

The premise of the tax amnesty policy was that much of Indonesia's wealth is hidden abroad, beyond the reach of the nation's fiscal authorities. The policy successfully repatriated a large amount of money that was held outside Indonesia, but it did not stanch the flow of money that continues to move abroad. To stop the flow and build on the tax amnesty's success in enlarging the tax base, Finance Minister Sri Mulyani Indrawati has sought to curb profit shifting practices like transfer pricing that facilitate the movement of wealth to jurisdictions outside of Indonesia.^{18,19} According to the Organisation for Economic Co-operation and Development (OECD), profit shifting refers to "tax avoidance strategies that exploit gaps and mismatches in tax rules to artificially shift profits to low or no-tax locations." These practices facilitate the leakage of taxable profits generated within Indonesia to other countries, thereby posing important regulatory and law enforcement challenges.

3. Profit shifting and tax leakage

Two strategies corporate actors commonly use to achieve profit shifting and to minimize tax obligations are transfer pricing and trade misinvoicing. Transfer pricing refers to the setting of prices in transactions between a taxpayer, either a natural person or a legal entity, and a related party.²⁰ For corporations, this includes the sale of goods and services among subsidiaries, affiliated companies, or commercial entities that are under common ownership or control within the same larger enterprise. Under Indonesian law, such transactions are generally legal when they are guided by an internationally-accepted "arm's length"

14 An 11% tax-to-GDP ratio places Indonesia below the 'rule of thumb' that 15–20% collection rate is the minimum to run an effective state (high-income countries typically achieve 35–45%). In the development context, tax collection is important not only to raise revenue, but also as a tool for redistribution, representation, and re-pricing. Cobham, Alex. 2005. "Taxation Policy and Development." OCGG Economy Analysis Number 2. Oxford: The Oxford Council on Good Governance. http://taxjustice.net/cms/upload/pdf/OCGG_-_Alex_Cobham_-_Taxation_Policy_and_Development.pdf.

15 Ministry of Finance. 2016. Undang Undang Nomor 11 Tahun 2016 tentang Pengampunan Pajak. Government of Indonesia. <https://jdih.kemenkeu.go.id/fullText/2016/11TAHUN2016UU.pdf>; Suroyo, Gayatri and Hidayat Setiajati. 2017. "Indonesia tax amnesty nets \$330 billion – now for reform." *Reuters*, March 21, 2017. <https://www.reuters.com/article/us-indonesia-economy-tax/indonesia-tax-amnesty-nets-330-billion-now-for-reformidUSKBN16S0AS>.

16 Setiajati, Hidayat. 2017. "Late rush to join Indonesia tax amnesty after \$360 billion declared." *Reuters*, March 31, 2017. <https://www.reuters.com/article/us-indonesia-economy-tax-idUSKBN1720VJ>.

17 Setiajati. 2017. *Op. cit.*

18 Suroyo. 2017. *Op. cit.*

19 Suwiknyo, Edi. 2017. "Penghindaran pajak: Ruang transfer pricing dipersempit." *Bisnis*, May 3, 2017. <https://finansial.bisnis.com/read/20170503/9/650250/penghindaran-pajak-ruang-transfer-pricing-dipersempit>.

20 According to the International Financial Reporting Standards, a "related party" is identified as: "A person or a close member of that person's family is related to a reporting entity if that person has control, joint control, or significant influence over the entity or is a member of its key management personnel;" Or, "An entity is related to a reporting entity if, among other circumstances, it is a parent, subsidiary, fellow subsidiary, associate, or joint venture of the reporting entity, or it is controlled, jointly controlled, or significantly influenced or managed by a person who is a related party." In International Accounting Standards Board. 2019. "IAS 24 Related Party Disclosures." IFRS Foundation website. <https://www.ifrs.org/issued-standards/list-of-standards/ias-24-related-party-disclosures/>.

principle – that is, when the price reported between related parties is similar to what would occur in a normal commercial transaction between unrelated parties.²¹ However, if a transfer price is intentionally manipulated to favor one related party over another in an attempt to reduce the group’s overall tax bill, this is referred to as abusive transfer pricing and may be illegal.

Trade misinvoicing is another method, like transfer pricing, that can be used to shift profits from one jurisdiction to another. Trade misinvoicing, according to Global Financial Integrity, a think-tank based in Washington, DC, is “a method for moving money illicitly across borders which involves the deliberate falsification of the value, volume, and/or type of commodity in an international commercial transaction of goods or services by at least one party to the transaction.”²² Unlike transfer pricing, in which the judgment of market price and comparability analysis can make cases difficult to prove²³, trade misinvoicing violations are, in general, easier to prove and are illegal under prevailing laws in most jurisdictions. Global Financial Integrity estimates that trade misinvoicing is the largest component of illicit financial outflows from developing countries globally.²⁴

In Indonesia and many other countries, corporate actors have used profit shifting practices to avoid or evade taxes. Such practices often involve transactions between local companies and affiliated entities based in offshore jurisdictions with low corporate tax rates, commonly known as tax havens. Indonesia’s Ministry of Finance estimated in 2015 that the Government lost US\$ 15.6 billion from corporate tax avoidance facilitated by transfer pricing practices, mainly in the commodities sector.²⁵ Global Financial Integrity estimates that US\$ 6.5 billion flowed out of Indonesia in 2016 through the under-invoicing of exports and over-invoicing of imports.²⁶ Neither of these sources provided specific information on profit shifting in Indonesia’s pulp industry.

4. Profit shifting in Indonesia’s dissolving pulp exports

This report documents a profit shifting arrangement that apparently had the effect of moving a substantial portion of the profits generated by a pulp mill in North Sumatra outside of Indonesia, and of booking such profits in Macao, an offshore tax haven. PT Toba Pulp Lestari Tbk is a publicly listed company based in Indonesia that manufactures two different grades of wood pulp and has sold these to international buyers, including to affiliated mills in China operated by the Sateri Group. A comparison of trade statistics compiled, respectively, by the governments of Indonesia and China indicates that a critical part of Toba Pulp’s profit shifting practices involved the apparent mis-classification of the type of pulp being exported. This mis-classification, in turn, had the apparent effect of the product being under-priced as it was shipped out of Indonesia.

21 Direktorat Jenderal Pajak. 2011. “Peraturan Direktur Jenderal Pajak Nomor PER-32/PJ/2011 tentang Perubahan atas Peraturan Dirketur Jenderal Pajak Nomor PER-43/PJ/2010 tentang Penerapan prinsip kewajiban dan kelaziman usaha dalam transaksi antara wajib pajak dengan pihak yang mempunyai hubungan istimewa.” Government of Indonesia. Ministry of Finance. Directorate General of Taxation. November 11, 2011. https://www.pajak.go.id/sites/default/files/2019-04/PER%20-%2032.PJ_.2011%20tg%20Perubahan%20PER-43.PJ_.2010%20tg%20Penerapan%20Prinsip%20Kewajiban%20dan%20Kelaziman%20Usaha%20.pdf.

22 Global Financial Integrity. 2020. “Trade Misinvoicing.” Accessed on February 20, 2020. <https://www.gfintegrity.org/issue/trade-misinvoicing/>.

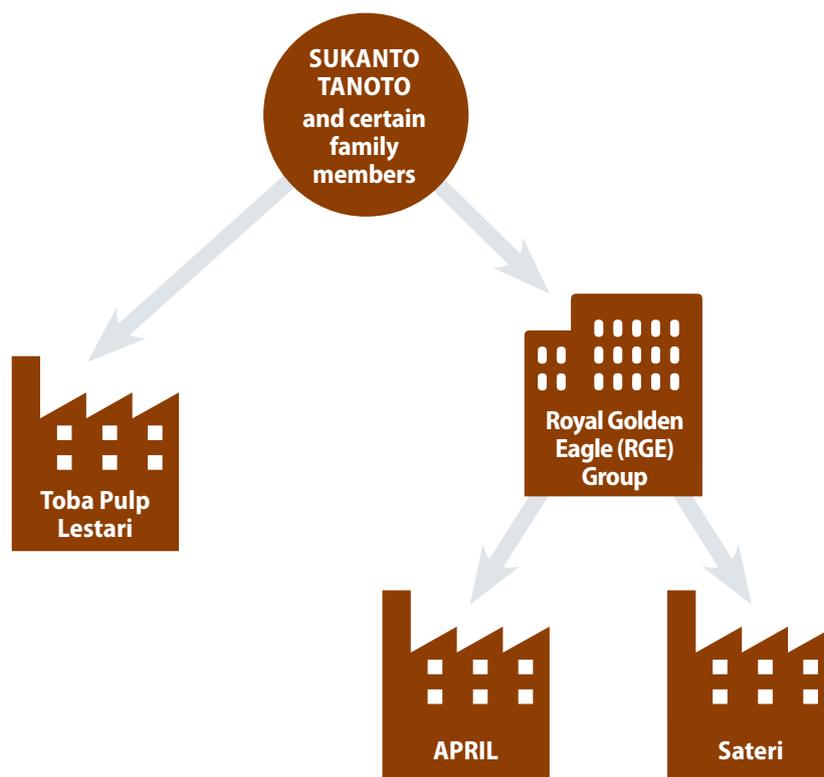
23 Swan, Collin. 2010. “\$20,000 for a Refrigerator? Abusive Transfer Pricing Explained.” Boston: Financial Transparency Coalition. August 2, 2015. <https://financialtransparency.org/20000-for-a-refrigerator-abusive-transfer-pricing-explained/>.

24 Global Financial Integrity. 2020. *Op. cit.*

25 Suroyo, Gayatri and Eveline Danubrata. 2015. “Indonesia to crack down on corporate tax avoidance.” Reuters, February 23, 2015. <https://www.reuters.com/article/us-indonesia-tax-taxavoidance-idUSKBN0LS05320150224>.

26 Global Financial Integrity. 2019. “Indonesia: Potential Revenue Losses Associated with Trade Misinvoicing.” Washington, DC. <https://gfintegrity.org/report/indonesia-potential-revenue-losses-associated-with-trade-misinvoicing/>.

Figure 1. Overlapping beneficial ownership of Toba Pulp, APRIL, Sateri, and Royal Golden Eagle (RGE) Group International



Sources: Direktorat Jenderal Administrasi Hukum Umum (Ditjen AHU). 2020. "Profil Perusahaan PT Toba Pulp Lestari Tbk." Company Profile. Government of Indonesia. Ministry of Law and Human Rights. Directorate General of General Law Administration. February 17, 2020. PT Toba Pulp Lestari Tbk. 2017b. "Keterbukaan informasi kepada pemegang saham mengenai rencana transaksi material dan transaksi afiliasi PT Toba Pulp Lestari Tbk." [Disclosure of information to shareholders about material and affiliated transaction of PT Toba Pulp Lestari Tbk.] Medan, Indonesia. Company announcement. November 22, 2017. <https://www.tobapulp.com/wp-content/uploads/2019/01/Keterbukaan-Information-Transaksi-Material-dan-Afiliasi-Perjanjian-Pinjam-Meminjam-22-November-2017.pdf>. Bracell Limited. 2016. "(1) Proposed privatisation of Bracell Limited by BHL Limited by way of a scheme of arrangement under Section 99 of the Companies Act of Bermuda and (2) Proposed withdrawal of listing of Bracell Limited." Document jointly issued by Bracell Limited and BHL Limited. August 30, 2016. <https://www1.hkexnews.hk/listedco/listconews/sehk/2016/0829/ltn20160829301.pdf>. Sateri Holdings Limited circular, November 19, 2014; Royal Golden Eagle (RGE) Group website. <https://www.rgei.com>. Accessed on February 17, 2020.

Through analysis of gaps in trade data and statements released by Toba Pulp and its affiliates, the report estimates that Toba Pulp's use of this profit shifting arrangement had the apparent effect of understating the company's revenues in Indonesia by approximately US\$ 426 million (Rp. 4.23 trillion) during the decade 2007–2016. The data and methodology used for determining this estimate are presented in detail in Sections II and III, below.

In response to this report's summary of findings, Toba Pulp stated, "Regarding the allegation of profit shifting, the Company [Toba Pulp] has produced and sold products at an appropriate price and every year an assessment of appropriate product prices is carried out by an independent consultant. [. . .] As a public company whose shares have been listed on the Indonesia Stock Exchange since 1990, the Company always upholds Good Corporate Governance and remains committed to carrying out operational activities in accordance with the prevailing laws and regulations." Toba Pulp's full response received on October 29, 2020 is included in Appendix B.

The authors of this report acknowledge that there may be legitimate business-related reasons for companies to use profit shifting practices and to book profits in offshore jurisdictions with low corporate

tax rates. However, as this report makes clear, it is important for government tax authorities to scrutinize such practices carefully to ensure they are in compliance with prevailing laws and regulations.

The report further analyzes the reported sales of dissolving pulp by Asia Pacific Resources International Limited (hereafter the APRIL Group), Indonesia's second largest pulp producer, which is controlled by the same beneficial owner²⁷ as Toba Pulp and Sateri, Sukanto Tanoto and members of his family (see Figure 1).²⁸ APRIL has acknowledged producing over 800,000 tons of dissolving pulp during 2016–2018, and there are strong indications that most of this was exported to affiliated mills in China. Yet trade data prepared by the Government of Indonesia do not appear to record any dissolving pulp exports from APRIL, its main operating companies, or its known subsidiaries during this period. APRIL's exports of paper-grade pulp during those three years were made to affiliated marketing and sales companies in Macao, Singapore and Malaysia, which then apparently re-sold the pulp to other companies in China and elsewhere, according to trade shipment data analyzed for this study.

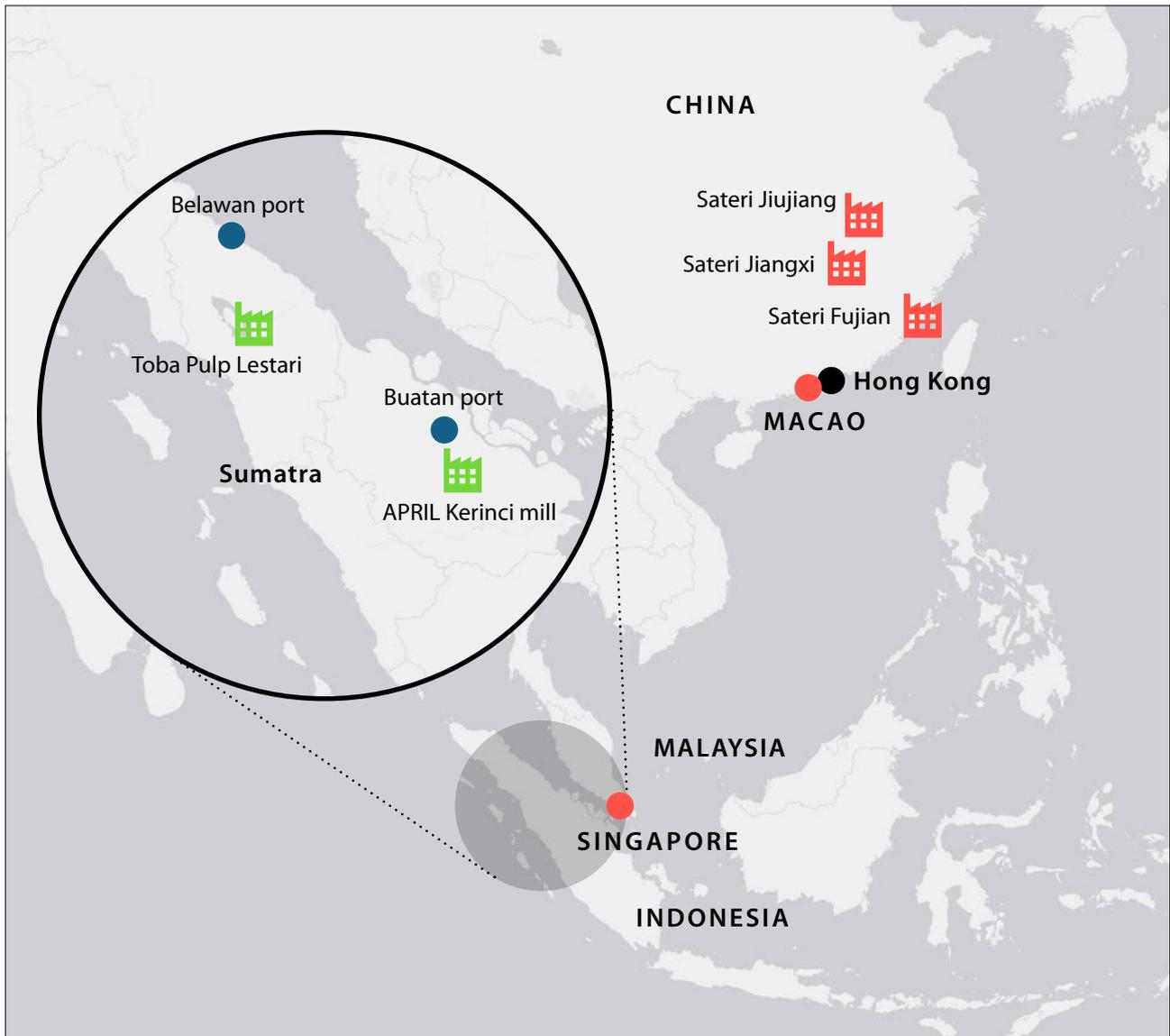
These and other findings indicate that APRIL apparently used profit shifting practices during these years that were similar in structure and effect to the ones used by Toba Pulp during the period 2007–2016. The APRIL Group's practices appear to have had the effect of under-stating the company's revenues in Indonesia by approximately US\$ 242 million (Rp. 3.35 trillion) during 2016–2018. The data and methodology used for determining this estimate will be presented in detail in Section IV below.

In response to a summary of this report's findings, the APRIL Group stated: "In February 2016, RAPP [APRIL subsidiary, PT Riau Andalan Pulp & Paper] obtained permission to produce Dissolving Pulp from BKPM [Indonesia's Capital Investment Coordinating Board]. After obtaining this permit, RAPP conducted a series of trials to test the production of a new type of pulp that we call Acacia Eucalyptus (AE) Pulp, which is a modified kraft pulp. [. . .] Since AE Pulp production was still in the trial development stage, RAPP continued to use the HS Code for Kraft or HS Code 4703.290000 until the specifications of this AE Pulp product met the standards expected by the buyer. And after 2 years of the trial period, Sateri confirmed that RAPP's AE Pulp could achieve the same quality of or substitute for Dissolving Pulp in their production process. As a result of this cooperation, RAPP has exported accordingly with the needs of Sateri with the HS Code for Dissolving Pulp or HS Code 4702.000000." APRIL's full response received on October 27, 2020 is included in Appendix C.

27 "Beneficial owner" is a term that commonly refers to the person or people who exercise control over a company and/or who benefits from it. The beneficial owner may or may not be the same as the legal or formal owner of the company.

28 The organizations publishing this report have seen no evidence to suggest that Mr. Tanoto or members of his family personally directed any unlawful scheme or practices.

Map 1: Locations of pulp mills, ports, VSF mills, and countries involved in ownership or trading from Toba Pulp and/or APRIL's Kerinci mill.



-  Pulp mills
-  Viscose staple fiber (VSF) mills
-  Ports
-  Location of marketing companies



SECTION II. DISCREPANCIES IN INDONESIA'S DISSOLVING PULP TRADE WITH CHINA

5. Gaps in trade data between Indonesia and China

Over a ten year period from 2007, China reported a lot more dissolving pulp imports coming from Indonesia than Indonesia reported as having exported to China. China imported over 1.1 million tons of dissolving pulp from Indonesia between 2007 and 2016, according to China's government data as reported to the United Nations Commodity Trade Statistics Database (hereafter UN Comtrade).²⁹ However, according to official trade data prepared by the Government of Indonesia's Central Statistics Bureau (*Badan Pusat Statistik*, BPS), Indonesia exported only around 150,000 tons of dissolving pulp to China during that same period, 2007–2016.³⁰ That is, over this ten-year period, China's import records indicate approximately 950,000 more tons of dissolving pulp coming from Indonesia – equivalent to more than 30,000 shipping containers – than Indonesia's export records show going to China. For seven of the ten years, China reported significant amounts of imports where Indonesia either reported none or reported only a negligible amount of corresponding exports.

As shown in Figure 2, China's import data indicates that the country received shipments of dissolving pulp from Indonesia every year in the period 2007–2016. Although the China import shipments surpassed 100,000 tons annually in 2010, 2011, 2012, and 2015 and exceeded 200,000 tons in 2016, Indonesia's BPS export data does not report any shipments for significant amounts of dissolving pulp from Indonesia to China during these years except in 2010. The two countries' statistical data indicate that significantly larger volumes of dissolving pulp were reportedly imported to China from Indonesia than were reportedly exported from Indonesia between 2007 and 2016.³¹

6. Indonesia's only producer of dissolving pulp until 2016

This sizeable gap between Indonesia's export data and China's import data would appear to hold significant implications for Toba Pulp, as the company was the only reported producer of dissolving pulp in Indonesia until 2016.³² Any dissolving pulp made in Indonesia and exported to buyers in other

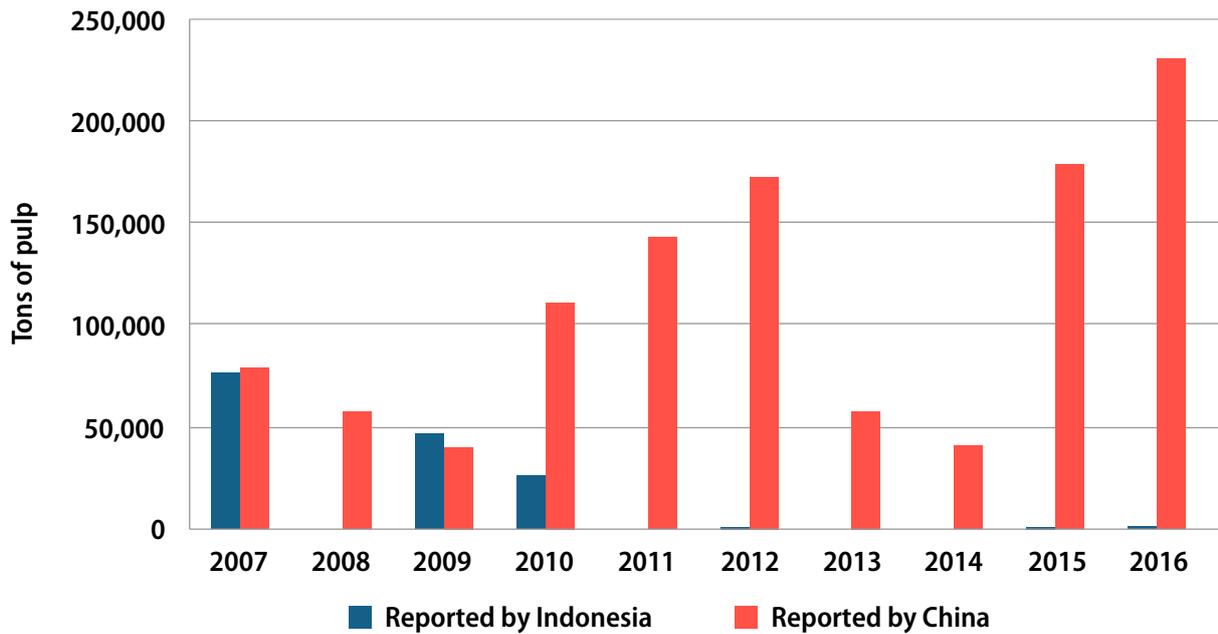
29 United Nations Commodity Trade Statistics Database (UN Comtrade). Various years. New York: United Nations Statistics Division. Trade Statistics Branch. <https://comtrade.un.org>.

30 Badan Pusat Statistik. 2019b. "Export data 2007–2018 for HS Code 4702000000 (Chemical wood pulp, dissolving grades)." Government of Indonesia. Central Statistics Bureau. Received by data request.

31 The UN Comtrade reporting rules for the ultimate importer require that it identify not the immediate exporter but the country of origin as the corresponding export jurisdiction (see *Methodology Guide for UN Comtrade User*). As a result, data from "triangular trade" patterns may create volume anomalies like the one indicated in Figure 2. This anomaly on its own need not suggest any further issue. However, as the additional information presented below demonstrates, the particular anomaly shown in Figure 2 indicates an apparent case of profit shifting.

32 Tempo. 2020. "Jurus sulap ekspor kayu." February 1, 2020. <https://majalah.tempo.co/read/hukum/159598/jurus-sulap-ekspor-kayu>. The head of the Indonesia Pulp & Paper Association (APKI), Saiful Bahri, is quoted in the Tempo article as saying that prior to 2017 Toba Pulp Lestari was the only producer of dissolving pulp in Indonesia.

Figure 2. Dissolving pulp sent from Indonesia to China, 2007–2016

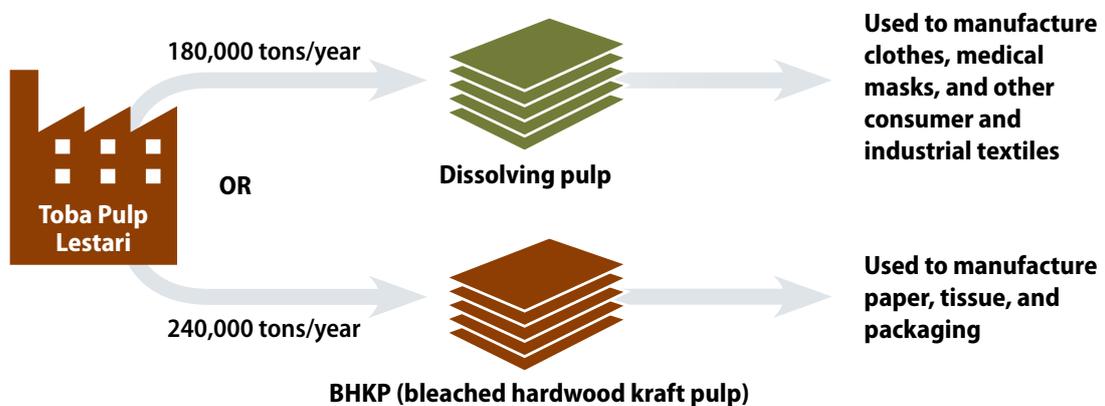


Sources: Indonesia data from BPS; China data from UN Comtrade.

countries prior to 2016 would, therefore, have been produced by Toba Pulp. However, as detailed below, Toba Pulp did not publicly report how much dissolving pulp it produced between 2007 and 2016.

Toba Pulp began operations at its mill in Porsea, North Sumatra in 1988, under the firm’s previous name of PT Inti Indorayon Utama Tbk (see Box 1). The Porsea facility was designed as a “swing mill” capable of producing two types of wood pulp: bleached hardwood kraft pulp (BHKP), which is used to make paper, tissue, and packaging (hereafter referred to as “paper-grade pulp”); and dissolving pulp, which is used to make rayon and viscose staple fiber (VSF) for the production of textile products (see Figure 3). Aside from production of paper-grade pulp and dissolving pulp, Toba Pulp does not report that it produces other products or engages in other lines of business. In 1998, Toba Pulp reported that its installed production capacity for paper-grade pulp was 240,000 air-dried tons (hereafter tons) per year; and its production capacity for dissolving pulp was 180,000 tons per year (see Figure 3).

Figure 3. Toba Pulp annual production capacity of dissolving pulp and BHKP paper-grade pulp



Source: APRIL Group. 1998. “APRIL switches part of production to dissolving pulp and increases paper pulp price.” Press Release. PR Newswire, March 26, 1998.

Box 1: Overview of PT Toba Pulp Lestari Tbk

PT Toba Pulp Lestari Tbk was established in 1983 and was formerly known as PT Inti Indorayon Utama Tbk.³³ The company was founded by the Raja Garuda Mas (RGM) Group, now known as the Royal Golden Eagle (RGE) International Group, the parent conglomerate for the APRIL Group.³⁴ Toba Pulp is listed on the Indonesia Stock Exchange and trades under the symbol INRU.

As of 31 December 2019, some 92.4% of Toba Pulp's issued share capital was owned by Pinnacle Company Ltd Pte, a limited liability company incorporated in Singapore, according to information filed with the Jakarta Stock Exchange.³⁵ Sukanto Tanoto, the founder of RGE International, is reported to be the ultimate controlling shareholder of Toba Pulp (see Appendix D).

Toba Pulp's mill is located in Porsea, North Sumatra, and is reportedly capable of producing 180,000 tons of dissolving pulp or 240,000 tons of paper-grade pulp annually.³⁶ As a "swing" mill, it can switch production between the two grades of pulp.³⁷

The company also has industrial tree plantation (*Hutan Tanaman Industri*, or HTI) concession licenses that cover 184,486 hectares of land in North Sumatra province.³⁸ On these plantations, Toba Pulp grows eucalyptus trees that are used as fiber in the pulp production process. In recent years, the portion of Toba Pulp's overall wood fiber sourced from plantations within its own HTI concessions has declined from over 80% in 2017 to under 40% in 2019.³⁹ According to Toba Pulp's 2018 Annual Report, production of pulpwood from its HTI concessions was "not maximum due to the diseases of little leaf, helopeltis, and ghalwash."⁴⁰

Toba Pulp's mill and industrial tree plantation concessions have a legacy of environmental harm and social conflict.⁴¹ During the 1990s, local communities blamed the mill, then operated by PT Inti

-
- 33 PT Toba Pulp Lestari Tbk. 2019a. Annual Report 2018 [including Financial Statements as of December 31, 2018 and 2017 and Independent Auditors' Report]. Medan, Indonesia. <https://www.tobapulp.com/wp-content/uploads/2019/05/LAPORAN-TAHUNAN-INRU-2018.pdf>.
- 34 *Detik*. 2007. "Pinnacle Company incar saham Toba Pulp Lestari." October 19, 2007. <https://finance.detik.com/bursa-danvalas/d-842647/pinnacle-company-incar-saham-toba-pulp-lestari>.
- 35 PT Toba Pulp Lestari Tbk. 2020b. "Laporan Bulanan Registrasi Pemegang Efek." Medan, Indonesia. Corporate filing number 003/TPL/MDN/I/20(EReport). January 8, 2020. https://www.idx.co.id/StaticData/NewsAndAnnouncement/ANNOUNCEMENTSTOCK/From_EREP/202001/445253b404_fe51cb1b20.pdf.
- 36 APRIL Group. 1998. "APRIL switches part of production to dissolving pulp and increases paper pulp price." Press Release. PR Newswire, March 26, 1998.
- 37 *Reuters*. 2009. "Indonesia's Toba Pulp to invest \$150 mln in capacity." November 10, 2009. <https://www.reuters.com/article/tobapulpindonesia/indonesias-toba-pulp-to-invest-150-mln-in-capacity-idUSJAK35424420091110>.
- 38 Kementerian Lingkungan Hidup dan Kehutanan. 2019. "Basis Data Geospasial Lingkungan Hidup dan Kehutanan Tahun 2019." Government of Indonesia. Ministry of Environment and Forestry. <http://appgis.dephut.go.id/appgis/download/1.5.%20Buku%20BASIS%20DATA%20OSPASIAL%20KEHUTANAN/BUKU%20BASIS%20DATA%20GEOASPASIAL%202019.pdf>.
- 39 Kementerian Lingkungan Hidup dan Kehutanan. 2019. "PT Toba Pulp Lestari Tbk – Laporan Rencana dan Realisasi Pemenuhan Bahan Baku Industri Primer Hasil Hutan Kayu." Government of Indonesia. Ministry of Environment and Forestry. Kementerian Lingkungan Hidup dan Kehutanan. 2017. "PT Toba Pulp Lestari Tbk – Laporan Rencana dan Realisasi Pemenuhan Bahan Baku Industri Primer Hasil Hutan Kayu." Government of Indonesia. Ministry of Environment and Forestry.
- 40 Toba Pulp. 2019a. *Op. cit.*
- 41 Cuddy, Alice. 2017. "'Give us back our land': Paper giants struggle to resolve conflicts with communities in Sumatra." *Mongabay*, June 9, 2017. <https://news.mongabay.com/2017/06/give-us-back-our-land-paper-giants-struggle-to-resolve-conflicts-withcommunities-in-sumatra/>. Gaworecki, Mike. 2014. "Dissolving pulp: the threat to Indonesia's forests you've probably never heard of." *Mongabay*, September 23, 2014. <https://news.mongabay.com/2014/09/dissolving-pulp-the-threat-to-indonesias-forestsyouve-probably-never-heard-of/>.

Indorayon Utama, for polluting nearby farms and fishing areas.⁴² In 1993, a boiler exploded and a chlorine tank burst, causing violent demonstrations.⁴³ After sustained protests from local residents and environmental groups, the Government suspended the mill's operations in late-1998.⁴⁴ Following an environmental audit and the firm's name change to PT Toba Pulp Lestari, the mill was allowed to re-open in 2003 on the condition that it could no longer produce rayon.^{45, 46}

The company's HTI industrial tree plantation concessions have also been a source of controversy. A number of communities in North Sumatra have protested for years that parts of Toba Pulp's HTI concessions overlap with their community lands.⁴⁷

Toba Pulp has frequently indicated that the company decides which of the two types of pulp to produce based on "market conditions and availability of raw materials, amongst other factors."⁴⁸ However, Toba Pulp's annual reports prior to 2018 did not disclose which portions of its overall production or sales were composed of paper-grade pulp versus dissolving pulp. This leads to ambiguity about which type of pulp Toba Pulp produced and exported. Over the decade 2007–2016, for example, Toba Pulp's annual reports disclose that the company produced a total of 1.8 million tons of pulp of an unspecified grade, with reported annual production peaking in 2009 at 210,607 tons (See Figure 4). Yet the data published in Toba Pulp's annual reports during these years do not indicate the specific volumes or values of paper-grade pulp or of dissolving pulp, respectively, that the company produced and/or exported.

In a disclosure dated June 8, 2010, Toba Pulp announced it had "switched from producing rayon staple grade of eucalyptus wood pulp to paper grade of wood pulp." To the best of the authors' knowledge, Toba Pulp made no subsequent announcements of the grade of pulp it produced until March 3, 2017. As recently as October 15, 2020, Toba Pulp's corporate website posts no disclosures stating a switch of products between June 8, 2010 and March 3, 2017. This appears to indicate that Toba Pulp produced only one product – paper-grade pulp – during this entire period.

In its response to *Tempo Magazine* on February 3, 2020, Toba Pulp stated: "Due to customer demand, the Company produced kraft pulp from mid 2010 to mid 2017. Prior to that, Company produced two kinds of pulp." On the surface, this statement would appear to suggest that Toba Pulp produced only one grade

42 Thoenes, Sander. 1998. "A nation is let loose to protest, but to what end? In Indonesia, a mill accused of ecocide is closed but reopened after protesters waver." *Christian Science Monitor*, November 2, 1998.

43 Reuters. 1993. "Factory gas leak sparks mob frenzy." *Herald Sun*. November 9, 1993.

44 Solomon, Jay and Puspa Madani. 2000. "Jakarta shuts down rayon plant because of environmental worries." *Wall Street Journal*, May 11, 2000.

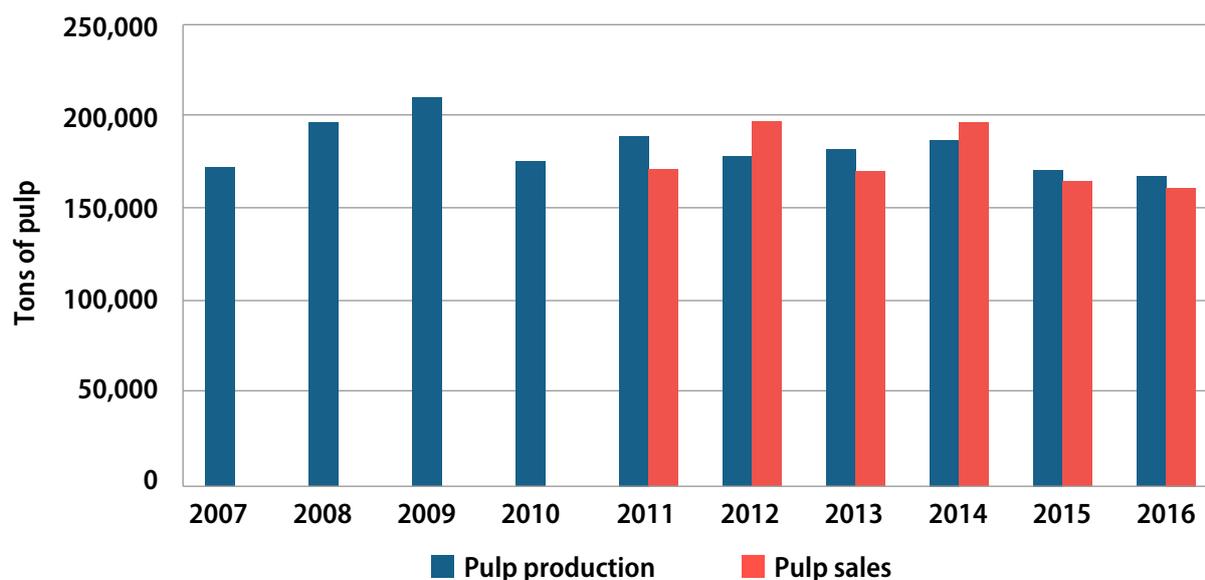
45 Pulp & Paper International. 2003. "Toba Pulp Lestari prepares to roll again." 45:3 (April).

46 Borsuk, Richard. 2002. "Toba Pulp to dismantle Indonesian rayon plant." *Wall Street Journal*, July 5, 2020.

47 For example, see Akbar, Sofyan. 2019. "Walhi Sumut: Konflik agraria jadikan masyarakat sebagai korban." *Tribun Medan*, November 28, 2019. <https://medan.tribunnews.com/2019/11/28/walhi-sumut-konflik-agraria-jadikan-masyarakat-sebagai-korban>. Karokaro, Ayat S. 2017. "Berkonflik lahan dengan Toba Pulp Lestari, Ketua Adat Tungko Ni Solu terjerat hukum." *Mongabay*, May 10, 2017. <https://www.mongabay.co.id/2017/05/10/berkonflik-lahan-dengan-toba-pulp-lestari-ketua-adat-tungko-ni-solu-terjerat-hukum/>. Gunawan, Apriadi. 2012. "Paper mill deploys force in land conflict." *Jakarta Post*, September 22, 2020. <https://www.thejakartapost.com/news/2012/09/22/paper-mill-deploys-force-land-conflict.html>.

48 See PT Toba Pulp Lestari Tbk. 2019b. "Announcement – PT Toba Pulp Lestari switched to producing pulp-dissolving grade." Company announcement. Medan, Indonesia. April 24, 2019. <https://www.tobapulp.com/wp-content/uploads/2019/04/Announcement-24-April-2019.pdf> and PT Toba Pulp Lestari Tbk. 2018b. "Announcement -- PT Toba Pulp Lestari switched to producing paper pulp." Company announcement. Medan, Indonesia. May 10, 2018. <https://www.tobapulp.com/wp-content/uploads/2018/05/Announcement.pdf>.

Figure 4. Volume of Toba Pulp’s total pulp production (2007–2016) and sales (2011–2016)



Source: Annual reports of PT Toba Pulp Lestari Tbk, 2007–2016.

Note: In the period 2007–2010, PT Toba Pulp Lestari Tbk’s annual reports do not report volume of sales.

of pulp from mid-2010 to mid-2017, and based on the company’s disclosure dated June 8, 2010, it would seem this product was paper-grade pulp. However, it is important to note that dissolving pulp also uses a modified form of the kraft process. So it is possible the company’s statement about producing kraft pulp could apply both to BHKP and to dissolving pulp.

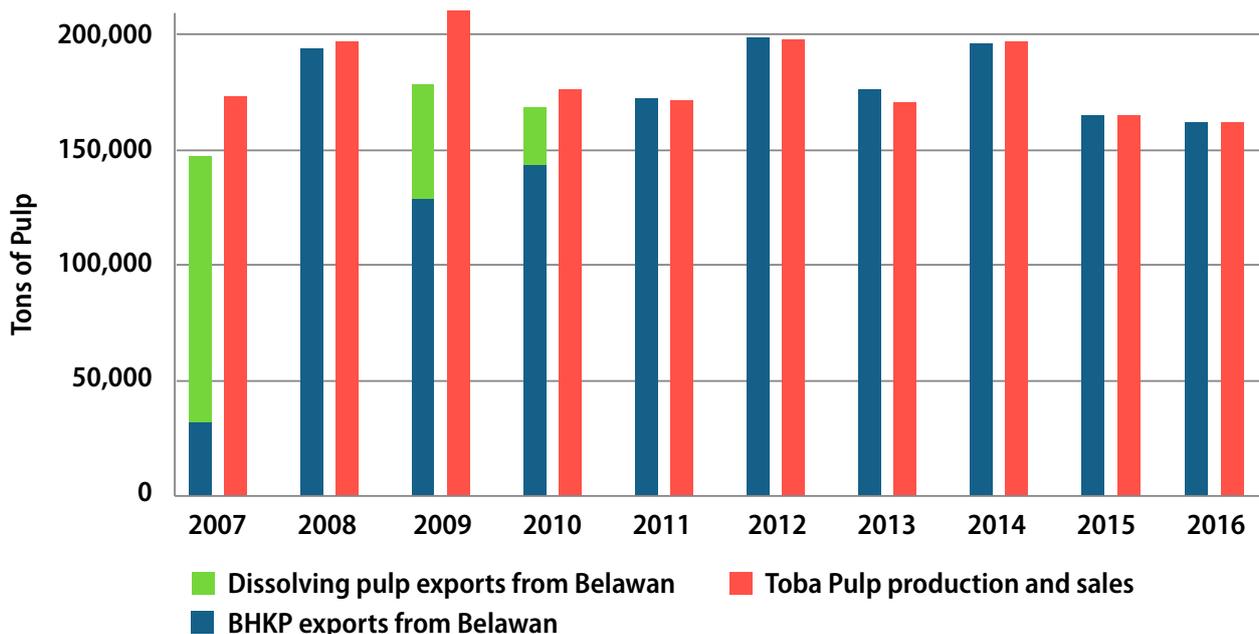
In March 2017, Toba Pulp resumed issuing periodic public announcements disclosing the type of product its Porsea mill is producing. Between March 2017 and June 2019, the company released six such announcements, each of which indicates a specific date on which the mill switched from producing paper-grade pulp to dissolving pulp, or vice versa.⁴⁹ In its 2018 annual report, Toba Pulp also disclosed the specific volume of each grade it produced during that year: “Throughout 2018, the Company produced 139,335 tons of dissolving pulp and 30,571 tons of BHKP [paper-grade pulp].” To the best of the authors’ knowledge, this is Toba Pulp’s first public disclosure of the specific volumes of paper-grade pulp and dissolving pulp that it has produced in any year since at least 2007 and possibly earlier (see Section III below for further details on these announcements).

7. Exports of pulp from Belawan port in North Sumatra

According to BPS data, exports of dissolving pulp from Indonesia to China during 2007, 2009, and 2010 are reported to have been shipped from the port of Belawan in North Sumatra. The port of Belawan is the closest deep-water port to Toba Pulp’s mill and is located in the same province, making it a logical facility through which the company ships its pulp exports to buyers in other countries. As indicated above, Toba Pulp was the only Indonesian producer of dissolving pulp until 2016.

⁴⁹ As of June 15, 2019, Toba Pulp has issued such announcements on March 3, 2017; July 18, 2017; March 10, 2018; July 4, 2018; February 20, 2019; and April 24, 2019. The first of these announcements indicates that the company is making these disclosures “in accordance with [Indonesian Financial Authority] Regulation 31/POJK.04/2015 dated December 16, 2015 about the Disclosure of Information or Material Facts by the Issuer or Public Company.”

Figure 5. Comparison of pulp exported from Belawan port and Toba Pulp sales volumes, 2007–2016



Sources: BPS for BHKP and dissolving pulp exports from Belawan; PT Toba Pulp Lestari Tbk Annual Reports for Toba Pulp production and sales.
 Note: Toba Pulp’s data are presented as reported production volumes for 2007–2010 and as reported sales volumes for 2011–2016. Prior to 2011, Toba Pulp did not report sales volume in its Annual Report, so production volumes are used here as a proxy for sales during 2007–2010.

Significantly, a review of pulp exports shipped from Belawan during the study period, as reported in Indonesia’s official trade data, indicates a high degree of correspondence to the volumes of pulp that Toba Pulp reported either as produced or as sold. In the years 2008 and 2011–2016 (i.e. years in which BPS reports none or only negligible amounts of dissolving pulp exports from Indonesia), the volume of paper-grade pulp shipped from Belawan corresponds very closely to the overall volumes of pulp that Toba Pulp, in its annual disclosure to shareholders, reported either as produced or as sold (see Figure 5). Similarly, in 2007, 2009 and 2010 (i.e. years in which BPS does report dissolving pulp exports from Indonesia), the combined volumes of paper-grade pulp and dissolving pulp shipped from Belawan correspond closely to the volumes of pulp that Toba Pulp reported either as produced or as sold. As indicated above, Toba Pulp did not specify in its annual reports for 2007–2016 the specific volumes of paper-grade pulp and dissolving pulp, respectively, that it either produced or sold.

This correspondence strongly suggests that virtually all of Toba Pulp’s exports during the period 2007–2016 were shipped out of Belawan port and that the vast majority of these exports were classified as paper-grade pulp. This finding is supported by shipment-level trade data for the period 2010–2016, which the authors of this report obtained from a commercial trade data provider. The shipment-level data, which are reportedly based on data compiled by the Government of Indonesia’s Customs Authority, indicate that Toba Pulp was the sole exporter of pulp of any grade that was shipped from Belawan during 2010–2016.

Moreover, for the vast majority of these shipments, the product exported was described either as “Toba Pulp BHKP” or as “Toba Cell Eucalyptus Pulp”, both of which are classified under Harmonized System (HS) code 470329 (see Figure 6). Under the internationally standardized Harmonized System, this HS code is defined as “Chemical wood pulp, soda or sulphate, other than dissolving grades – non-coniferous”, and it

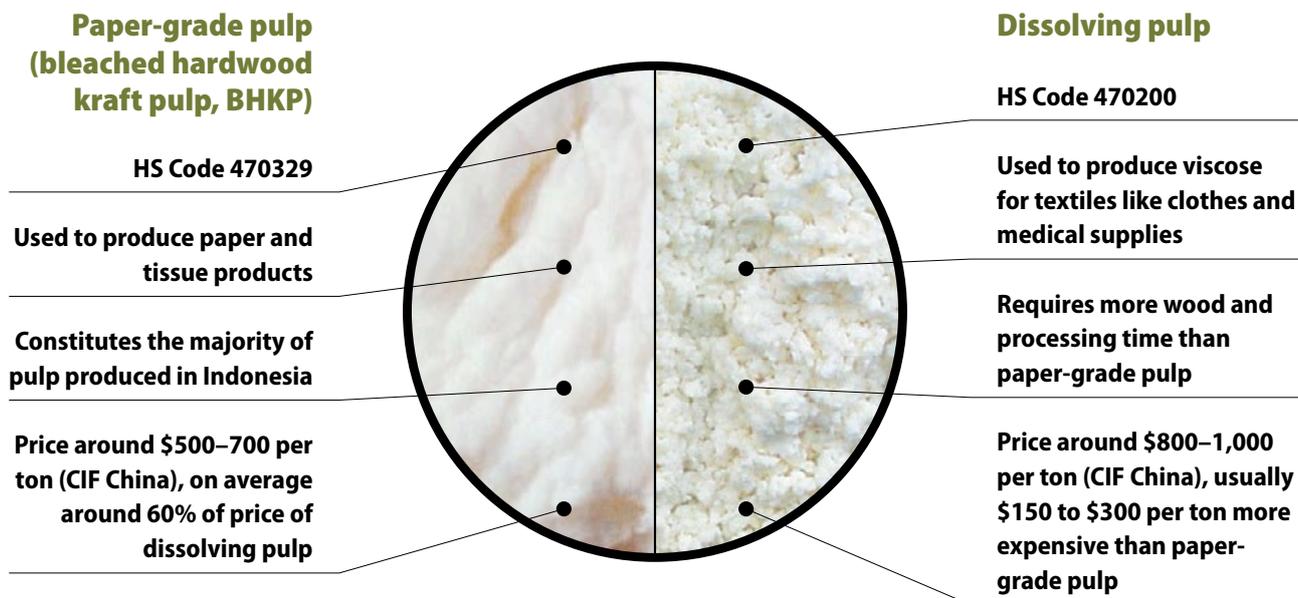
is this HS code that is used to classify BHKP, one of the major types of paper-grade pulp, in international trade.⁵⁰ The HS code 470200, by comparison, is described as “Chemical wood pulp, dissolving grades” and is used to classify dissolving pulp (see Figure 7). Box 2 provides further details on the Harmonized System and these HS codes.

Figure 6. Example of export record of Toba Pulp shipment to DP Macao classified as HS Code 470329 with “Toba Cell Eucalyptus Pulp” description

EKSPORTIR										
NIPWP	: 012197950054000	PROPINSI	: Sumatera Utara							
NAMA EKSPORTIR	: PT TOBA PULP LESTARI TBK	KABUPATEN/KOTA	: Kota Medan							
ALAMAT EKSPORTIR	: UNIPLAZA, EAST TOWER 6TH FLOOR, JL. LETJEND HARYONO MT NO. A-1 MEDAN 20231	NO. ETPK	: 02.ET-01.13.0001							
IMPORTIR										
NAMA IMPORTIR	: DP MARKETING INTERNATIONAL MACAO COMMERCIAL OFFSHORE LIMITED	PELABUHAN MUAT	: Belawan							
ALAMAT IMPORTIR	: MACAU 10TH FLOOR UNIT K1, FINANCE AND IT CENTRE OF MACAU BUILDING, NAN VAN LAKE, QUARTEIRAO 5, LOTE A, MACAU	PELABUHAN BONGKAR	: Jitjiang							
NEGARA IMPORTIR	: CHINA	NEGARA TUNJUK	: CHINA							
DATA V-LEGAL										
NO. INVOICE	: E152356	KETERANGAN	:							
SKEMA KERJASAMA	: FLEGT	PEJABAT TTD	: ANJAR GUNTORO S. HUT							
NO. V-LEGAL	: 15.00001-00505.010-ID-CN	TEMPAT TTD	: BOGOR							
TGL. AKHIR	: 2016-04-28	TGL. TTD	: 2015-12-30							
TRANSPORTASI	: BY SEA	DIGITAL SIGN	: Yes							
TGL. INVOICE	: 2015-12-23	LOKASI STUFFING	: BELAWAN							
DETAIL										
NO.	HS NUMBER	HS PRINTED	DESKRIPSI	VOLUME (M3)	BERAT BERSIH (KG)	NUMBER OF UNIT	VALUE	CURRENCY	SCIENTIFIC NAMES	HARVEST COUNTRY ID
1.	4703290000	4703290000	TOBA CELL EUCALYPTUS PULP	551.52	513.208	300	259.170.04	USD	Ekalipthus (Eucalyptus sp.)	

Source: Indonesia’s Timber Legality Information System (Sistem Informasi Legalitas Kayu, or SILK). Ministry of Environment and Forestry. Government of Indonesia. <http://silk.dephut.go.id/>.

Figure 7. Comparison of paper-grade BHKP and dissolving pulp



50 According to the UN Trade Statistics database, “The Harmonized System is an international nomenclature for the classification of products. It allows participating countries to classify traded goods on a common basis for customs purposes. At the international level, the Harmonized System (HS) for classifying goods is a six-digit code system.” (<https://unstats.un.org/unsd/tradekb/Knowledgebase/50018/Harmonized-Commodity-Description-and-Coding-Systems-HS>).

Box 2. Harmonized System (HS) Codes

The Harmonized System, abbreviated as HS, is a shortened form used to describe the Harmonized Commodity Description and Coding System. This is “a universal economic language and code for goods” that was developed and is maintained by the World Customs Organization, according to the organization’s website. The Harmonized System includes about 5,000 commodity groups, each identified by a six-digit HS code.

Over 200 countries, including Indonesia and China, use the Harmonized System “as a basis for their Customs tariffs and for the collection of international trade statistics.” Governments, international organizations, and the private sector also use the Harmonized System for other purposes including “internal taxes, trade policies, monitoring of controlled goods, rules of origin, freight tariffs, transport statistics, price monitoring, quota controls, compilation of national accounts, and economic research and analysis.” Countries may expand the internationally uniform six-digit HS codes to eight- or ten-digit codes, with the additional digits defining commodities at a more detailed level for internal purposes. In countries that use eight- or ten-digit HS codes, the first six digits of these codes follow the World Customs Organization’s rules.

Chapter 47 of the Harmonized System is labeled “Pulp of wood or of other fibrous cellulosic material; recovered (waste and scrap) paper or paperboard”, and 21 six-digit HS codes fall under it. The heading 4703 is labeled “Chemical wood pulp, soda or sulphate, other than dissolving grades.” Under this heading, HS Code 4703.29 is labeled “Semi-bleached or bleached, Non-coniferous.” HS Code 4703.29 is the classification for the majority of pulp exported from Indonesia known as Bleached Hardwood Kraft Pulp, Bleached Acacia Kraft Pulp, and/or Bleached Eucalyptus Kraft Pulp. The heading 4702, and the only HS code under it, 4702.00, are labeled “Chemical wood pulp, dissolving grades.”⁵¹

Both Indonesia and China are members of the World Customs Organization,⁵² and the two countries appear to use similar if not identical definitions as the World Customs Organization for HS codes 470329 and 470200 (see Table 1).

Table 1. Definitions of HS Codes 470329 and 470200

	HS Code 470329	HS Code 470200
World Customs Organization	4703.29: Chemical wood pulp, soda or sulphate, other than dissolving grades. Semi-bleached or bleached, Non-coniferous	4702.00: Chemical wood pulp, dissolving grades
Indonesia	4703.29.00.00: Chemical wood pulp, soda or sulphate, other than dissolving grades. Semi-bleached or bleached. Non-coniferous	4702.00.00.00: Chemical wood pulp, dissolving grades
China	4703 2900 00: Chemical wood pulp, soda or sulphate, semi-bleached and bleached, non-coniferous, other than dissolving grades	4702 0000 01: Chemical wood pulp, dissolving grades, for the production of viscose fibre (excluding acetate fiber)...*
		4702 0000 90: Other chemical wood pulp, dissolving grades

Sources: World Customs Organization. 2020. “HS Nomenclature.”; Ministry of Trade. 2016. Ministerial Regulation Number 84/M-DAG/PER/12/2016 about Definition of Forestry Product Exports. Government of Indonesia. December 22, 2016. <http://silk.dephut.go.id/app/Upload/hukum/20170228/54663a489f92d767098cbe2eb0df4eb7.pdf>; ETCN. 2020. “China HS Code Search.” <https://hs.e-to-china.com/ks-470200.html>.

* The definition for this Tariff-level HS code includes these technical details, “Pulp viscosity ≥ 3.7 dl/g, and < 6.4 dl/g, or ≥ 350 ml/g, and < 700 ml/g, a cellulose content (r18, sulfate) $\geq 88\%$, and $< 95.5\%$, or a cellulose content (r18, sulfate) $\geq 87\%$, and $< 94\%$.”

51 The sole Note to chapter 47 refers to this heading and HS code: “For the purposes of heading 47.02, the expression ‘chemical wood pulp, dissolving grades’ means chemical wood pulp having by weight an insoluble fraction of 92% or more for soda or sulphate wood pulp or of 88% or more for sulphite wood pulp after one hour in a caustic soda solution containing 18% sodium hydroxide (NaOH) at 20°C, and for sulphite wood pulp an ash content that does not exceed 0.15% by weight.”

52 World Customs Organization. 2019. “List of Members with Membership Date.” August 19, 2019. <http://www.wcoomd.org/-/media/wco/public/global/pdf/about-us/wco-members/list-of-members-with-membership-date.pdf>.

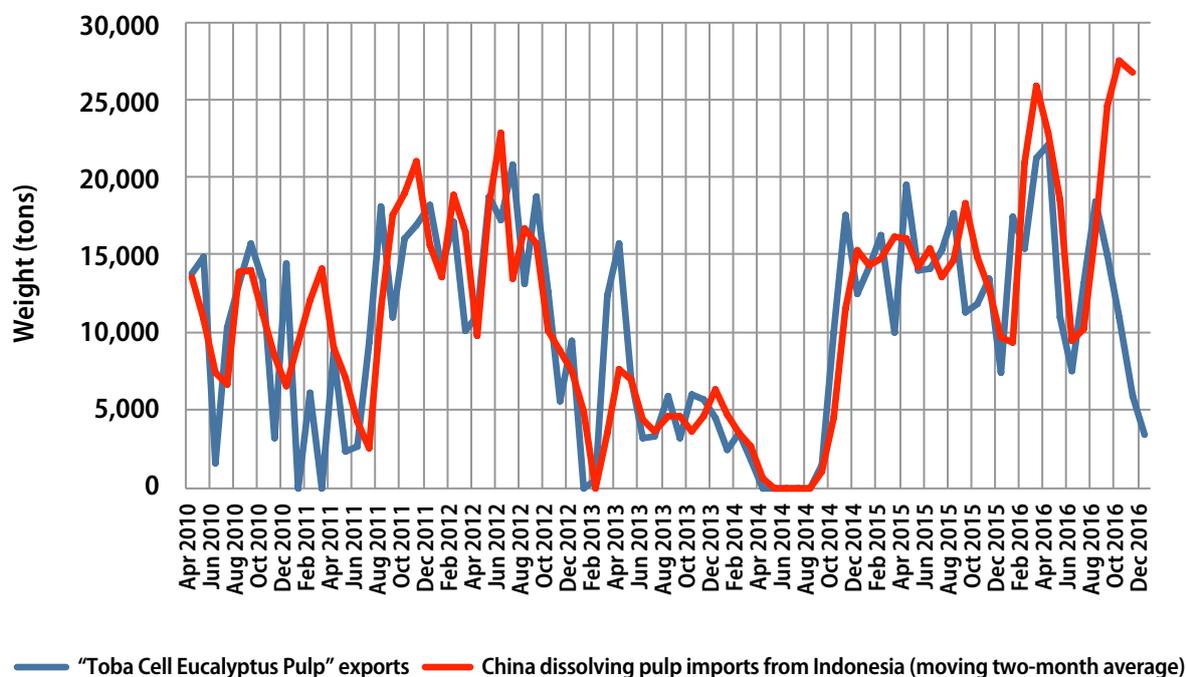
8. Statistical correlation between Indonesia’s exports of “Toba Cell Eucalyptus Pulp” and China’s imports of dissolving pulp

Toba Pulp’s exports described as “Toba Cell Eucalyptus Pulp” from Belawan port in Indonesia are highly correlated with China’s reported imports of dissolving pulp from Indonesia for most of the period 2010–2016. Figure 8 shows the monthly total of Toba Pulp’s exports reported as “Toba Cell Eucalyptus Pulp” compared to a moving two-month average of China’s dissolving pulp imports from Indonesia during the period April 2010–December 2016.

The two data sets presented in Figure 8 have been obtained from two different sources: Indonesia’s Customs Authority and China’s Customs Authority (both via a proprietary trade data provider). Moreover, the data sets reportedly cover two different products (paper-grade pulp described as “Toba Cell Eucalyptus Pulp” for Toba Pulp’s exports and dissolving pulp for China’s imports), classified under two different HS codes (HS 470329 for Toba Pulp’s exports and HS 470200 for China’s imports). Under these conditions, if the data accurately reflect the products being traded (and reported), one would reasonably expect the two data sets to be independent of one another – that is, to have different means, to show different levels of variance, and to follow different trends.

Statistical analysis indicates, however, that these two data sets are far from independent during the period April 2010 to September 2016.⁵³ With high confidence, the data show that Toba Pulp’s exports described as “Toba Cell Eucalyptus Pulp” (HS 470329) are during this period a statistically significant

Figure 8. Toba Pulp’s exports of “Toba Cell Eucalyptus Pulp” (HS 470329) and China’s imports of dissolving pulp (HS 470200) from Indonesia, April 2010–December 2016



Source: Trade data provider of shipment level Indonesia exports for BHKP and China imports for dissolving pulp.

53 As shown in Figure 8, the strong correlation between the two data sets ends in the fourth quarter of 2016. At that time, APRIL Group emerged as a second dissolving pulp producer in Indonesia and began exporting substantial volumes of dissolving pulp to China. This explains why China’s imports of dissolving pulp from Indonesia can be seen to increase sharply during October–December 2016, while Toba Pulp’s exports of “Toba Cell Eucalyptus Pulp” declined.

indicator of China’s dissolving pulp (HS 470200) import trends from Indonesia – and this relationship continues, with minor exceptions, across the six-and-a-half year period analyzed.⁵⁴

More specifically, the data show that Toba Pulp’s exports described as “Toba Cell Eucalyptus Pulp” (HS 470329) are a leading indicator of changes in China’s dissolving pulp (HS 47020000) import trends. In a majority of cases during April 2010–September 2016, when Toba Pulp’s exports described as “Toba Cell Eucalyptus Pulp” change from an increase or decrease (or vice versa) compared to the preceding month, China’s imports of dissolving pulp show a corresponding change from an increase or decrease (or vice versa) of a similar magnitude. This statistical correlation between the two data sets points to a high degree of probability that a substantial portion of Toba Pulp’s exports to China was reported as paper-grade pulp in Indonesia’s export records and reported as dissolving pulp in China’s import records.

The high level of statistical correlation is further supported by a significant number of exact matches between the volumes of export and import shipments. In the years 2010–2016, at least 78 shipments of pulp from Toba Pulp classified as HS Code 470329 from Indonesia matched kilogram for kilogram with shipments of pulp classified as HS Code 470200 imported to China from Indonesia. (Details for a sample of these shipments will be presented in Table 4, below.) In addition, several dozen additional cases have been identified in which the volumes of multiple shipments classified as HS Code 470329 from Indonesia have added up to match precisely the volume of a single larger shipment of pulp classified as HS Code 470200 imported to China from Indonesia.

In each case, the import shipments into China occurred within three months after the corresponding export shipments from Indonesia. Given that each of the shipments was hundreds of thousands, if not millions, of kilograms and that the total weights are not round numbers nor do they appear to repeat themselves, the probability that over 150 shipments would by random chance either match exactly or in combinations is extremely small. These corresponding export and import shipments appear to confirm that, according to the trade record, shipments exported under one HS code from Indonesia were imported under a different HS code into China. Toba Pulp, in response to the Indoleaks allegation of manipulating export documents between 2007 and 2016, stated in February 2020 that “the HS code used is in accordance with the product classification and legal jurisdictions.” (See Appendix A for full response).

So what actually was the grade of pulp that Toba Pulp described as “Toba Cell Eucalyptus Pulp” (HS 470329) when it was shipped out of Indonesia: paper-grade pulp or dissolving pulp? To determine this – and why it matters – Toba Pulp’s marketing arrangements must be examined. As detailed below, these arrangements involve Toba Pulp’s product being exported to a related-party marketing company based in the offshore tax haven of Macao, before being sold on to rayon producers, VSF mills, and pulp traders, mainly in China.

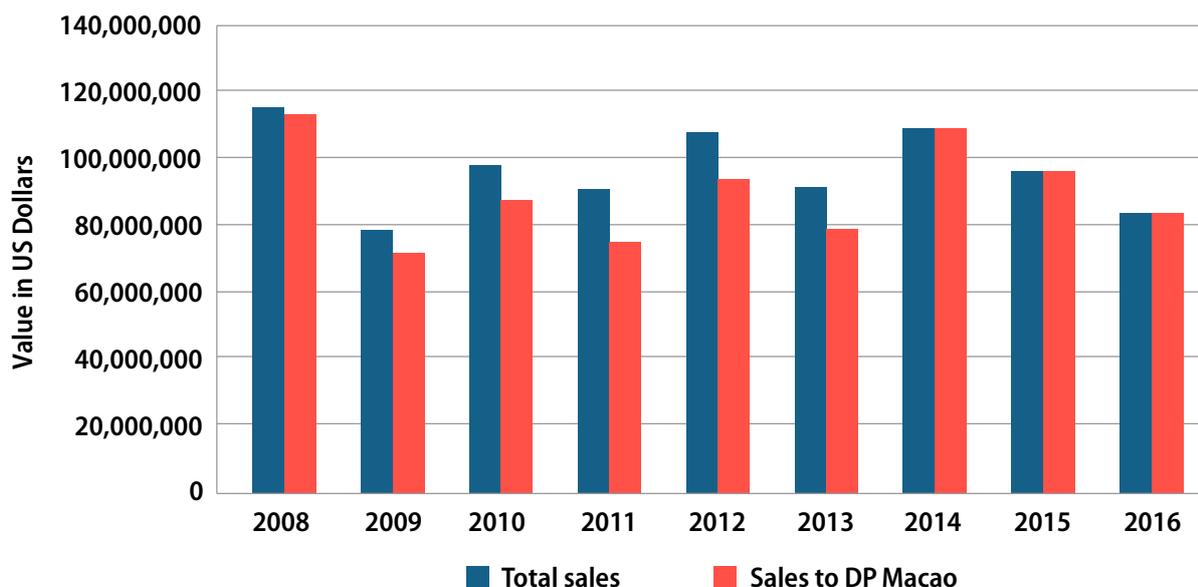
9. DP Macao’s role in marketing Toba Pulp’s products to international buyers

Toba Pulp reports in its financial statements from 2007 to 2016 that a substantial majority of its sales to international buyers – totaling US\$ 811.3 million over this period – were made through an affiliated sales and marketing company based in Macao, identified as DP Marketing International Limited (MCO) (hereafter referenced as DP Macao)⁵⁵ (see Figure 9). DP Macao apparently served as an exclusive sales and marketing agent for Toba Pulp’s exports of pulp from Indonesia.

54 The data indicates an exception to this trend in the first half of 2013, when exports from Belawan increased as imports to China decreased. The export data shows two shipments in March and April 2013 of 5,000 and 8,000 tons, respectively, which may have been inaccurately reported and skewed the export/import comparison. The 5,000 and 8,000 ton shipments appear to be anomalies because they are round figures, unlike the hundreds of other shipments, and because they are significantly larger than all the other shipments.

55 Sateri Holdings Limited’s 2010 listing prospectus provides DP Macao’s complete name as DP Marketing International Limited – Macao Commercial Offshore, and identifies the entity as a limited liability company incorporated in Macao in February 2007.

Figure 9. Value of Toba Pulp’s total sales and sales to DP Macao, 2008–2016



Source: Annual reports of PT Toba Pulp Lestari Tbk, 2008–2016.

Note: Toba Pulp identified sales to DP Macao as “related party sales” in its annual reports.

The relationship between Toba Pulp and DP Macao (as it existed until late 2010) is detailed in a prospectus released by Sateri Holdings Limited (hereafter Sateri), a limited liability company incorporated in Bermuda, in November 2010 when Sateri was listing on the Hong Kong Stock Exchange. The prospectus discloses that until September 2010, DP Macao was a wholly owned subsidiary of Sateri; and that Sateri and Toba Pulp were related parties, as they were under common control of the same controlling shareholder, Sukanto Tanoto and members of the Tanoto family.⁵⁶ Moreover, the prospectus discloses that Sateri disposed of DP Macao in September 2010, just prior to the parent company’s public offering, through a sale to Blue Dot Resources Ltd., an LLC incorporated in the British Virgin Islands (BVI), which is also controlled by the group’s controlling shareholder.⁵⁷

In the years since Sateri’s listing in 2010, Sukanto Tanoto has reportedly remained the ultimate controlling shareholder of Toba Pulp, DP Macao, and the Sateri mills in China, although the ownership structures of these entities have, in some cases, changed over time (see Figure 10). As indicated above, the organizations publishing this report have seen no evidence to suggest that Mr. Tanoto or members of his family personally directed any unlawful scheme or practices. (Further details concerning Sukanto Tanoto’s ownership of these companies are provided in Appendix D.)

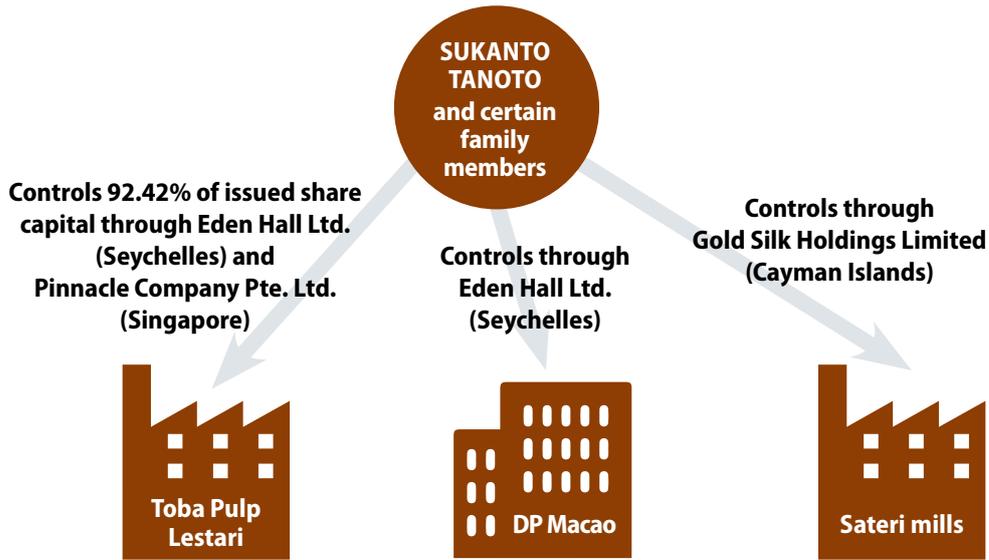
Since late 2007, DP Macao had served as the principal marketing agent for Toba Pulp’s sales of pulp to international buyers. Prior to its disposal by Sateri, DP Macao reportedly purchased both paper-grade pulp (i.e. BHKP) and dissolving pulp from Toba Pulp, and then sold these to Sateri’s customers in international markets, primarily in China, according to Sateri’s 2010 prospectus.⁵⁸ DP Macao reportedly sold these products both to third-party buyers and to subsidiaries and affiliates of Sateri, including Sateri Jiangxi, which operates a VSF mill in China (see Figure 11). Sateri’s 2010 prospectus summarizes this relationship as follows:

56 Sateri Holdings Limited. 2010. “Sateri Holdings Limited Global Offering.” Company prospectus. Hong Kong. November 26, 2010. <http://www3.hkexnews.hk/listedco/listconews/sehk/2010/1126/ltn20101126025.pdf>.

57 Sateri Holdings Limited. 2010. *Op. cit.*

58 Sateri Holdings Limited. 2010. *Op. cit.*

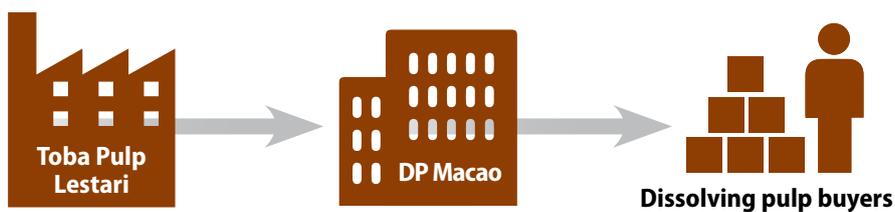
Figure 10. Sukanto Tanoto as ultimate controlling shareholder of Toba Pulp Lestari, DP Macao, and Sateri



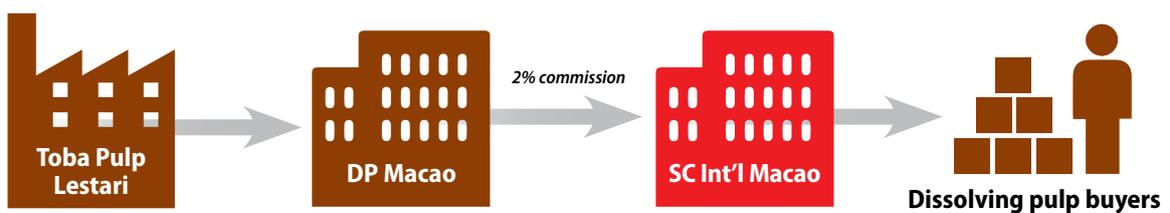
Source: Direktorat Jenderal Administrasi Hukum Umum (Ditjen AHU). 2020. "Profil Perusahaan PT Toba Pulp Lestari Tbk." Company Profile. Government of Indonesia. Ministry of Law and Human Rights. Directorate General of General Law Administration. February 17, 2020. PT Toba Pulp Lestari Tbk. 2017b. "Keterbukaan informasi kepada pemegang saham mengenai rencana transaksi material dan transaksi afiliasi PT Toba Pulp Lestari Tbk." [Disclosure of information to shareholders about material and affiliated transaction of PT Toba Pulp Lestari Tbk.] Medan, Indonesia. Company announcement. November 22, 2017. <https://www.tobapulp.com/wp-content/uploads/2019/01/Keterbukaan-Information-Transaksi-Material-dan-Afiliasi-Perjanjian-Pinjam-Meminjam-22-November-2017.pdf>. Bracell Limited. 2016. "(1) Proposed privatisation of Bracell Limited by BHL Limited by way of a scheme of arrangement under Section 99 of the Companies Act of Bermuda and (2) Proposed withdrawal of listing of Bracell Limited." Document jointly issued by Bracell Limited and BHL Limited. August 30, 2016. <https://www1.hkexnews.hk/listedco/listconews/sehk/2016/0829/lt20160829301.pdf>. Sateri Holdings Limited circular, November 19, 2014. (For more details on ownership arrangements, see Appendix D.)

Figure 11. Trading relationship among Toba Pulp, DP Macao, SC International Macao (after September 2010), and dissolving pulp buyers

December 2007– September 2010



October 2010–2014



Source: Sateri Listing Prospectus, 2010; Sateri Annual Reports 2011 and 2012.

Beginning in December 2007, DP Macao engaged in principal trading activities relating to the international trading of paper pulp and dissolving wood pulp primarily sourced from TPL [Toba Pulp Lestari] and hence any sales of TPL's [Toba Pulp Lestari's] dissolving wood pulp to customers, including Sateri Jiangxi, were contracted and allocated by DP Macao.⁵⁹

Following its disposal by Sateri in September 2010, DP Macao continued to serve as an exclusive marketing agent for Toba Pulp's sales of pulp to international buyers. The terms of its activities, as an entity officially outside of Sateri, were framed by the following agreements.

First, under a "Non-Competition Deed" signed by Sateri's controlling shareholders and Pinnacle (Toba Pulp's controlling shareholder) on 19 November 2010, it was agreed that "(a) to the extent permitted by applicable Indonesian laws and regulations and the rules of the Indonesia capital market . . . TPL [Toba Pulp Lestari] will continue to sell all of its dissolving wood pulp for sale outside Indonesia through DP Macao" . . . ; and "(b) . . . DP Macao will purchase from TPL [Toba Pulp Lestari] all of the dissolving pulp produced by TPL [Toba Pulp Lestari] for sale outside of Indonesia and will sell such dissolving wood pulp pursuant to the terms of the Agency Agreement" (see below).⁶⁰

Second, under an "Agency Agreement" executed on 3 November 2010, DP Macao agreed to sell the dissolving pulp it purchased from Toba Pulp through SC International Macao, a wholly owned subsidiary of Sateri, for a fixed commission of 2% of sales value. The terms of this arrangement are summarized as follows in Sateri's 2010 prospectus:

Pursuant to the Agency Agreement, SC International Macao acts as the agent of DP Macao outside Indonesia with a right of first offer for the sale of dissolving wood pulp produced by TPL [Toba Pulp Lestari] and acquired by DP Macao. DP Macao pays SC International Macao on a quarterly basis a commission of 2% of the actual amount it receives for dissolving wood pulp sales attributable to SC International Macao. All expenses incurred by SC International Macao in connection with the Agency Agreement are for its own account.⁶¹

The initial Agency Agreement was effective until 31 December 2012, and the marketing arrangement is referenced in Sateri's annual reports for 2012 and 2013.⁶² Filings related to the privatization of Sateri Holdings Limited's VSF assets in China and name change to Bracell Limited indicate that the Agency Agreement was dissolved in 2014.⁶³

Third, under a "Sales Framework Agreement" executed on 3 November 2010, DP Macao agreed that all sales of dissolving wood pulp produced by Toba Pulp that are made to Sateri Jiangxi and Sateri Fujian would be on normal commercial terms. Sateri's 2010 prospectus summarizes this agreement as follows:

59 Sateri Holdings Limited. 2010. *Op. cit.*

60 Sateri Holdings Limited. 2010. *Op. cit.*

61 Sateri Holdings Limited. 2010. *Op. cit.*

62 Sateri Holdings Limited. 2013. Annual Report 2012 [including Financial Statements for the Year Ended 31 December 2012 and Independent Auditor's Report]. Hong Kong. <https://www1.hkexnews.hk/listedco/listconews/sehk/2013/0411/ltn20130411190.pdf>. Sateri Holdings Limited. 2014a. Annual Report 2013 [including Financial Statements for the Year Ended 31 December 2013 and Independent Auditor's Report]. Hong Kong. <https://www1.hkexnews.hk/listedco/listconews/sehk/2014/0410/ltn20140410829.pdf>.

63 Sateri Holdings Limited. 2014b. "(1) Major transaction and connected transaction in relation to the disposal of the viscose staple fiber business in the PRC; (2) Continuing connected transaction in relation to the pulp supply agreement; (3) Connected transactions in relation to the provision of guarantees, interest rate swap arrangements, and termination of the call option and ROFR agreement." Company circular. Hong Kong. November 19, 2014. <https://www1.hkexnews.hk/listedco/listconews/sehk/2014/1029/ltn20141029952.pdf>.

The Sales Framework Agreement sets out certain terms to which all sales to Sateri Jiangxi and Sateri Fujian of dissolving wood pulp by DP Macao will be subject. These terms require all sales transactions for dissolving wood pulp between DP Macao and Sateri Jiangxi and Sateri Fujian to be on normal commercial terms and at a price that is no greater than the open market spot price at the time of the transaction that would be payable in a contract between independent third parties for a comparable quantity and quality of dissolving wood pulp.⁶⁴

The initial Sales Framework Agreement was effective until 31 December 2012, and the parties later renewed it for three years until 31 December 2015.

Taken together, the “Non-Competition Deed”, “Agency Agreement”, and “Sales Framework Agreement” meant that during the period November 2010 to November 2014: 1) Toba Pulp was under contract to sell its pulp to DP Macao; 2) DP Macao was under contract to sell pulp purchased from Toba Pulp through SC International Macao for a fixed commission of 2%; and 3) DP Macao agreed that all sales to Sateri VSF mills in China, namely Sateri Jiangxi and Sateri Fujian, would be on normal commercial terms. As disclosed in the 2010 prospectus, all of these entities – Toba Pulp, DP Macao, SC International Macao, and the Sateri mills – shared the same ultimate controlling shareholder, Sukanto Tanoto and certain family members.⁶⁵

In response to a “Request for Explanation on Media Coverage” from the Indonesia Stock Exchange following the publication of the Tempo article in February 2020, Toba Pulp explained why it did not directly sell pulp to VSF mills in China but through DP Macao: “The Company [Toba Pulp] sold to DP Marketing International Limited because DP Marketing International Limited had control over more market share.”⁶⁶

10. Toba Pulp’s product mix specified in DP Macao’s sales data

During the ten-year period 2007–2016, Toba Pulp’s annual reports do not specify which type of pulp – i.e. paper-grade pulp or dissolving pulp – the company produced and sold in any particular year. However, Sateri’s 2010 listing prospectus presents audited financial data summarizing DP Macao’s sales of the pulp it purchased from Toba Pulp during the years 2008 and 2009, and the six-month period ending 30 June 2010. These sales data are disaggregated according to type of pulp.

During this 30-month period, according to Sateri’s prospectus, DP Macao sold a total of 160,500 tons of dissolving pulp to both external and inter-company buyers to generate sales revenues of US\$ 181.2 million (see Table 2). During the same period, DP Macao also sold 306,069 tons of paper-grade pulp for sales revenues of US\$ 166.4 million.

64 Sateri Holdings Limited. 2010. *Op. cit.*

65 It must be noted that the set of jurisdictions involved in Toba Pulp’s ownership structure and trading arrangements – Macao, the British Virgin Islands, Bermuda, the Cayman Islands, Seychelles, Singapore, and Hong Kong – have among the higher secrecy scores in the world, according to the Financial Secrecy Index published by the Tax Justice Network (<https://fsi.taxjustice.net/en/introduction/fsi-results>). This means that these jurisdictions may offer a range of financial secrecy services (e.g. anonymous company formation, bank secrecy, accounting opacity, lack of international cooperation, etc.), and, in some cases, are particularly attractive for corporate profit shifting.

66 PT Toba Pulp Lestari Tbk. 2020. “Penjelasan atas Pemberitaan Media Massa.” February 5, 2020. https://www.idx.co.id/StaticData/NewsAndAnnouncement/ANNOUNCEMENTSTOCK/From_EREP/202002/43d7216f94_a75786ea1f.pdf.

Table 2. DP Macao sales of dissolving pulp during 2008, 2009, and January–June 2010

Year	External Sales		Inter-Company Sales		Total Sales	
	Volume (tons)	Value ('000 US\$)	Volume (tons)	Value ('000 US\$)	Volume (tons)	Value ('000 US\$)
2008	52,087	55,262	3,175	1,800	55,262	57,062
2009	43,899	42,528	6,040	4,300	49,939	46,828
Jan-Jun 2010	53,265	74,227	2,034	3,100	55,299	77,327
Total	149,251	172,017	11,249	9,200	160,500	181,217

Source: Sateri Holdings Limited. 2010. "Sateri Holdings Limited Global Offering." Company prospectus. Hong Kong. November 26, 2010. <http://www3.hkexnews.hk/listedco/listconews/sehk/2010/1126/lt20101126025.pdf>.

The data from the Sateri prospectus conflicts with the official Indonesian trade record on dissolving pulp exports. The Sateri prospectus indicates that DP Macao purchased 160,500 tons of dissolving pulp from Toba Pulp during this 30-month period (January 2008–June 2010), which is more than double the 76,146 tons of dissolving pulp reported by BPS, Indonesia's Central Statistics Bureau, to have been exported from Indonesia during the 36-month period of 2008–2010.

The gap between the volumes of dissolving pulp reported by Sateri and by BPS is particularly striking in 2008: Sateri reports that DP Macao purchased 52,087 tons of dissolving pulp from Toba Pulp during that year, whereas BPS does not report any dissolving pulp exports from Indonesia (see Table 3 and Figure 12). In 2009, by contrast, the volumes reported by Sateri and by BPS corresponded very closely: Sateri reports that DP Macao purchased 43,899 tons of dissolving pulp from Toba Pulp, and BPS reports that dissolving pulp exports from Indonesia to China totaled 46,856 tons. For 2010, the figures diverge again: Sateri reports that DP Macao purchased 53,265 tons of dissolving pulp from Toba Pulp in just the first six months of the year, whereas BPS reports only 23,666 tons of dissolving pulp exports during the entire year.

It is important to note that Sateri's 2010 Prospectus provides two charts based on UN Comtrade data reported by China, one of which includes the totals of dissolving pulp imported to China from Indonesia in 2007, 2008, and 2009 (see figure titled "Dissolving Wood Pulp Imports to China by Country" on page 97).⁶⁷

Significantly, the volume of dissolving pulp that DP Macao purchased from Toba Pulp during this period, according to Sateri, corresponds much more closely to China's import statistics than to Indonesia's official export statistics (see Table 2). This, again, suggests that substantial volumes of dissolving pulp that Toba Pulp produced in 2008 and 2010 may have been sold to buyers in China through DP Macao, yet went unreported – or reported as another product – in Indonesia's official export data.

Table 3. Volume in tons of dissolving pulp reported by Indonesia, China, and Sateri

Description of data	Source of data	2008	2009	2010
Indonesia exports to China	Government of Indonesia (via Badan Pusat Statistik)	—	46,856	23,666
China imports from Indonesia	Government of China (via UN Comtrade)	57,589	40,108	111,035
DP Macao purchases from Toba Pulp	Sateri Holdings Limited	52,087	43,899	53,265 (Jan–Jun 2010)

Sources: Sateri Holdings Limited. 2010. "Sateri Holdings Limited Global Offering." Company prospectus. Hong Kong. November 26, 2010. <http://www3.hkexnews.hk/listedco/listconews/sehk/2010/1126/lt20101126025.pdf>. UN Comtrade for China imports; Badan Pusat Statistik for Indonesia exports.

⁶⁷ Sateri Holdings Limited. 2010. *Op. cit.*

Figure 12. Annotated excerpts from Sateri Holdings Limited's 2010 listing prospectus for the Hong Kong Stock Exchange

On title page:



Stock code : 1768

Joint Global Co-ordinators and Joint Sponsors
(in alphabetical order)

CREDIT SUISSE Morgan Stanley

Joint Bookrunners and Joint Lead Managers

CREDIT SUISSE Morgan Stanley BOC INTERNATIONAL

**Sateri Holdings Limited
Global Offering**

On page 152:

Segments/Business	Year ended December 31,									Six months ended June 30,					
	2007			2008			2009			2009			2010		
	Sales volume	Revenue	Average selling price ⁽¹⁾	Sales volume	Revenue	Average selling price ⁽¹⁾	Sales volume	Revenue	Average selling price ⁽¹⁾	Sales volume	Revenue	Average selling price ⁽¹⁾	Sales volume	Revenue	Average selling price ⁽¹⁾
	(unaudited)														
	(metric tons)	(US\$ in thousands)	(US\$ per metric ton)	(metric tons)	(US\$ in thousands)	(US\$ per metric ton)	(metric tons)	(US\$ in thousands)	(US\$ per metric ton)	(metric tons)	(US\$ in thousands)	(US\$ per metric ton)	(metric tons)	(US\$ in thousands)	(US\$ per metric ton)
Cellulose products ⁽²⁾															
Bahia Specialty Cellulose ⁽²⁾⁽³⁾	79,109	93,593	1,183	121,178	117,915	973	354,368	314,124	886	135,691	94,300	695	192,820	276,750	1,435
DP Macao ⁽⁴⁾⁽⁵⁾															
Dissolving wood pulp ⁽⁶⁾	9,038	13,271	1,468	52,087	55,262	1,061	43,899	42,528	969	—	—	—	53,265	74,227	1,394
Other pulp products ⁽⁷⁾	—	—	—	141,497	84,178	595	142,163	67,740	476	79,032	31,419	398	22,409	14,494	647
Subtotal DP Macao	9,038	13,271	1,468	193,584	139,440	720	186,062	110,268	593	79,032	31,419	398	75,674	88,721	1,172
Total cellulose products	88,147	106,864	1,212	314,762	257,355	818	540,430	424,392	785	214,723	125,719	585	268,494	365,471	1,361
Viscose staple fibers	72,782	165,303	2,271	60,766	124,904	2,055	67,273	127,606	1,897	34,577	55,263	1,598	30,801	75,391	2,448
Total		272,167			382,259			551,998			180,982			440,862	

On page 153:

(6) Comprises principal trading sales of dissolving wood pulp by DP Macao to external customers that was primarily sourced from TPL.

On page 31:

“TPL”

PT Toba Pulp Lestari, Tbk, a limited liability company incorporated in Indonesia and listed on the Indonesia Stock Exchange. As of the Latest Practicable Date, our Ultimate Controlling Shareholder controlled approximately 90.6% of TPL's issued share capital

Source: Sateri Holdings Limited. 2010. "Sateri Holdings Limited Global Offering." Company prospectus. Hong Kong. November 26, 2010. <http://www3.hkexnews.hk/listedco/listconews/sehk/2010/1126/lt20101126025.pdf>.

In the years immediately following Sateri's disposal of DP Macao in September 2010, Sateri's annual reports describe continued purchases of dissolving pulp (also referred to as rayon-grade pulp) from DP Macao. Sateri's annual report for 2011 states:

In the year ended 31 December 2010, the Group's VSF Business acquired 15,644 metric tons of rayon-grade pulp from DP Macao, for an average price of US\$1,586 per ton.

In the year ended 31 December 2011, the Group's VSF Business acquired 49,713 metric tons of rayon-grade pulp from DP Macao, a related party as explained in Note 43, for an average price of US\$1,516 per ton.

Sateri's annual report for 2012 states:

The value of sales of dissolving wood pulp by DP Macao to Sateri Jiangxi for the year ended 31 December 2012 was approximately US\$23,732,000.

Sateri's annual report for 2013 states:

The value of sales of dissolving wood pulp by DP Macao to Sateri Jiangxi and Sateri Fujian for the year ended 31 December 2013 was approximately US\$37,323,000.

The authors of this report have seen no indication in any of Sateri's reports that DP Macao has sold dissolving pulp from any source other than Toba Pulp. In this way, these statements collectively indicate that DP Macao purchased substantial volumes of dissolving pulp from Toba Pulp during 2010–2013 and sold these to Sateri for VSF production by its operating companies, Sateri Jiangxi and Sateri Fujian. This finding calls into question the reliability of Toba Pulp's limited disclosures of the product it produced between June 2010 and March 2017. As noted earlier in Section 6, Toba Pulp's disclosures appear to indicate that the company claims to have produced only paper-grade pulp from June 8, 2010 until March 3, 2017. The Sateri Jiangxi and Sateri Fujian mills produce VSF which requires dissolving pulp.



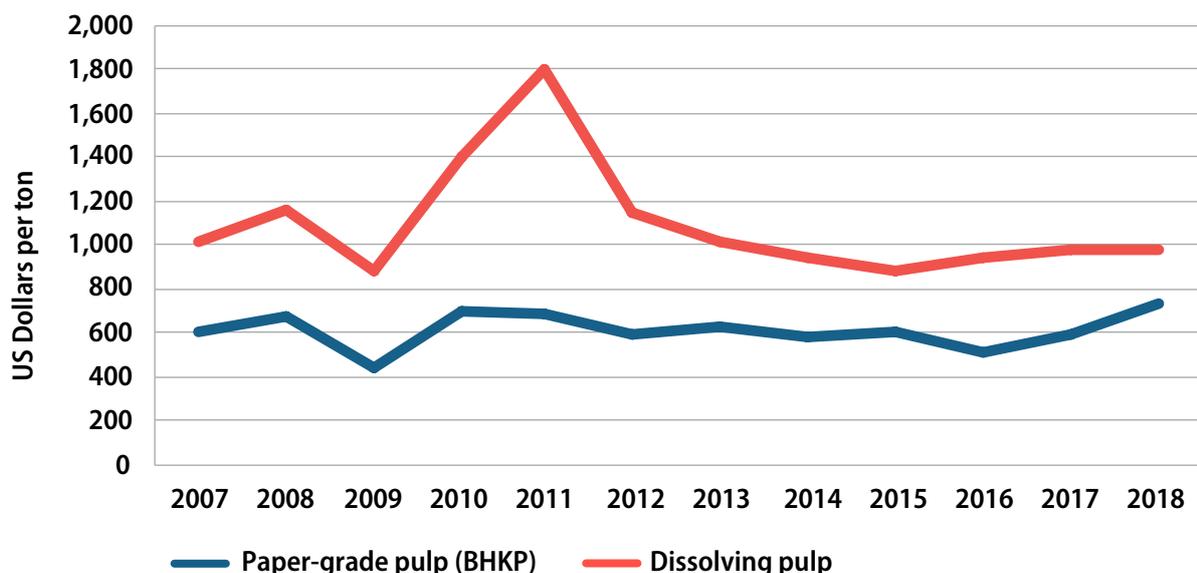
SECTION III. PROFIT SHIFTING BY TOBA PULP

11. What incentives exist to report dissolving pulp as paper-grade pulp?

Cumulatively, the data presented thus far apparently show that during 2008–2016, Toba Pulp exported from Indonesia large volumes of dissolving pulp to DP Macao that appear to have been classified as paper-grade pulp. This raises questions about the reasons for which these shipments would have been reported as a different grade of pulp than what they apparently were. What potential motivation would the parties involved have to mis-report the type of pulp being shipped?

In terms of the underlying economics, paper-grade pulp prices are consistently much lower in international markets than prices for dissolving pulp. China’s imports of the two pulp products between 2007 and 2018 indicates that dissolving pulp prices were between US\$ 243 and US\$ 1,117 per ton higher than the prices of paper-grade pulp, based on annual averages of imports (see Figure 13). In percentage terms, the price of paper-grade pulp was, on average, 57% of the price of dissolving pulp for imports to China between 2007 and 2018. The financial data for DP Macao’s pulp sales during 2008, 2009, and the first half of 2010, as presented in Sateri’s 2010 prospectus, exemplify these pricing differences between paper-grade pulp and dissolving pulp (see Table 4). During this 30-month period, DP Macao received an average of US\$ 544 per ton for the BHKP paper-grade pulp that it sold and an average price of US\$ 1,129 per ton for dissolving pulp.

Figure 13. Average per ton import price to China (CIF) of BHKP paper-grade pulp and dissolving pulp, 2007–2018



Source: UN Comtrade.

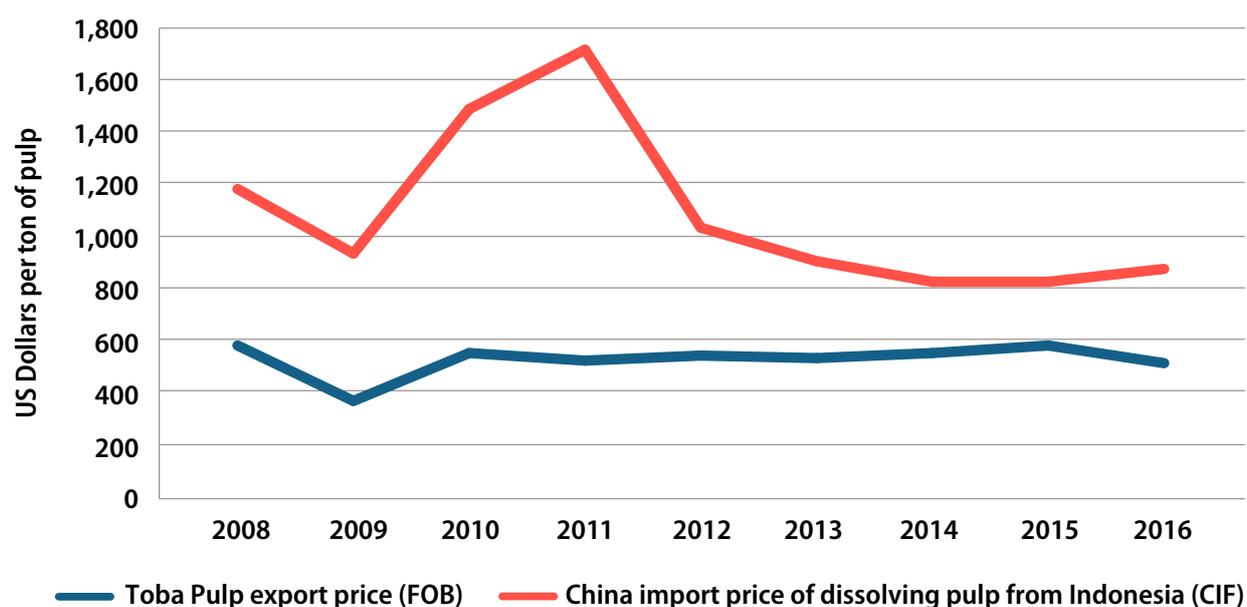
Table 4. DP Macao sales of BHKP paper-grade pulp and dissolving pulp during 2008, 2009, and January–June 2010

Year	BHKP Paper-Grade Pulp Sales			Dissolving Pulp Sales		
	Volume (tons)	Value ('000 US\$)	Average Price (US\$/ton)	Volume (tons)	Value ('000 US\$)	Average Price (US\$/ton)
2008	141,497	84,178	595	55,262	57,062	1,033
2009	142,163	67,740	476	49,939	46,828	938
Jan-Jun 2010	22,409	14,494	647	55,299	77,327	1,398
Total	306,069	166,412	544	160,500	181,217	1,129

Source: Sateri Holdings Limited. 2010. "Sateri Holdings Limited Global Offering." Company prospectus. Hong Kong. November 26, 2010. <http://www3.hkexnews.hk/listedco/listconews/sehk/2010/1126/ltn20101126025.pdf>.

Over the period 2008–2016, Toba Pulp’s average prices for exports of an unspecified grade of pulp (as derived from Toba Pulp’s annual reports) did not track the market price of dissolving pulp. Between 2010 and 2013, a cotton shortage drove up demand in the global dissolving pulp sector, causing prices to spike. The average import price for dissolving pulp into China went from below US\$ 1,000 per ton to over US\$ 1,600 per ton (CIF)⁶⁸, representing an unusually high market upswing. However, the average price of the pulp exported by Toba Pulp remained flat during this period (see Figure 14).

Figure 14. Average unit price of Toba Pulp’s exports and of China’s dissolving pulp imports from Indonesia, 2008–2016

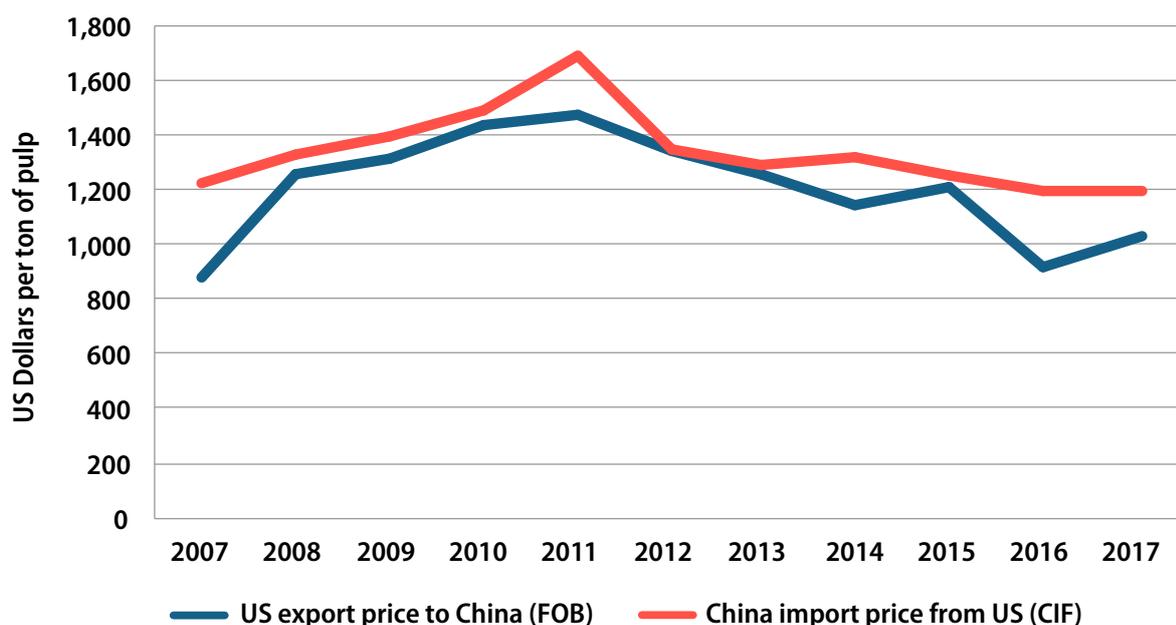


Sources: Annual Reports of PT Toba Pulp Lestari Tbk, 2008–2016; UN Comtrade.

As a point of comparison, the price of dissolving pulp exports from the United States closely tracked the import price into China during 2007–2017 (See Figure 15). The export and import prices both climbed steadily from 2007 until 2011 before entering a declining trend that continued through 2017. In contrast to the export and import prices for Indonesia’s dissolving pulp trade with China as shown in Figure 14, the export and import prices in the US-China dissolving pulp trade showed a high degree of correlation through this period.

68 CIF refers to “cost, insurance, and freight”. See Box 3 below on FOB and CIF conversions.

Figure 15. Average unit price of United States dissolving pulp exports to China and of China's dissolving pulp imports from the United States, 2007–2017



Source: UN Comtrade.

Box 3. Conversion of FOB to CIF to compare export and import prices

In the data used for this report, Indonesia export prices are expressed in FOB, or “free on board”. FOB prices include the price of goods up until they are loaded on a ship prior to being exported from Indonesia. FOB prices do not include the cost of transport or insurance associated with shipping the goods from Indonesia to the destination market. The import prices used in this report are expressed in CIF, or “cost, insurance and freight”. CIF prices include shipping and insurance costs up to the border of the importing country.⁶⁹ Therefore, the difference between FOB and CIF prices is the combined cost of freight and insurance. The relation between FOB and CIF values is complicated when there is trans-shipment or trans-invoicing, i.e. an intermediary party may re-export or re-invoice the shipment. The CIF price would then include the intermediary party’s commission or marketing fee.

$$\text{FOB [export price]} + \text{Freight} + \text{Insurance (+ Marketing Fee)} = \text{CIF [import price]}$$

Macro-level studies that convert FOB into CIF prices, or vice versa, have often used a 10% adjustment to compare the two prices, however, more recent studies indicate that a 6% adjustment is a more accurate estimate to use when converting between FOB and CIF.⁷⁰

It appears that Toba Pulp was charging its affiliated marketing company, DP Macao, below-market prices for dissolving pulp (i.e. the market price of the lower-valued paper-grade pulp) during the period analyzed. Customs authorities usually have a range of acceptable unit prices for each HS code

69 Marini, Marco, Robert Dipplesman and Michael Stanger. 2018. “New Estimates for Direction of Trade Statistics.” IMF Working Paper WP/18/16 (January). Washington, DC: International Monetary Fund. <https://www.imf.org/~media/Files/Publications/WP/2018/wp1816.ashx>.

70 Miao, Guannan and Fabienne Fortanier. 2017. “Estimating Transport and Insurance Costs of International Trade.” OECD Statistics Working Papers 2017/04. Paris: Organisation for Economic Co-operation and Development. <https://www.oecd-ilibrary.org/docserver/8267bb0f-en.pdf>.

as an efficient way to check whether the commodity is valued within the normal range of open market prices. However, since Toba Pulp’s exports were apparently classified as a lower-priced product (i.e. BHKP paper-grade pulp – HS 470329) rather than as dissolving pulp (HS 470200), the below-market price Toba Pulp apparently charged DP Macao could presumably have escaped the attention of Indonesia’s customs authorities. As indicated above, Toba Pulp, in response to the Indoleaks allegation of manipulating export documents between 2007 and 2016, stated in February 2020 that “the HS code used is in accordance with the product classification and legal jurisdictions” (see Appendix A for full response).

12. Estimating DP Macao’s apparent income from marketing for Toba Pulp

According to the above analysis, Toba Pulp apparently sold dissolving pulp at non-market prices to DP Macao, and DP Macao then apparently re-sold the dissolving pulp to external and inter-company buyers in China, presumably at prevailing market prices. This meant that DP Macao was apparently able to capture spreads (i.e. the difference between the purchase and sales prices) well beyond what a marketing company could generally expect to earn on normal commercial transactions for the sale and marketing of a product it did not produce.

On an individual shipment level, it appears to have worked liked this: In one shipment sent during September 2010, for example, Toba Pulp reportedly exported 1,015,433 kilograms (kg) of pulp labeled as “Toba Cell Eucalyptus Pulp” (HS 470329) to DP Macao for a unit price of US\$ 550 per ton (FOB), according to figures from a commercial trade data provider. Later the same month, the Chinese company Bora Jingwei Fibre Co. reportedly imported a shipment of 1,015,433 kg of dissolving pulp (HS 470200) for a unit price of US\$ 1,630 per ton (CIF). Assuming these are two corresponding records of the same shipment and that the product traded is dissolving pulp, then these figures would indicate DP Macao sold the shipment for nearly three times the price that it had apparently paid to Toba Pulp.

Table 5 shows several additional shipments that exemplify the scale of spreads DP Macao apparently captured on sales of pulp purchased from Toba Pulp. These shipments are a few of the many dozen

Table 5. Sample shipment-level data of Toba Pulp exports from Indonesia to DP Macao and China mill imports of dissolving pulp from Indonesia

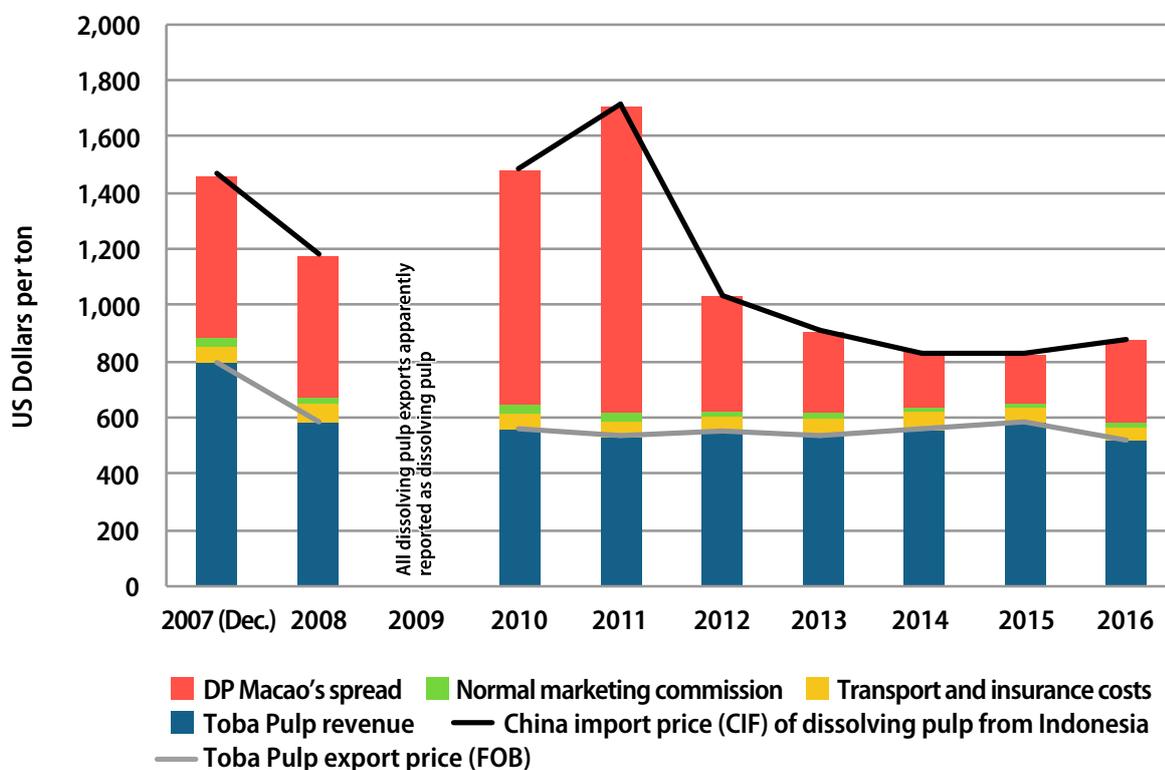
HS Code 470329: Toba Pulp export to DP Macao reported as paper-grade pulp			HS Code 470200: China imports from Indonesia reported as dissolving pulp				Adjustments from FOB to CIF	DP Macao’s spread	
Date	Volume (kg)	Price (FOB)	Date	Importer Name	Volume (kg)	Price (CIF)	Freight, insurance, normal commission of 2%	Spread	% of Total Sales Value
2010 Sep	1,015,433	\$558,488	2010 Sep	Bora Jingwei	1,015,433	\$1,655,156	\$103,554	\$993,114	60%
2011 Nov	503,482	\$251,741	2011 Nov	Sateri Jiangxi	503,482	\$579,004	\$42,318	\$284,945	49%
2012 Dec	1,007,651	\$468,558	2012 Dec	Anhui Somet	1,007,651	\$856,503	\$78,294	\$309,651	36%
2013 Aug	594,427	\$282,352	2013 Aug	Sateri Fujian	594,427	\$534,984	\$50,770	\$201,862	38%
2014 Mar	497,404	\$261,137	2014 Apr	Nanjing Chemical	497,404	\$442,690	\$44,707	\$136,846	31%

Source: Commercial trade data provider for shipment volumes and value and importer names; Transport costs are based on Fastmarkets RISI data for average annual freight costs (US\$ per ton) for BHKP shipments between Indonesia and Shanghai during 2010–2014. Insurance costs are estimated to be 0.6% of the net sales price of the product shipped.

shipments identified between 2010 and 2016, in which the volume of Indonesian exports classified as paper-grade pulp matched precisely, kilogram for kilogram, with the volume of China’s imports classified as dissolving pulp, as described above in Section II. To calculate the spreads, freight and insurance costs must be considered, in addition to a 2% marketing commission (i.e. the amount a marketing company such as DP Macao would be expected to earn under normal commercial terms). In these five examples of shipments, DP Macao’s spread was more than 10 times the commission it would be expected to have earned under normal commercial terms.

The large spreads DP Macao apparently received on pulp purchased from Toba Pulp can also be estimated using the annual average export prices (as derived from Toba Pulp’s annual reports) and average annual import prices for China’s dissolving pulp imports from Indonesia (as derived from UN Comtrade data) (see Figure 16). Under normal conditions, marketing companies can reasonably be expected to receive commissions of approximately 2% of the sales price of the goods they sell.⁷¹ But DP

Figure 16. Estimated distribution of per ton import price to China of dissolving pulp produced and apparently misclassified by Toba Pulp, December 2007–2016



Sources: Annual reports of PT Toba Pulp Lestari Tbk, 2007–2016; UN Comtrade; Transport costs are based on Fastmarkets RISI data for average annual freight costs (US\$ per ton) for BHKP shipments between Indonesia and Shanghai during 2007–2016. Insurance costs are estimated to be 0.6% of the net sales price of the product shipped.

Notes: Normal marketing commission is assumed to be fixed at 2%. Toba Pulp’s selling price is expressed in FOB and importer buying price in CIF, so adjustments are made for transport, insurance, and marketing commission. Prior to 2011, Toba Pulp did not report sales volume in its Annual Report, so production volumes are used as a proxy for sales volumes to calculate Toba Pulp’s revenue per ton 2007–2010. For 2007, the export price is derived from annual sales and volume data reported in Toba Pulp’s 2007 Annual Report, and the import price is based on figures reported in Sateri Holdings Limited. 2010. *Op. cit.* for the average buying price by DP Macao of dissolving pulp in December 2007. The Sateri Prospectus indicates US\$ 13.271 million revenue was derived from Toba Pulp’s dissolving wood pulp in December 2007 at an average selling price of US\$1,468 per metric ton.

71 It is highly relevant that following Sateri’s disposal of DP Macao in September 2010, the latter entered into an “Agency Agreement” under which it agreed to sell the dissolving pulp it purchased from Toba Pulp through SC International Macao, a wholly owned subsidiary of Sateri, for a fixed commission of 2% of sales value (Sateri Holdings Limited, 2010).

Macao's spread was, on average, more than 50% on sales in 2010 and 2011. In five other years, the spread was, on average, more than 30%.⁷²

The spread was largest in 2011 when DP Macao reportedly bought Toba Pulp's product for US\$ 532 per ton, on average, and sold it for an average price of US\$ 1,717 per ton. After adjusting for freight and insurance costs (estimated to average US\$ 64 per ton) and a normal marketing commission of 2%, the spread DP Macao apparently earned was, on average, US\$ 1,087 per ton. The lowest average spread was earned in 2015, which was still significant at US\$ 172 per ton, or 21% of the selling price.

These findings indicate that DP Macao apparently captured much of the sales value derived from dissolving pulp that Toba Pulp produced. Given that Macao is a low-tax jurisdiction, this pattern of trade may have facilitated the avoidance of potential corporate tax obligations within Indonesia.

13. Estimating Toba Pulp's apparent under-statement of revenues

To what degree did these trade practices result in a reduction of the revenues that might otherwise have appeared on Toba Pulp's financial statements and a corresponding increase in those booked by DP Macao? And what impact did this have for Toba Pulp's corporate tax obligations in Indonesia?

Between December 2007 and December 2016, China imported a total of 959,834 tons of dissolving pulp from Indonesia, according to the country's trade data.⁷³ Toba Pulp was the only producer of dissolving pulp in Indonesia and, therefore, the only logical source for these imports until 2016, when APRIL also began producing dissolving pulp. The Chinese import figures that estimate Toba Pulp's sale of dissolving pulp to DP Macao (with adjustments made for 2009 and 2010 when Toba Pulp reported at least a portion its dissolving pulp exports as such, and for 2016, when APRIL started producing dissolving pulp) can be used to estimate the scale of revenue shifting (and presumably movement of potential profits) during this period.

In total, DP Macao appears to have received an estimated total spread of US\$ 426 million from its sale of pulp produced by Toba Pulp during the period 2007–2016. This estimate excludes an assumed 2% commission on the import price that a marketing agent such as DP Macao could be expected to earn under normal commercial terms. In other words, this means that the estimated spread is over and above a normal commission. Presumably, Toba Pulp could have earned this estimated spread instead of DP Macao had it exported its dissolving pulp as such at prevailing market prices (see Figure 17).

The spread that DP Macao apparently captured varied considerably from year to year. When the price of dissolving pulp increased in 2010 and 2011, DP Macao's annual spread from Toba Pulp's products was apparently US\$ 65 million and US\$ 156 million, respectively. In other years, when the difference between the market prices for dissolving pulp and paper-grade pulp was less, the average spread per ton was smaller, and the overall volume of dissolving pulp declined, as that is when Toba Pulp might have

72 It must be noted that in 2009, Toba Pulp apparently classified all of its dissolving pulp exports under the appropriate HS code (470200). The average price of these dissolving pulp exports appears to have been higher than that of the paper-grade pulp exports during that year. Still, there was a significant spread in 2009 between the dissolving pulp export price from Indonesia and the dissolving pulp import price to China, where most of Toba Pulp's shipments were sent. This resulted in similar profit dynamics as seen in other years. However, any spread that DP Macao may have captured in 2009 is not analyzed in this study (or presented in Figures 14 and 15), as it was apparently not derived from the particular trade practices documented in this report.

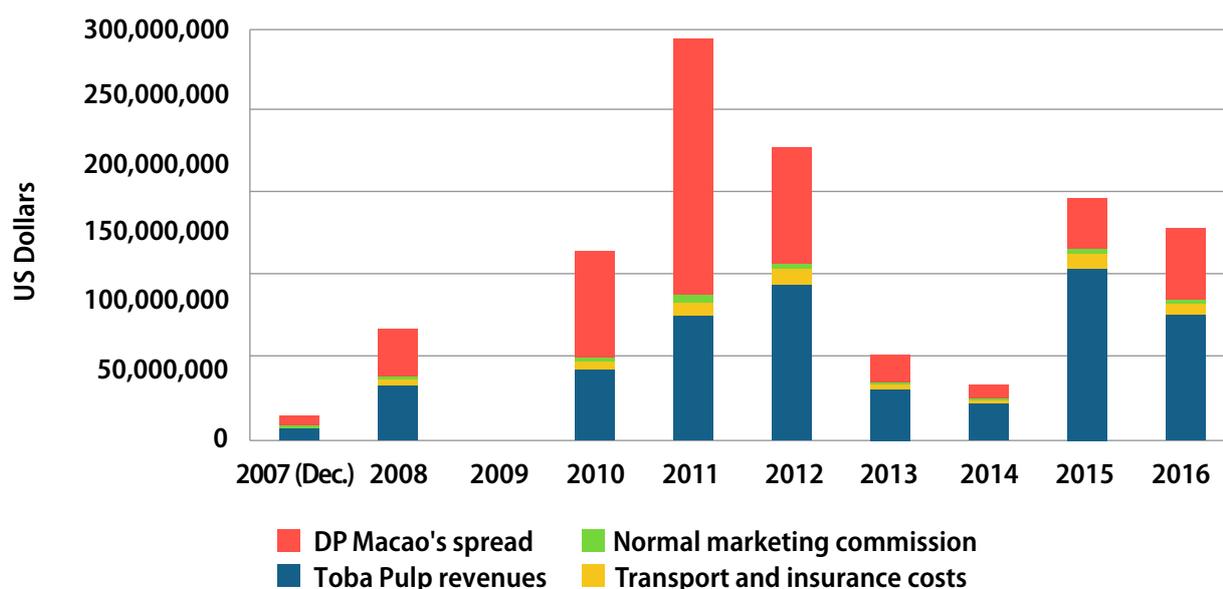
73 UN Comtrade for import volumes between January 2008 and December 2016. The source of the December 2007 import volume is from Sateri Holdings Limited. 2010. "Sateri Holdings Limited Global Offering." Company prospectus. Hong Kong. November 26, 2010. <http://www3.hkexnews.hk/listedco/listconews/sehk/2010/1126/ltn20101126025.pdf>. This Prospectus indicates the volume for December 2007 was 9,038 tons.

sensibly switched to paper-grade pulp production. In 2013, DP Macao's spread was US\$ 17 million, and in 2014 it was around US\$ 8 million.

In aggregate, the analysis indicates that Toba Pulp, the company that actually produced the pulp being sold, earned only slightly more revenue over the ten-year period than DP Macao's estimated spread. Toba Pulp's sales of dissolving pulp to China that were apparently reported as paper-grade pulp during 2007–2016 generated estimated gross revenues of US\$ 495 million. This amount is only moderately greater than the US\$ 426 million that DP Macao apparently earned in gross profit, over and above a standard 2% commission from selling and marketing the product. The fact that the companies involved are affiliated entities with overlapping beneficial owners suggests the marketing and pricing arrangement may have one or more attributes of a profit shifting scheme.

In response to this report's summary of findings, Toba Pulp stated, "Regarding the allegation of profit shifting, the Company [Toba Pulp] has produced and sold products at an appropriate price and every year an assessment of appropriate product prices is carried out by an independent consultant." (See Appendix B for Toba Pulp's full response.)

Figure 17. Estimated distribution of total value of Toba Pulp's dissolving pulp exported and apparently misclassified from Indonesia to China, December 2007–2016



Sources: Annual reports of PT Toba Pulp Lestari Tbk, 2007–2016; UN Comtrade; Badan Pusat Statistik; Commercial trade data provider; Transport costs are based on Fastmarkets RISI data for average annual freight costs (US\$ per ton) for BHKP shipments between Indonesia and Shanghai during 2007–2016. Insurance costs are estimated to be 0.6% of the net sales price of the product shipped.⁷⁴

Notes: Normal marketing commission is assumed to be 2%. Toba Pulp's selling price is expressed in FOB and importer buying price in CIF, so adjustments are made for transport, insurance, and marketing commission (assumed to be fixed at 2% of sales price). 2007 data includes only December shipments (not January through November 2007), since Toba Pulp's trading relationship with DP Macao is documented beginning in December 2007. The source of the 2007 volume data is from Sateri Holdings Limited, 2010. Prospectus for Initial Public Offering, prepared for The Stock Exchange of Hong Kong Limited and the Securities and Futures Commission. This Prospectus indicates the volume of dissolving pulp that DP Macao purchased from Toba Pulp was 9,038 tons. The source of the 2016 volume data is shipment-level data from a commercial trade data provider. The 2016 volume is calculated from the volume of shipments exported by Toba Pulp that were classified as paper-grade pulp (HS 470329) and described as "Toba Cell Eucalyptus Pulp".

74 Sourcing for the 2007 data is different than for other years since Toba Pulp's trading relationship with DP Macao only started in December 2007, according to Sateri's 2010 prospectus. For the average import price and volume, the data are from Sateri's listing prospectus. Sateri (2010) states that DP Macao generated revenue of US\$ 13,271,000 from sales of 9,038 tons of dissolving pulp "primarily produced by TPL" to external customers. The Sateri prospectus lists the average selling price of DP Macao's dissolving pulp for 2007 as US\$ 1,468 per ton. For the average export price, this estimate uses Toba Pulp annual report data, as with the other years.

14. Toba Pulp's reported profit and corporate tax payments

During the period 2007–2016, Toba Pulp paid relatively little corporate income tax, despite producing over 1.8 million tons of pulp (both paper-grade pulp and dissolving pulp), which it sold for over US\$ 1.0 billion (see Table 6). From those sales, the company earned an aggregate net profit of US\$ 45.6 million and paid a net total of US\$ 15.9 million in corporate income tax, according to the company's cash flow statements. This amounts to an average of US\$ 8.66 of corporate tax per ton of pulp produced, as compared to an average sales value of just over US\$ 550 per ton during this period.

Table 6. PT Toba Pulp Lestari Tbk's reported pulp production, sales, net profit, and corporate income tax, 2007–2016

	Unit	2007	2008	2009	2010	2011	2012
Pulp production	air-dried tons	172,710	197,093	210,607	175,989	189,630	178,676
Pulp sales	air-dried tons	Not reported	Not reported	Not reported	Not reported	171,556	197,396
Sales value	US Dollars	\$137,620,000	\$115,506,000	\$78,753,000	\$98,182,000	\$91,189,000	\$108,146,000
Net profit (or loss)	US Dollars	\$11,818,000	\$2,020,000	(\$5,521,000)	\$401,000	\$37,000	\$3,128,000
Tax (paid) or refunded per cash flow statement	US Dollars	\$0	(\$17,650,000)	(\$1,341,000)	\$4,323,000	\$1,959,000	(\$1,204,000)

	Unit	2013	2014	2015	2016	2007–2016
Pulp production	air-dried tons	182,437	187,609	171,270	167,953	1,833,974
Pulp sales	air-dried tons	170,362	196,798	165,057	161,598	
Sales value	US Dollars	\$91,552,000	\$109,193,000	\$96,421,000	\$84,074,000	\$1,010,636,000
Net profit (or loss)	US Dollars	\$3,780,000	\$1,456,000	(\$2,752,000)	\$37,492,000	\$45,642,000
Tax (paid) or refunded per cash flow statement	US Dollars	(\$113,000)	(\$18,000)	(\$1,337,000)	(\$508,000)	(\$15,889,000)

Source: PT Toba Pulp Lestari Tbk. Annual reports, 2007–2016.

In Indonesia, as in most other countries, it is not unusual for corporations to manage their reporting of profits in order to minimize corporate tax obligations.⁷⁵ Moreover, as noted earlier, the use of profit shifting practices and the booking of profits in low-tax jurisdictions may not be illegal as long as these are done in compliance with prevailing laws and regulations. However, at a time when the Government of Indonesia is actively seeking to curb the flow of taxable profits to offshore jurisdictions with lower tax rates, one could reasonably expect Indonesia's fiscal authorities to be interested in assessing whether Toba Pulp's sales and marketing arrangement with DP Macao has been based on the accurate invoicing and arms-length pricing of dissolving pulp exports when these are shipped.

For at least some of the time that Toba Pulp was reportedly making little profit or producing at a net loss, DP Macao was making substantial profits marketing pulp produced by Toba Pulp. In 2008, when Toba Pulp's net profit was US\$ 2.0 million, DP Macao's "segment profit" within Sateri was US\$ 22.8 million.^{76,77} And, in 2010, when Toba Pulp's net profit was less than US\$ 0.5 million, DP Macao's profit was US\$ 43.9 million in just the first six months.⁷⁸

75 Multinational companies such as Apple, Amazon, Starbucks, Nike and General Electric have managed reported profits to minimize tax obligations, according to reports in recent years.

76 PT Toba Pulp Lestari Tbk. 2009. *Op. cit.*; Sateri Holdings Limited. 2010. *Op. cit.*

77 In 2009, when Toba Pulp reported a US\$ 5.5 million loss, DP Macao's profit was US\$ 25.5 million (PT Toba Pulp Lestari Tbk. 2010. *Op. cit.*; Sateri Holdings Limited. 2010. *Op. cit.*). However, as noted above, the substantial profits that DP Macao recorded in 2009 from sales of dissolving pulp are not analyzed in this study, as they were apparently not derived from the particular trade practices documented in this report. During that year, Toba Pulp apparently classified all of its dissolving pulp exports under the appropriate HS code (470200).

78 PT Toba Pulp Lestari Tbk. 2011. *Op. cit.*; Sateri Holdings Limited. 2010. *Op. cit.*

After Sateri sold DP Macao to Blue Dot Resources, also a Tanoto-controlled company, in September 2010, there has been no public reporting of DP Macao's profits, to the best of the authors' knowledge.

For the beneficial owner(s) of Toba Pulp and DP Macao, there would apparently have been a strong financial incentive to shift profits that might otherwise have been taxable in Indonesia to Macao, a jurisdiction which is widely recognized as a tax haven. Under Macao law, DP Macao is registered as an offshore service company, with the designation "Macao Commercial Offshore".⁷⁹ As such, the company apparently would have qualified for an exemption of Macao's complementary tax, or tax on corporate profits, during the period 2007–2016. This suggests that DP Macao may have paid no corporate income tax on the estimated US\$ 426 million (Rp. 4.23 trillion⁸⁰) that it apparently earned in gross profit, over and above a standard 2% commission from selling and marketing the product, during this period.

By contrast, if these revenues had been booked as taxable income for Toba Pulp, they could have been subject to Indonesia's corporate income tax. In 2007 and 2008, the corporate income tax rate was 30%.⁸¹ In 2009, the rate was reduced to 28%, and then in 2010, it was further reduced to 25%, where it has remained until the present.⁸² In hypothetical terms, if it is assumed that the understated revenue were taxed at the statutory rate for the corresponding year, Indonesia's fiscal authority could potentially have collected as much as US\$ 108 million (Rp. 1.07 trillion) from the understated revenues estimated in this report.

It must be emphasized, of course, that the authors do not know Toba Pulp's particular tax situation or its effective tax rate. A more specific estimation of the amount of tax that Toba Pulp might have been required to pay to the Government of Indonesia had the company not engaged in the apparent profit shifting practices described in this report would require more detailed analysis of the company's profit and loss statements and the company's particular tax status under the Government's fiscal policy.

In response to this report's summary of findings, Toba Pulp stated, "As an entity listed in Indonesia Stock Exchange since 1990, the Company upholds a high level of Good Corporate Governance and is committed to corporate compliance with prevailing laws and regulations." (For Toba Pulp's full response see Appendix B.)

15. More accurate reporting since 2017

Toba Pulp's apparent use of the profit shifting practices documented in this report seems to have ended shortly after 2016. By March 2017, Toba Pulp began issuing public disclosures each time it switched from producing paper-grade pulp to dissolving pulp (or vice versa), and the company's dissolving pulp exports were reported as such (i.e. HS 470200) in official Indonesian trade records. A corporate announcement signed by the company's Executive Director and released on March 3, 2017 disclosed that Toba Pulp was switching production from paper pulp to dissolving pulp.⁸³

The announcement indicated that the company made this disclosure "in accordance with OJK [Indonesia's Financial Services Authority] Regulation 31/POJK.04/2015 dated December 16, 2015 about the Disclosure of

79 For details on Macao offshore companies and the tax exemptions provided under Macao's offshore regime, see <http://www.hmv.com.mo/english/offshore/link/1.htm>.

80 The conversion from US Dollars to Indonesian Rupiah is based on the official exchange rate calculated as an annual average based on monthly averages. The annual exchange rates for Indonesian Rupiah to US Dollars were accessed from the International Monetary Fund's International Financial Statistics. The exchange rates for 2007 to 2018 were applied to the corresponding annual totals of under-statement of revenue and potential tax loss.

81 KPMG. 2019. "Corporate tax rates table." KPMG International website. <https://home.kpmg/xx/en/home/services/tax/tax-tools-and-resources/tax-rates-online/corporate-tax-rates-table.html>.

82 KPMG. 2019. *Op. cit.*

83 PT Toba Pulp Lestari Tbk. 2017c. "Letter to Director of Indonesia Stock Exchange from Vinod Kesavan." Medan, Indonesia. March 3, 2017. https://www.idx.co.id/StaticData/NewsAndAnnouncement/ANNOUNCEMENTSTOCK/From_EREP/201703/c623e30904_dd00a72ac7.pdf.

Information or Material Facts by the Issuer or Public Company.” A month after this announcement, in April 2017, Toba Pulp exported dissolving pulp under the HS code for dissolving pulp (HS 470200) with the description “TPL-High Alpha Pulp”.⁸⁴ During 2017, Toba Pulp reportedly exported to China 121,241 tons of dissolving pulp reported as such for a total value of US\$ 80,920,832 and an average unit value of US\$ 667 per ton.⁸⁵

In the three months prior to April 2017, Toba Pulp reportedly exported 48,776 tons of pulp to China under the HS code for BHKP paper-grade pulp (HS 470329) with the description “Toba Cell Eucalyptus Pulp”.⁸⁶ The total value of these shipments was US\$ 23,238,282 and the average unit value was US\$ 476 per ton.⁸⁷ It appears that the company’s shift to reporting the product correctly as dissolving pulp had the effect of increasing the average unit price by 40%, or US\$ 191 per ton. During this period, the average CIF price of dissolving pulp imports from countries to China did increase, but only about 12%, from approximately US\$ 825 per ton to around US\$ 925 per ton.⁸⁸

As of October 21, 2020, Toba Pulp has issued announcements of a switch in production between paper-grade pulp and dissolving pulp on March 3, 2017; July 18, 2017; May 11, 2018; June 30, 2018; February 20, 2019; and April 24, 2019. The third announcement, on May 11, 2018, declared Toba Pulp was switching production from dissolving pulp to paper pulp effective a day earlier on May 10, 2018.⁸⁹ In 2018, Toba Pulp’s exports under HS 470329 for BHKP paper-grade pulp began in June, and all of these shipments include the product description “Toba Pulp BHKP (Euca) 100% PEFC Certified”.⁹⁰ This product description further supports the idea that Toba Pulp may have used the product description “Toba Cell Eucalyptus Pulp” to indicate dissolving pulp that was exported under the HS code for paper-grade pulp (HS 470329).

Toba Pulp’s 2018 annual report states, “Throughout 2018 the Company produced 139,335 tons of dissolving pulp and 30,571 tons of BHKP.”⁹¹ To the best of the authors’ knowledge, this is the first time Toba Pulp included the breakdown of its pulp production by grade in an annual report during the period 2007–2018. The volumes of reported production generally match the volumes reported in Indonesia’s shipment-level trade data that Toba Pulp exported under the corresponding HS codes for dissolving pulp and paper pulp. Therefore, it appears that in 2018 Toba Pulp began to take a more transparent approach towards disclosing the specific grades of pulp it produces, both in its corporate reporting and its classification of exports as the pulp was shipped. However, the authors of this report have not been able to independently verify the accuracy of the company’s reporting both in its annual report and as indicated in trade data.

Toba Pulp’s 2019 Annual Report continues the trend from 2018 of disclosing more information, with the Board of Directors Report stating: “The company produced 146,195 tons of dissolving pulp and 38,966 tons of BHKP pulp in 2019, a total increase of 8.98% compared to 2018 with a volume of dissolving pulp production of 139,335 tons and 30,570 tons of BHKP pulp. Achievement of sales in 2019 reached 167,788 tons (pulp dissolving 128,825 tons and BHKP pulp 38,963 tons), decreasing by 0.42%.”⁹²

84 Commercial trade data provider of shipment level Indonesia exports for dissolving pulp.

85 Commercial trade data provider of shipment level Indonesia exports for dissolving pulp.

86 Commercial trade data provider of shipment level Indonesia exports for BHKP.

87 Commercial trade data provider of shipment level Indonesia exports for BHKP.

88 Commercial trade data provider of shipment level Indonesia exports for dissolving pulp.

89 PT Toba Pulp Lestari Tbk. 2018c. Letter to Director of Indonesia Stock Exchange from Anwar Lawden, S.H. Company announcement. Medan, Indonesia. May 11, 2018. https://www.idx.co.id/StaticData/NewsAndAnnouncement/ANNOUNCEMENTSTOCK/From_EREP/201805/e4f56b8448_e1aa3b29b1.pdf.

90 Commercial trade data provider of shipment level Indonesia exports for BHKP.

91 PT Toba Pulp Lestari Tbk. 2019. *Op. cit.*

92 PT Toba Pulp Lestari Tbk. 2020. Annual Report 2019. Medan, Indonesia. https://www.tobapulp.com/wp-content/uploads/2020/08/TPL_Annual-Report-2019.pdf.



SECTION IV. INDICATIONS OF SIMILAR PROFIT SHIFTING PRACTICES BY THE APRIL GROUP

16. APRIL's dissolving pulp production during 2016–2018

By the end of 2016, Toba Pulp apparently was ending its use of the trade practices documented in the previous sections of this report. Around that same time, another much larger pulp mill, also under the beneficial ownership of Sukanto Tanoto, appears to have begun using profit shifting practices that were similar to those apparently used by Toba Pulp during 2007–2016. These practices, in turn, appear to have been carried out through 2018.

The APRIL Group is Indonesia's second largest pulp and paper producer and owns one of the world's largest pulp mills, located in Pangkalan Kerinci, Riau Province, and is operated by affiliated companies, PT Riau Andalan Pulp & Paper (RAPP) and PT Intiguna Primatama. APRIL's Kerinci mill reportedly has a pulp production capacity of approximately 2.8 million tons per year of BHKP. Much of the mill's pulp output is directly integrated with paper production.

In 2015, APRIL announced it had received approval to convert one of its BHKP production lines into a "swing" line capable of producing dissolving pulp.⁹³ According to an industry source, APRIL began trial production of dissolving pulp at the Kerinci mill in mid-2016⁹⁴, and the company expanded its production of dissolving pulp in each of the succeeding years, at least until 2019. In 2020, APRIL-affiliate Asia Pacific Rayon initiated operations of a 240,000 ton per year viscose rayon production facility at the Kerinci mill complex, following an investment of Rp 15 trillion (US\$ 1.1 billion).⁹⁵

APRIL's website currently states, "Other than paper grade pulp, APRIL also produces rayon grade pulp that is supplied to Sateri and Asia Pacific Rayon, which are also business groups under RGE, along with APRIL. Rayon grade pulp is produced using the prehydrolysis kraft cooking process, and the final product is called AE pulp."⁹⁶ It is understood that rayon grade pulp is a form of dissolving pulp.

It appears that one of the first public acknowledgements of APRIL's production of dissolving pulp at the Kerinci mill was published in a sustainability assessment of Sateri's VSF operations in China prepared by Rainforest Alliance.⁹⁷ The document indicates that one of the Sateri mills' two biggest suppliers during the

93 Kontan Harijan. 2015. "Riau Andalan Bikin Produk Pulp Larut." February 25, 2015. <https://kemenperin.go.id/artikel/11218/Riau-Andalan-Bikin-Produk-Pulp-Larut>.

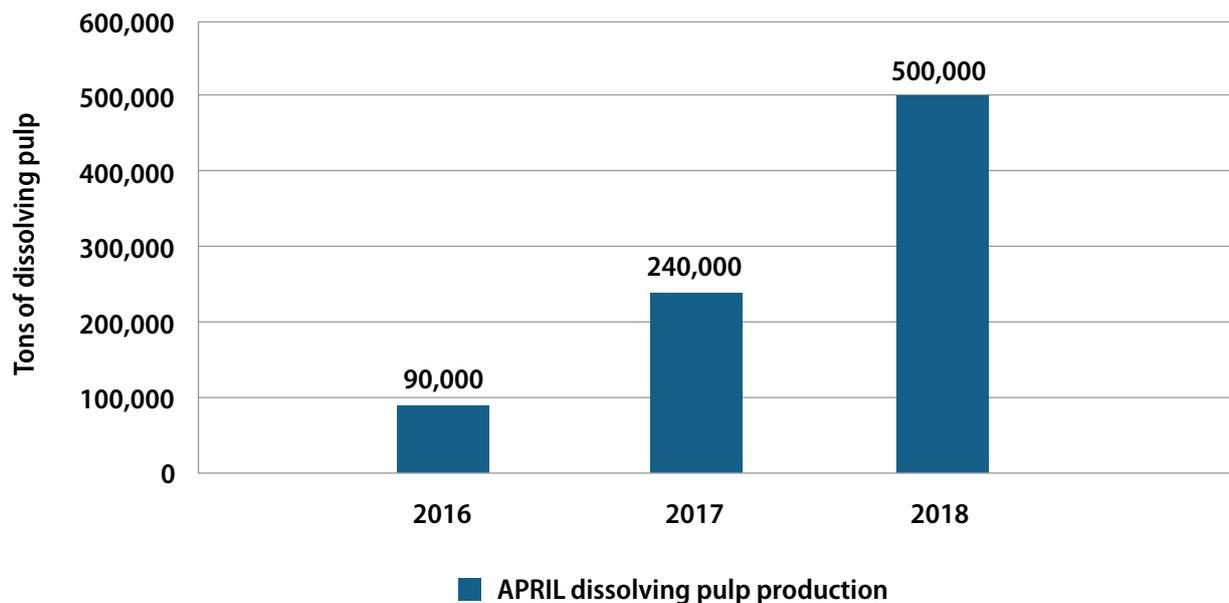
94 Lansdell, O. 2017. "The outlook for dissolving wood pulp supply and demand." Hawkins Wright Ltd. May 2017. https://cellulose-fibres.eu/wp-content/uploads/2019/04/LansdellOliver_Abstract.pdf.

95 Harahap, Rizal. 2020. "Jokowi officiates Asia Pacific Rayon plant in Riau." *Jakarta Post*. February 22, 2020. <https://www.thejakartapost.com/news/2020/02/22/jokowi-officiates-asia-pacific-rayon-plant-in-riau-islands.html>.

96 APRIL. 2020. "Pulp Products." Company website. Accessed on October 11, 2020. <https://www.aprilasia.com/en/products/pulp-products>.

97 Rainforest Alliance. 2018. "CanopyStyle Verification and Guidelines Evaluation Report for: Sateri Corporate Office and Manufacturing Mills In China." Richmond, Vermont. May 16, 2018. https://www.rainforestalliance.org/business/wp-content/uploads/2018/10/Canopy-Verification-Report_Sateri_Final-Draft-16MAY2018.pdf.

Figure 18. Dissolving pulp production at APRIL's Kerinci mill in Riau Province, Sumatra, 2016–2018



Source: Letter from APRIL and Asia Pacific Rayon Sustainability Directors to six NGOs on December 17, 2018.

ten-month audit period January to October 2016 was APRIL's Kerinci mill in Indonesia. To the best of the authors' knowledge, APRIL did not make any public announcements in 2016 or 2017 disclosing that the Kerinci mill had begun producing dissolving pulp.

In response to questions from a group of NGOs, in December 2018 APRIL acknowledged that it had produced 90,000 tons of dissolving pulp as "trial volumes" in 2016, during the first year of the swing line's production; another 240,000 tons in 2017; and an estimated 500,000 tons in 2018 (see Figure 18):

In your email on 28 November, it was mentioned that "According to the CanopyStyle audit of Sateri published in May 2018, APRIL's Kerinci mill (under RAPP) was one of Sateri's two largest suppliers of dissolving pulp during the audit period in 2016." As indicated by our participation in this audit, APRIL through Sateri has shared historical supply data for the relevant audit period. For the purpose of your query, we can confirm that in 2016, APRIL produced trial volumes of about 90,000 tonnes while commercial production commenced in 2017 at a volume of about 240,000 tonnes. Estimated 2018 production is 500,000 tonnes.⁹⁸

In APRIL's 2018 Sustainability Report, the company indicated that it produced dissolving pulp at the Kerinci mill in 2017 and 2018: "This increase [in black liquor] from 2017 is due to the increased production of dissolving pulp during the year, which generates more black liquor."⁹⁹

Despite these reports that APRIL's Kerinci mill had produced substantial volumes of dissolving pulp during 2016–2018, Indonesia's official trade records indicate no export shipments of dissolving pulp (i.e. HS Code 470200) from Buatan port in Riau Province during these years. APRIL-affiliated companies PT Riau Andalan Pulp & Paper and PT Intiguna Primatama are known to ship the paper-grade pulp

98 Email from APRIL Director of Sustainability and External Affairs, Lucita Jasmin, and Asia Pacific Rayon Vice President of Communications and Sustainability, Cherie Tan, to six NGOs (Environmental Paper Network, Greenpeace, Hutan Kita Institute, Jaringan Masyarakat Gambut Riau, Jikalahari, Woods & Wayside International, and Yayasan Auriga Nusantara), sent on December 17, 2018.

99 APRIL. 2018. Sustainability Report. Jakarta. https://www.aprilasia.com/images/pdf_files/sr/APRIL_SR-2018_EN.pdf.

produced at the Kerinci mill from Buatan port, and it is reasonable to assume that APRIL would also ship dissolving pulp from that facility or from other port facilities in Riau province. This omission in the export data raises the question of whether APRIL also adopted the practice of reporting and apparently valuing dissolving pulp as paper-grade pulp. Unlike Toba Pulp during much of the period between 2007 and 2016, APRIL has acknowledged that it produced and exported dissolving pulp during 2016–2018, as indicated above.

17. Mismatch in Indonesia-China trade data in 2017 and 2018

The import data from China for 2016–2018 appear to support the idea that APRIL was exporting dissolving pulp to China during this period. In 2016, China’s imports of dissolving pulp from Indonesia set a new record high at 230,546 tons.¹⁰⁰ Previously, Toba Pulp had not produced more than 210,607 tons of dissolving pulp in any single year; and China’s record-high imports from Indonesia in 2016 signaled that Toba Pulp was no longer the country’s only exporter of dissolving pulp. In 2017, dissolving pulp imports to China from Indonesia hit another record high of 385,707 tons.¹⁰¹ And in 2018, China imports of dissolving pulp from Indonesia reached 573,727 tons.¹⁰²

In 2016, Indonesia’s trade records indicate no dissolving pulp exports, except for a sample shipment of 2 tons reportedly sent to Austria in December 2016.¹⁰³ In 2017, the trade data indicates that 140,410 tons of dissolving pulp was exported from Belawan port, 86% of which went to China.¹⁰⁴ Belawan port, as explained above, is located in North Sumatra and is used by Toba Pulp. In 2018, Indonesia’s trade data indicates that 137,926 tons of dissolving pulp was exported, and as in 2017, all of those shipments came from Belawan port.¹⁰⁵ It is highly unlikely that any production from APRIL’s Kerinci mill in Riau Province would be shipped from Belawan port in North Sumatra, as the cost of transporting the pulp an additional 700 km would have been prohibitive (see Map 1). This appears to mean that all of Indonesia’s reported dissolving pulp exports in 2017 and 2018 can be attributed to Toba Pulp. Shipment-level trade data indeed indicates that all dissolving pulp exports from Indonesia reported in official BPS statistics for 2017 and 2018 were made by Toba Pulp.

A comparison of China’s imports and Indonesia’s exports in 2016–2018, respectively, shows significant gaps, which would appear to indicate that APRIL’s dissolving pulp exports were not reported as such in Indonesia’s trade data (see Figure 19).¹⁰⁶ In 2016, 2017, and 2018, Indonesia’s trade data indicates no dissolving pulp exports originating from Buatan port, from which pulp produced at APRIL’s Kerinci mill is usually exported.¹⁰⁷

100 UN Comtrade. *Op. cit.*

101 UN Comtrade. *Op. cit.*

102 UN Comtrade. *Op. cit.*

103 Badan Pusat Statistik. 2019. *Op. cit.*

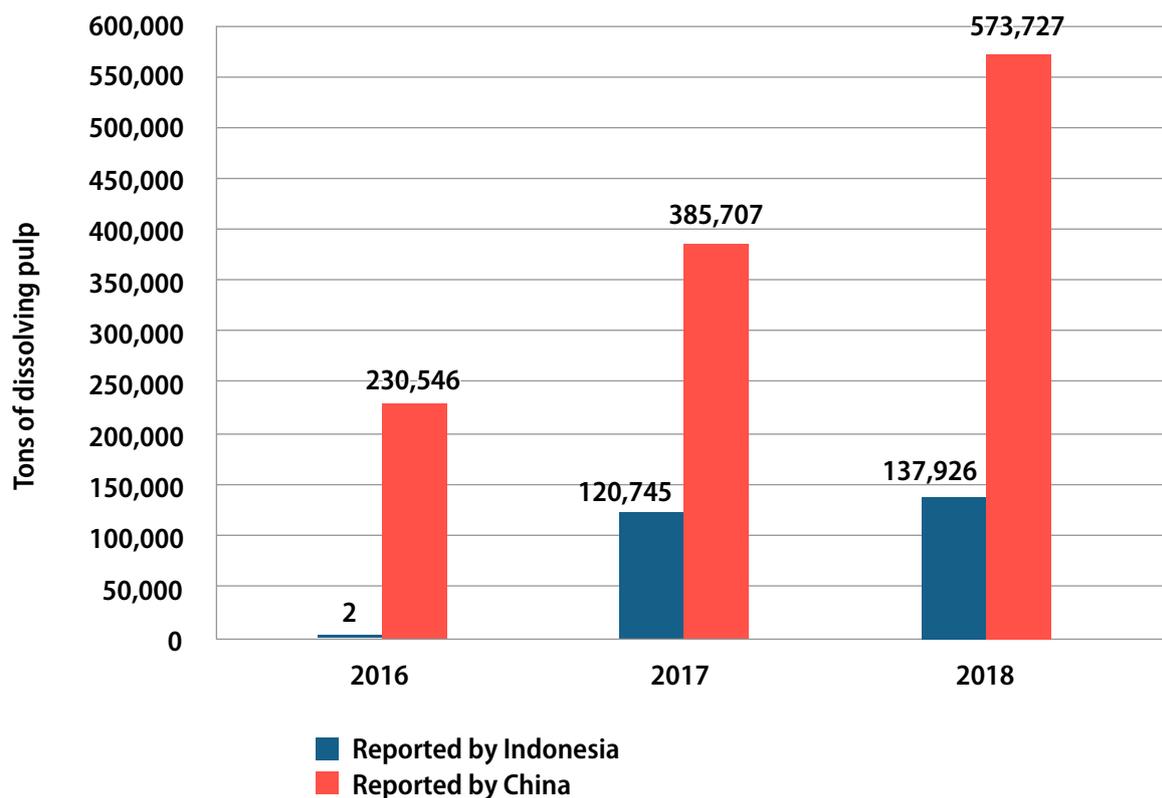
104 Badan Pusat Statistik. 2019. *Op. cit.*

105 Badan Pusat Statistik. 2019. *Op. cit.*

106 The UN Comtrade reporting rules for the ultimate importer require that it identify not the immediate exporter but the country of origin as the corresponding export jurisdiction (see *Methodology Guide for UN Comtrade User*). As a result, data from “triangular trade” patterns may create volume anomalies like the one indicated in Figure 18. This anomaly on its own need not suggest any further issue. However, as the additional information presented demonstrates, the particular anomaly shown in Figure 18 indicates an apparent case of profit shifting.

107 Badan Pusat Statistik. 2019. *Op. cit.*

Figure 19. Dissolving pulp sent from Indonesia to China, 2016–2018



Sources: Badan Pusat Statistik and UN Comtrade.

In response to the findings in this report, APRIL stated in an email received on October 22, 2020 from Corporate Affairs Director Agung Laksmana:

As background, we explain that PT Riau Andalan Pulp & Paper (RAPP) has been producing Kraft Pulp since 1995 and in February 2016, RAPP obtained permission to produce Dissolving Pulp from BKPM [Indonesia’s Capital Investment Coordination Board]. After obtaining this permit, RAPP conducted a series of production trials for a new type of pulp which we named Acacia Eucalyptus (AE) Pulp, which is a modified kraft pulp. This type of pulp uses a new technology with a mixture of Acacia Crassiparva and Eucalyptus wood.

In 2016, RAPP conducted a 2-year collaboration for the use and quality improvement of AE Pulp with Sateri in China, with the hope that AE Pulp can be used as raw material for the viscose staple fiber industry. During this trial period, Sateri mixed AE pulp from RAPP in its production process with a certain compositional mixture with Dissolving Pulp to achieve the quality they wanted. The trial and error process and modification of the composition of the mixture took place intensively in this two year period.

Since AE Pulp’s product was still in the trial development stage, RAPP was still using the HS Code for Kraft or HS Code 4703.290000 until the specifications of this AE Pulp product met the standards expected by the buyer. And after 2 years of testing, Sateri confirmed that RAPP’s AE Pulp could achieve the same quality of or substitute for Dissolving Pulp in their production process. As a realization of the collaboration, RAPP has exported according to Sateri’s needs with the HS Code for Dissolving Pulp or HS Code 4702.000000.

18. APRIL's dissolving pulp exports to China

An estimate of the volumes of dissolving pulp that APRIL's Kerinci mill apparently exported and priced as paper-grade pulp during 2016–2018 can be derived by calculating the difference between China's reported dissolving pulp imports from Indonesia and the dissolving pulp that Toba Pulp apparently exported to China.

In 2016, when Toba Pulp was apparently not yet reporting dissolving pulp exports as such, Toba Pulp's exports of dissolving pulp can be estimated by the shipments it exported to China as paper-grade pulp that were labeled as "Toba Cell Eucalyptus Pulp" (HS 470329). (See Section II above for an explanation of Toba Pulp's apparent practice of exporting dissolving pulp misclassified as paper-grade pulp and described as "Toba Cell Eucalyptus Pulp".) In 2016, the total volume of these shipments by Toba Pulp was 154,646 tons.¹⁰⁸ By comparison, the volume of dissolving pulp imported into China from Indonesia in 2016 was 230,546 tons, according to China's reporting to UN Comtrade.¹⁰⁹ This means that 75,900 tons (i.e. the difference between the China reported imports and the estimated Toba Pulp exports) is presumed to be the amount of dissolving pulp that APRIL's Kerinci mill exported to China. This amount represents 84.3% of the "total volumes" of 90,000 tons of dissolving pulp that APRIL reported to NGOs as having been produced in 2016.¹¹⁰

In 2017, the volume of Toba Pulp's exports to China of pulp classified as paper-grade pulp and labeled as "Toba Cell Eucalyptus Pulp" (HS 470329) was 48,776 tons.¹¹¹ As described above, in March 2017, Toba Pulp publicly announced it was switching production to dissolving pulp, and from April 2017, Toba Pulp apparently exported dissolving pulp classified under the correct HS code (HS 470200). Indonesia reported that 120,745 tons of dissolving pulp was exported from Indonesia to China in 2017, all of it originating from Belawan port in North Sumatra.¹¹² Therefore, the estimate of Toba Pulp's total export volume of dissolving pulp to China in 2017 is 169,521 tons (i.e. the exports apparently misclassified as paper-grade BHKP and described as "Toba Cell Eucalyptus" added to the dissolving pulp exports classified under the correct HS code).

China reported that dissolving pulp imports from Indonesia in 2017 were 385,707 tons.¹¹³ Therefore, the difference between the dissolving pulp imports from Indonesia reported by China and the estimate of Toba Pulp's export volume of dissolving pulp to China is 216,186 tons. This volume is presumed to be the amount of dissolving pulp that APRIL's Kerinci mill exported to China in 2017. This figure is equivalent to 90% of the 240,000 tons of dissolving pulp that APRIL reported to NGOs as the volume produced by the Kerinci mill in 2017.¹¹⁴

In 2018, the volume of dissolving pulp reported as exported from Indonesia to China was 137,926 tons, and BPS data indicates that all of this originated in Belawan port, indicating it was exported by Toba Pulp.¹¹⁵

108 Commercial trade data provider of shipment-level Indonesia exports for BHKP.

109 UN Comtrade. *Op. cit.*

110 Email from APRIL Director of Sustainability and External Affairs, Lucita Jasmin, and Asia Pacific Rayon Vice President of Communications and Sustainability, Cherie Tan, to six NGOs (Environmental Paper Network, Greenpeace, Hutan Kita Institute, Jaringan Masyarakat Gambut Riau, Jikalahari, Woods & Wayside International, and Yayasan Auriga Nusantara), sent on December 17, 2018.

111 Commercial trade data provider of shipment level Indonesia exports for BHKP.

112 Badan Pusat Statistik. 2019. *Op. cit.*

113 UN Comtrade. *Op. cit.*

114 Email from APRIL Director of Sustainability and External Affairs, Lucita Jasmin, and Asia Pacific Rayon Vice President of Communications and Sustainability, Cherie Tan, to six NGOs (Environmental Paper Network, Greenpeace, Hutan Kita Institute, Jaringan Masyarakat Gambut Riau, Jikalahari, Woods & Wayside International, and Yayasan Auriga Nusantara), sent on December 17, 2018.

115 Badan Pusat Statistik. 2019. *Op. cit.*

In 2018, it is assumed that Toba Pulp classified all of its dissolving pulp exports under the correct HS code. China reported that the volume of dissolving pulp imports from Indonesia in 2018 was 573,727 tons.¹¹⁶ The difference between the reported dissolving pulp imports into China from Indonesia and the reported exports from Indonesia to China is 435,801 tons, and this is presumed to be the volume of dissolving pulp that APRIL's Kerinci mill exported to China in 2018. This volume is equivalent to 87% of the 500,000 tons that APRIL reported to NGOs as an estimate of APRIL Kerinci mill's dissolving pulp production in 2018.¹¹⁷

From January 2019, it appears that APRIL has started reporting dissolving pulp exports from Indonesia under the appropriate HS Code 470200. According to trade data, pulp exports from Buatan Port reported as dissolving pulp are priced significantly higher than exports from Buatan Port reported as paper-grade pulp.

19. APRIL's apparent under-statement of revenues

If APRIL did, in fact, classify dissolving pulp exports as paper-grade pulp, this would appear to have had a significant impact on the declared value of the company's exports from Indonesia and revenue reported to the Government of Indonesia. The average prices of exports from APRIL's mill in Kerinci for paper-grade pulp were well below the import prices of dissolving pulp to China from Indonesia during the period 2016–2018.

Indonesia's official trade data indicates that paper-grade pulp was exported from Buatan port to China (presumably all production from APRIL's Kerinci mill) at an average price of US\$ 417 per ton in 2016, \$458 per ton in 2017, and \$547 per ton in 2018.¹¹⁸ By comparison, dissolving pulp from Indonesia was imported to China at an average price of \$881 per ton in 2016, \$894 per ton in 2017, and \$928 per ton in 2018.¹¹⁹

Shipment level trade data of Indonesia exports indicates that all paper-grade pulp exports with the final destination of China from APRIL's producers PT Riau Andalan Pulp & Paper and PT Intiguna Primatama during the period 2016–2018 were made to affiliated marketing companies in Macao, Malaysia, and Singapore.¹²⁰ The related parties receiving the export shipments are: AP Enterprises (Macao Commercial Offshore) Limited; Alkira Trading (Macao Commercial Offshore) Limited; APRIL Far East (Malaysia) Sdn Bhd; and APRIL International Enterprise Pte Ltd. Whichever of these affiliated marketing companies in Macao, Malaysia, and Singapore may

116 UN Comtrade. *Op. cit.*

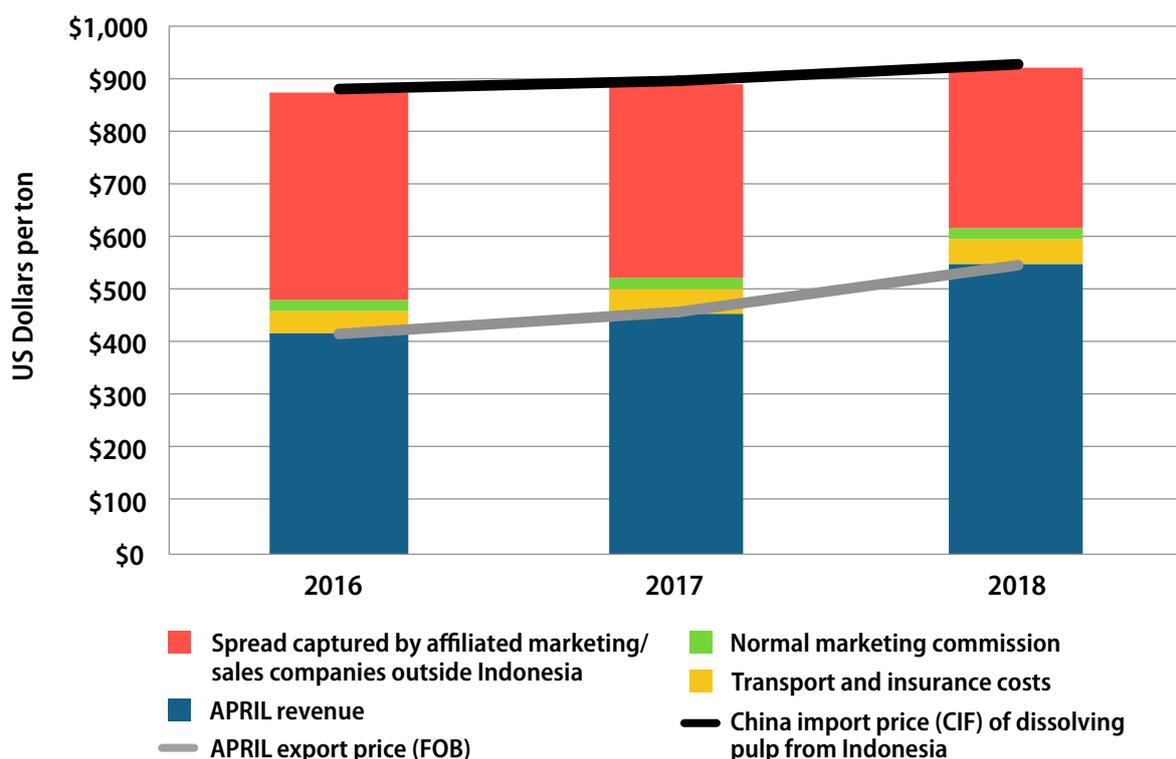
117 Email from APRIL Director of Sustainability and External Affairs, Lucita Jasmin, and Asia Pacific Rayon Vice President of Communications and Sustainability, Cherie Tan, to six NGOs (Environmental Paper Network, Greenpeace, Hutan Kita Institute, Jaringan Masyarakat Gambut Riau, Jikalahari, Woods & Wayside International, and Yayasan Auriga Nusantara), sent on December 17, 2018.

118 Badan Pusat Statistik. 2019. *Op. cit.* An examination of shipment level data obtained from a proprietary trade data provider for Indonesia exports indicates that the pricing of paper-grade pulp shipments from APRIL's two pulp exporters (PT Riau Andalan Pulp & Paper and PT Intiguna Primatama) did not show much variation, precluding the possibility that APRIL may have been reporting the pulp as paper-grade but pricing it at a higher value that reflected the market value for dissolving pulp.

119 UN Comtrade. *Op. cit.* An examination of shipment level data obtained from a proprietary trade data provider for China imports indicates that the average pricing of dissolving pulp shipments to Sateri mills from Indonesia closely corresponded to the overall average prices for all dissolving pulp imports to China from Indonesia during the period 2016–2018. It is important to note that in a 2018 sustainability "audit" by Rainforest Alliance, Sateri indicated that in September 2016 it discontinued sourcing dissolving pulp from Toba Pulp. This presumably means that after September 2016 all dissolving pulp to Sateri mills in China from Indonesia would have come from APRIL's mill, since APRIL's mill was the only producer of dissolving pulp in Indonesia other than Toba Pulp.

120 These businesses are listed as "Sales Administration Offices" on PT Riau Andalan Pulp & Paper and PT Intiguna Primatama's Chain of Custody Registration Certificate from the Programme for the Endorsement of Forest Certification (PEFC). This Registration Certificate from PEFC was issued on May 25, 2015, renewed on May 4, 2017, and expired on May 24, 2020 (it was subsequently renewed until May 24, 2025). Additionally, a complaint submitted to the Forest Stewardship Council (FSC) by Greenpeace International, WWF Indonesia, and Rainforest Action Network on May 13, 2013 about APRIL Group companies includes documentation on the links between APRIL Group and two of the related parties receiving export shipments: AP Enterprises (Macao Commercial Offshore) Limited and Alkira Trading (Macao Commercial Offshore) Limited (see [http://ic.fsc.org/download.april-group-complaing.1163.htm](http://ic.fsc.org/download/april-group-complaing.1163.htm)). The complaint led to dis-association of the APRIL Group and related companies from FSC.

Figure 20. Estimated distribution of per ton import price to China of dissolving pulp produced and apparently misclassified by the APRIL Group in Indonesia, 2016–2018



Sources: BPS; UN Comtrade; Transport costs are based on Fastmarkets RISI data for average annual freight costs (US\$ per ton) for BHKP shipments between Indonesia and Shanghai during 2016–2018. Insurance costs are estimated to be 0.6% of the net sales price of the product shipped.

Notes: Normal marketing commission is assumed to be fixed at 2%. The APRIL Group's selling price is expressed in FOB and importer buying price in CIF, so adjustments are made for transport and insurance costs, and a normal marketing commission.

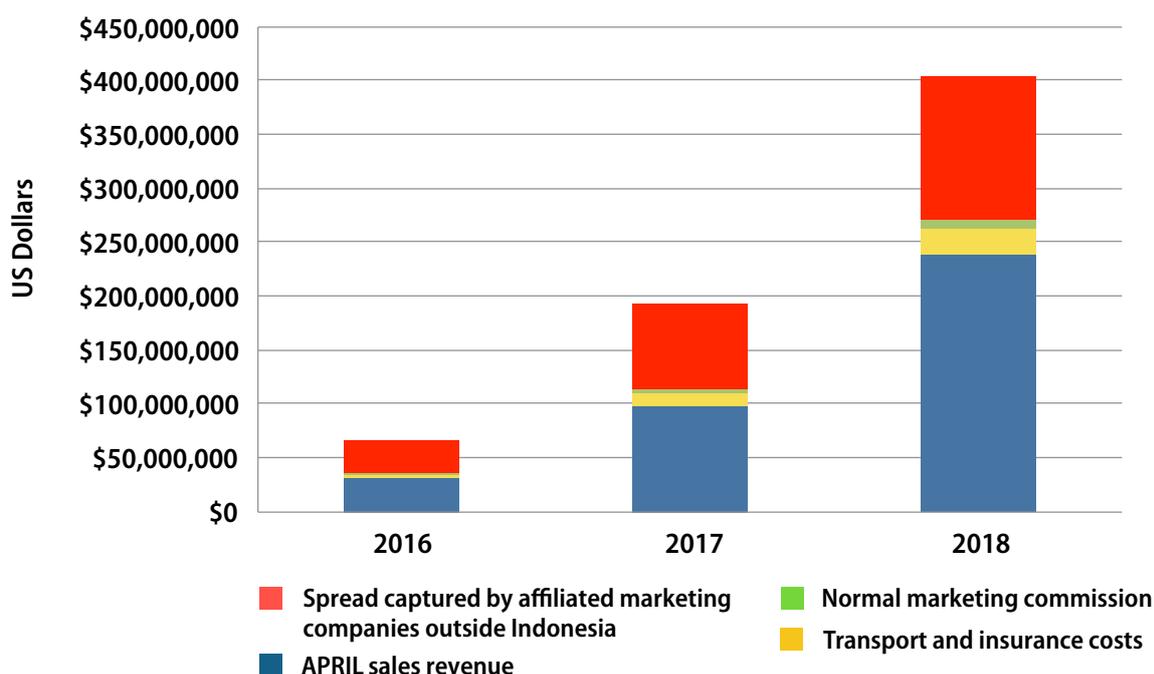
have been used to reclassify dissolving pulp originally classified as paper-grade pulp when it was exported from Indonesia apparently captured quite substantial spreads.

One or more of these marketing companies apparently captured spreads of approximately US\$ 396 per ton in 2016, US\$ 366 per ton in 2017, and US\$ 305 per ton in 2018 (see Figure 20). These estimated spreads are calculated by deducting the average annual FOB price for paper-grade pulp exports from Buatan port to China from the average CIF price for dissolving pulp imports to China from Indonesia, and adjusting for estimated freight and insurance costs¹²¹ and an assumed normal marketing commission of 2%. When the per ton spreads are multiplied by the volumes of dissolving pulp that APRIL is presumed to have exported from the Kerinci mill during this period – 75,900 tons in 2016, 216,186 tons in 2017, and 435,801 tons in 2018 – the overall amounts are considerable: US\$ 30 million in 2016, US\$ 79 million in 2017, and US\$ 133 million in 2018 (see Figure 21). Taken together, the estimates derived from these data indicate that APRIL's revenues reported in Indonesia from its dissolving pulp exports appear to have been under-stated by approximately US\$ 242 million (Rp. 3.35 trillion¹²²) during these three years.

121 Transport costs are based on Fastmarkets RISI data for average annual freight costs (US\$ per ton) for BHKP shipments between Indonesia and Shanghai during 2016–2018. Insurance costs are estimated to be 0.6% of the net sales price of the product shipped.

122 The conversion from US Dollars to Indonesian Rupiah is based on the official exchange rate calculated as an annual average based on monthly averages. The annual exchange rates for Indonesian Rupiah to US Dollars were accessed from the International Monetary Fund's International Financial Statistics. The exchange rates for 2007 to 2018 were applied to the corresponding annual totals of under-statement of revenue and potential tax loss.

Figure 21. Estimated distribution of total value of the APRIL Group’s dissolving pulp exported and apparently misclassified from Indonesia to China, 2016–2018



Sources: BPS; UN Comtrade; Commercial trade data provider; Transport costs are based on Fastmarkets RISI data for average annual freight costs (US\$ per ton) for BHKP shipments between Indonesia and Shanghai during 2016–2018. Insurance costs are estimated to be 0.6% of the net sales price of the product shipped; Shipment-level data from a commercial trade data provider for pulp export volumes.

Notes: Normal marketing commission is assumed to be fixed at 2%. The APRIL Group’s selling price is expressed in FOB and importer buying price in CIF, so adjustments are made for transport and insurance costs, and a normal marketing commission.

The amount of under-stated revenue could apparently have been booked as taxable profits within Indonesia if APRIL’s dissolving pulp exports had been correctly reported as such. In hypothetical terms, if it is assumed that this full amount were taxed at the statutory corporate tax rate of 25%, Indonesia’s tax authority could potentially have collected as much as US\$ 60 million (Rp. 838 billion) from the under-stated revenues estimated in this report.

It must be emphasized, of course, that the authors do not know the particular tax situation or the effective tax rate of the APRIL Group or its operating companies. A more specific estimation of the amount of tax that APRIL and/or its operating companies might have been required to pay to the Government of Indonesia had they not engaged in the profit shifting practices described in this report would require more detailed analysis of the companies’ profit and loss statements and their particular tax status under the Government’s fiscal policy.

Prakarsa, a Jakarta-based research organization, estimated in 2018 that between 1989 and 2017, trade misinvoicing losses from six of Indonesia's leading non-oil/gas export commodities – coal, copper, palm oil, rubber, coffee, and crustaceans – reached US\$ 40.58 billion.¹²⁸ Trade misinvoicing losses from coal exports alone, according to Prakarsa, accounted for US\$ 19.64 billion, leading to US\$ 5.32 billion in potential loss of tax revenue.

The profit shifting practices described in this report, as well as those responsible for the loss estimates above, are part of a broader set of activities called base erosion and profit shifting (BEPS). BEPS refers to “tax avoidance strategies that exploit gaps and mismatches in tax rules to artificially shift profits to low or no-tax locations.”¹²⁹ Indonesia's Ministry of Finance estimated in 2015 that the Government lost US\$ 15.6 billion from tax avoidance facilitated by profit shifting practices, mainly in the commodities sector.¹³⁰

A doctoral study submitted to Australian National University in 2018 used confidential tax return data for the period 2009–2015 to provide empirical evidence that profit shifting by multinational enterprises erodes Indonesia's corporate income tax base.¹³¹ Dr. Arnaldo Purba, whose research was completed while on academic leave from his staff position with the International Taxation Directorate of Indonesia's Directorate General of Taxes, established that transfer pricing, not debt financing, is the most important channel for profit shifting in Indonesia.

Profit shifting does not only affect the tax base of Indonesia. BEPS is recognized as a growing international problem that impacts almost every country in the world. Global estimates of government revenue losses from profit shifting practices range from US\$ 100 billion to more than US\$ 600 billion on an annual basis.¹³² The problem appears to impact developing countries disproportionately, with annual losses estimated in 2015 to be around US\$ 200 billion, according to researchers at the International Monetary Fund.¹³³

21. Regulatory reform efforts to curb profit-shifting practices

The Government of Indonesia seems to be well aware of the problems caused by profit shifting and is taking steps to address them, as are many other countries around the world. Minister of Finance, Sri Mulyani Indrawati, issued regulation Number 213/PMK.03/2016 in December 2016 (hereafter PMK-213) establishing more stringent documentation requirements for Indonesian taxpayers with related party transactions.¹³⁴

128 Prakarsa. 2019. “Highlighting Illicit Financial Flow of Indonesia's Top Six Export Commodities.” Policy Brief No. 17 (November). Jakarta: Prakarsa.

129 Organisation of Economic Development and Co-operation (OECD). 2019. “Base erosion and profit shifting.” OECD website. Accessed on May 16, 2019. <https://www.oecd.org/tax/beps/>.

130 Suroyo, Gayatri and Eveline Danubrata. 2015. “Indonesia to crack down on corporate tax avoidance.” Reuters, February 23, 2015. <https://www.reuters.com/article/us-indonesia-tax-taxavoidance-idUSKBN0LS05320150224>.

131 Purba, Arnaldo. 2018. Base Erosion and Profit Shifting in Indonesia. PhD thesis submitted to the Australian National University. July, 20, 2018. <https://openresearch-repository.anu.edu.au/handle/1885/148758>.

132 The OECD estimates US\$ 100 to US\$ 240 billion in annual revenue is lost due to BEPS. The UNCTAD *World Investment Report 2015* estimates revenue losses in developing countries alone to be US\$ 100 billion annually. An IMF working paper estimates overall losses at \$600 billion annually. Researchers from the Tax Justice Network estimated overall losses in 2012 to be \$660 billion from US multinationals.

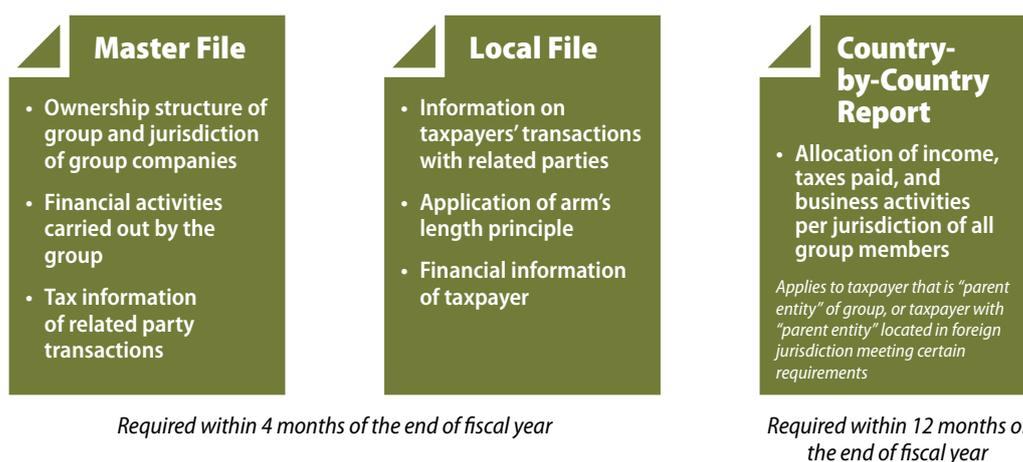
133 Crivelli, Ernesto, Ruud de Mooij, and Michael Keen. 2015. “Base Erosion, Profit Shifting, and Developing Countries.” IMF Working Paper WP/15/118 (May). Washington, DC: International Monetary Fund. <https://www.imf.org/external/pubs/ft/wp/2015/wp15118.pdf>.

134 Kementerian Keuangan. 2016. “Peraturan Menteri Keuangan Republik Indonesia Nomor 213/PMK.03/2016 tentang Jenis Dokumen dan/atau Informasi Tambahan yang Wajib Disimpan oleh Wajib Pajak yang Melakukan Transaksi dengan Para Pihak yang Mempunyai Hubungan Istimewa, dan Tata Cara Pengelolaannya.” Government of Indonesia. Ministry of Finance. December 30, 2016. <https://peraturanpajak.com/2017/01/06/pmk-213pmk-032016/>.

These requirements meet standards set out in Action 13 of the OECD, which describes a three-tiered approach to documentation of transfer pricing transactions, i.e. transactions between related parties. The Master File provides an overview of a multinational enterprise's (MNE's) business activities, supply chains, legal entity structure, and value drivers. The Local File focuses on an MNE's transactions within the country to which it is reporting, including transfer pricing practices, results, and comparability analyses. The Country-by-Country Report (CbC) includes information for each legal entity within the MNE group, including revenues, profit, income tax paid, assets, and number of employees.

Previously, the scope of transfer pricing documentation required under Indonesian regulations was only specific to operations in Indonesia. However, by using the three-tiered approach prescribed in OECD Action 13, PMK-213 has expanded the scope of documentation requirements to include ownership and financial information about the parent group's other subsidiaries in jurisdictions outside of Indonesia (see Figure 22). To be in compliance with PMK-213, taxpayers must report, among other information, the profit and tax paid by related parties in offshore jurisdictions with low tax rates.¹³⁵ While these documentation requirements alone are likely not sufficient to eradicate profit shifting practices, they mark an important recognition of the problem and an attempt to establish a baseline of information upon which law enforcement and further policy measures can build.

Figure 22. PMK-213 documentation requirements for related party transactions



Source: Kementerian Keuangan. 2016. "Peraturan Menteri Keuangan Republik Indonesia Nomor 213/PMK.03/2016 tentang Jenis Dokumen dan/atau Informasi Tambahan yang Wajib Disimpan oleh Wajib Pajak yang Melakukan Transaksi dengan Para Pihak yang Mempunyai Hubungan Istimewa, dan Tata Cara Pengelolaannya." Government of Indonesia. Ministry of Finance. December 30, 2016. <https://peraturanpajak.com/2017/01/06/pmk-213pmk-032016/>. Also see Deloitte. 2017. "Transfer Pricing Alert January 2017: Minister of Finance Regulation No. 213/PMK.03/2016." Jakarta: Deloitte Tax Solutions. January 11, 2017. <https://www2.deloitte.com/content/dam/Deloitte/id/Documents/tax/id-tax-alert-en-jan2017.pdf>.

In addition to country-specific reforms like those adopted by Indonesia, growing concern about profit shifting practices has led to promising global initiatives to combat them. Under the OECD, 80 nations – including Indonesia, China and tax haven jurisdictions like Macao, the Seychelles, and the British Virgin Islands (BVI)¹³⁶ – have agreed to share information in the Multilateral Competent Authority Agreement on Exchange of country-by-country reporting (CbC MCAA). More than 2,400 bilateral exchange relationships have been activated under this agreement since its initial implementation in June 2018, including between Indonesia and China.¹³⁷

¹³⁵ Under this regulation, Indonesian taxpayers are supposed to prepare this information within four months from the end of the fiscal year and to share it on demand (within one month) if requested by the Government auditors.

¹³⁶ Lomas, Ulrika. 2019. "BVI, Seychelles to automatically exchange CbC reports." Tax-News, September 13, 2019. https://www.tax-news.com/news/BVI_Seychelles_To_Automatically_Exchange_CbC_Reports___97313.html.

¹³⁷ Organisation of Economic Development and Co-operation (OECD). 2020. "Country-by-Country exchange relationships." OECD website. Accessed on January 24, 2020. <https://www.oecd.org/tax/beps/country-by-country-exchange-relationships.htm>.

Indonesia's regulatory reforms, in combination with the international instruments to facilitate exchange of information with other countries, are potentially powerful tools for the Government of Indonesia to combat profit-shifting practices more aggressively. It remains to be seen whether sufficient resources and political support for law enforcement efforts will be focused on the problem. One prominent case in which Indonesia's law enforcement apparatus prosecuted a major corporation for crimes related to profit shifting was that of PT Asian Agri, a palm oil conglomerate found guilty of tax evasion in 2012 (see Box 4).

Box 4. The Asian Agri Case

Despite the multi-billion dollar losses the Government of Indonesia faces from abusive profit-shifting practices, law enforcement measures targeting specific cases appear to be few. One notable example of such a case, however, involves PT Asian Agri, a leading producer of palm oil that is affiliated with the Royal Golden Eagle conglomerate. In December 2012, Indonesia's Supreme Court upheld the conviction of the former tax manager of Asian Agri on charges of "misreporting tax notification files" for 14 of the company's subsidiaries.¹³⁸

A 2014 article in the Bulletin for International Taxation summarized the case as follows:

[Asian Agri] established four paper companies in Hong Kong, one in Macau and one in the British Virgin Islands. Products were sold to end buyers first through companies in Hong Kong and then through either the company in Macau or the British Virgin Islands. Prices were set so as to reduce the profits of Indonesian entities and transfer higher profits to the jurisdictions in which the intermediaries were located. In this regard, the conviction was in respect of under-invoicing.¹³⁹

The Prosecutor's indictment in the case noted, "As a result of under-invoicing on the export sales, the profits reported by companies in Indonesia are lower than they should be so that the tax payable is less than it should be."¹⁴⁰ Following appeals, Indonesia's Supreme Court ordered Asian Agri to pay a fine of Rp 2.5 trillion (approximately US\$ 205 million) to the Government of Indonesia, representing twice the value of the tax allegedly evaded between 2002 and 2005, in addition to Rp. 1.9 trillion (approximately US\$ 156 million) in back taxes.¹⁴¹

Asian Agri's ultimate controlling shareholders are Sukanto Tanoto and members of the Tanoto family, who also are controlling shareholders of Toba Pulp, DP Macao, Sateri, and the companies operating under the APRIL Group.

138 Mahkamah Agung Republik Indonesia. 2012. No. 2239 K/PID.SUS/2012. Supreme Court of the Republic of Indonesia. <https://putusan3.mahkamahagung.go.id/direktori/putusan/2dec38361ab4193b649785cf9c668f52.html>. Dharmasaputra, Metta. 2007. Saksi Kunci [Key Witness]. Jakarta: Tempo Publishing.

139 Nugroho, Adrianto Dwi. 2014. "The Asian Agri Case (2012): The Giant Goes Berserk." Bulletin for International Taxation. 68 (8): 445-450. August. https://www.ibfd.org/IBFD-Products/Journal-Articles/Bulletin-for-International-Taxation/collections/bit/html/bit_2014_08_id_1.html.

140 Mahkamah Agung Republik Indonesia. 2012. *Op. cit.* Dharmasaputra. 2013. *Op. cit.*

141 *Jakarta Post*. 2014. "Tax Court rejects Asian Agri's appeal." November 6, 2014. <https://www.thejakartapost.com/news/2014/11/06/taxcourt-rejects-asian-agri-s-appeal.html>.

22. Improving export performance while increasing Customs vigilance

Still, it is unclear that more comprehensive transfer pricing documentation requirements alone will be sufficient to detect cases like the ones described in this report. Without increased vigilance from Customs inspectors, tax authorities would have little basis to know that Toba Pulp or APRIL may have exported dissolving pulp at artificially low prices.

Unfortunately, Indonesia's current trade regulations appear to be making Customs procedures less stringent in an effort to reduce export wait times at ports. The Government of Indonesia's efforts to streamline the export process is understandable as it seeks to limit the country's trade deficit and attract foreign investors. However, relaxing Customs checks and verification can also have the opposite effect. If companies' export declarations are not thoroughly verified to detect under-valued exports, this can have a negative impact on Indonesia's trade deficit and tax base. The experience of the APRIL Group may provide a useful example.

In February 2017, several companies affiliated with the APRIL Group received Authorized Economic Operator (AEO) status from the Customs Service. AEO status gave the two companies that export pulp from APRIL's pulp mill in Riau – PT Riau Andalan Pulp & Paper and PT Intiguna Primatama – permission to conduct self-assessments for their exports.¹⁴² At the time of granting this status, the Head of the Customs Service stated, "No more physical and documentary checks are needed because we have verified them [the companies receiving AEO] for months, so the [status] will not be misused."¹⁴³ The AEO status, that is, was granted just months after the APRIL Group started the apparent profit shifting practices documented in this report.

Indonesian President Jokowi has instructed his administration to improve export performance. To this end, the Ministry of Finance has built information technology systems that aim to reduce export costs, decrease processing time, and improve service quality. The Government of Indonesia has gone to great efforts to build and implement the Indonesia National Single Window (INSW)¹⁴⁴ and the Customs-Excise Information System and Automation (CEISA)¹⁴⁵. These facilities cut wait times and export costs, but they could be better leveraged for detecting trade misinvoicing and other profit shifting practices if they incorporated artificial intelligence systems. Similarly, the integration of data between the Directorate General of Customs and relevant ministries and agencies would improve export controls. Production data from the Ministry of Industry, for example, could be integrated into the CEISA portal, thereby limiting the possibilities for exporters to misreport HS codes.

142 Antara. 2017. *Op. cit.*

143 Antara. 2017. *Op. cit.* [Note: Comment translated from bahasa]

144 Lembaga National Single Window. 2020. "Indonesia National Single Window." Government of Indonesia. Ministry of Finance. National Single Window Agency. <https://www.insw.go.id/index.php>.

145 Direktorat Jenderal Bea dan Cukai. 2020 "Customs-Excise Information System and Automation." DJBC website. Government of Indonesia. Ministry of Finance. Directorate General of Customs and Excise. <https://customer.beacukai.go.id/>.

that Toba Pulp and/or APRIL had understated taxable revenues, collection of these could represent a significant boost to tax collection and send a powerful signal to Indonesia's corporate sector.¹⁴⁷ These cases may also encourage tax authorities and civil society to scrutinize other companies deploying profit shifting practices to minimize tax liability. Greater scrutiny of these types of arrangements could significantly enhance the effectiveness of Indonesia's tax collection efforts and reduce the flow of profits generated within Indonesia to low-tax jurisdictions offshore.

In the case of Toba Pulp, it must be noted that the firm is listed on the Indonesia Stock Exchange. Under regulations issued by the Financial Services Authority (*Otoritas Jasa Keuangan*, OJK), publicly owned companies are required to disclose any information and facts concerning their operations and activities that may be material to investors and shareholders.¹⁴⁸ Presumably, these standards require listed companies to disclose accurately and in sufficient detail the type of product they produce and sell, and to report accurately the value of their products both on the bills of lading when these are shipped to buyers and on the company's balance sheet when it is audited. The findings presented in this report warrant careful scrutiny by OJK to determine whether Toba Pulp adequately disclosed all information and material facts concerning its production and sale of dissolving pulp during the period analyzed.

More generally, the apparent use of profit shifting practices by Indonesia's dissolving pulp producers raises fundamental questions about how the benefits of natural resource exploitation are shared within Indonesia. Indonesia's Constitution, under Article 33, stipulates that the country's natural resources must be managed for the maximum benefit of its citizens. It is difficult to see how Indonesia is achieving this goal if the practices documented in this report are allowed to persist.

147 From fiscal year 2008 onwards, the statute of limitations for Indonesia's tax authority to issue an underpayment tax assessment has been five years, or 10 years for criminal acts. (See Deloitte. 2018. "Indonesia Tax Guide 2018." August 31, 2018. <https://www2.deloitte.com/content/dam/Deloitte/cn/Documents/international-business-support/deloitte-cn-ibs-indonesia-tax-guide-2018-en-190227.pdf>.)

148 Otoritas Jasa Keuangan (OJK). 2015. "Peraturan Otoritas Jasa Keuangan Nomor 31 /POJK.04/2015 tentang Keterbukaan Atas Informasi atau Fakta Material Oleh Emiten atau Perusahaan Publik." [OJK Regulation No. 31/POJK.04/2015 on Disclosure of Information and Material Facts by Issuers and Public Companies]. Government of Indonesia. Financial Services Authority. December 16, 2015. <https://www.ojk.go.id/id/kanal/pasar-modal/regulasi/peraturan-ojk/Documents/Pages/pojk-31-keterbukaan-atas-informasi-fakta-material-oleh-emiten-perusahaan-publik/SALINAN-POJK%20Keterbukaan%20Informasi%20Emiten.pdf>.



SECTION VII: RECOMMENDATIONS

24. Recommendations for the Government of Indonesia

The coalition of civil society organizations publishing this report calls on the Government of Indonesia to implement the following recommendations:

1. The Directorate General of Taxation should audit the financial statements of PT Toba Pulp Lestari Tbk to determine whether the company has fairly and accurately stated its taxable revenues and fully complied with prevailing laws and regulations concerning transfer pricing and trade invoicing.
2. The Directorate General of Taxation should audit the financial statements of the APRIL Group's operating, marketing, and holding companies involved in producing and exporting dissolving pulp to determine whether they have fairly and accurately stated their taxable revenues and fully complied with prevailing laws and regulations concerning transfer pricing and trade invoicing.
3. The Financial Services Authority (*Otoritas Jasa Keuangan, OJK*) should review the audited financial statements and other corporate reports filed by PT Toba Pulp Lestari Tbk to determine whether the company has adequately disclosed all information and material facts that they are required to provide to investors and shareholders.
4. The Customs Authority should investigate whether PT Toba Pulp Lestari Tbk and the APRIL Group (and its operating, marketing, and holding companies) are in compliance with all laws and regulations that govern the classification of pulp exports according to the correct HS code and the reporting of prices that legitimately reflect the value of the products being shipped.
5. The Corruption Eradication Commission (*Komisi Pemberantasan Korupsi, KPK*) should investigate whether the Customs Authority has conducted adequate oversight of Indonesia's exports of dissolving pulp and whether the profit shifting practices analyzed in this report have resulted in any fiscal losses to the Government of Indonesia.
6. The Ministry of Finance and KPK should conduct a joint multi-sector assessment to determine whether companies operating in Indonesia's natural resources sectors are using trade misinvoicing and/or abusive transfer pricing schemes to evade corporate tax payments to the Government of Indonesia.

SOURCES CITED

- Accounting and Corporate Regulatory Authority (ACRA). 2020. "Pinnacle Company Pte. Ltd." Business Profile. Government of Singapore. February 17, 2020.
- Akbar, Sofyan. 2019. "Walhi Sumut: Konflik agraria jadikan masyarakat sebagai korban." *Tribun Medan*, November 28, 2019. <https://medan.tribunnews.com/2019/11/28/walhi-sumut-konflik-agraria-jadikan-masyarakat-sebagai-korban>.
- Akhlas, Adrian Wail. 2020. "World Bank calls for stronger tax collection to bring 115 million Indonesians into middle class." *Jakarta Post*, January 31, 2020. <https://www.thejakartapost.com/news/2020/01/31/world-bank-calls-for-stronger-tax-collection-to-bring-115-million-indonesians-into-middle-class.html>.
- Akitoby, Bernardin, Anja Baum, Clay Hackney, Olamide Harrison, Keyra Primus and Veronique Salins. 2019. "Tax Revenue Mobilization Episodes in Developing Countries." *Policy Design and Practice* 3 (1): 1–29. <https://www.tandfonline.com/doi/full/10.1080/25741292.2019.1685729>.
- Alecci, Scilla. 2017. "Leaked records reveal offshore's role in forest destruction." International Consortium of Investigative Journalists. November 8, 2017. <https://www.icij.org/investigations/paradise-papers/leaked-records-reveal-offshores-role-in-forest-destruction/>.
- Antara. 2017. "4 perusahaan APRIL raih sertifikasi AEO dari Bea Cukai." *Antarnews.com*. February 21, 2017. <https://riau.antarnews.com/berita/86322/4-perusahaan-april-raih-sertifikasi-aeo-dari-bea-cukai>.
- APRIL. 2018. Sustainability Report 2017. Singapore: Asia Pacific Resources International Holdings Ltd. https://www.aprilasia.com/images/pdf_files/sr/APRIL%20SR%202017_Interactive.pdf.
- APRIL Group. 1998. "APRIL switches part of production to dissolving pulp and increases paper pulp price." Press Release. *PR Newswire*, March 26, 1998.
- Badan Pusat Statistik. 2019a. "Export data 2007–2018 for HS Code 4703290000 (Chemical wood pulp, soda, other than dissolving grades, bleached, non con)." Government of Indonesia. Central Statistics Bureau.
- Badan Pusat Statistik. 2019b. "Export data 2007–2018 for HS Code 4702000000 (Chemical wood pulp, dissolving grades)." Government of Indonesia. Central Statistics Bureau.
- Borsuk, Richard. 2002. "Toba Pulp to dismantle Indonesian rayon plant." *Wall Street Journal*, July 5, 2020.
- Bracell Limited. 2016. "(1) Proposed privatisation of Bracell Limited by BHL Limited by way of a scheme of arrangement under Section 99 of the Companies Act of Bermuda and (2) Proposed withdrawal of listing of Bracell Limited." Document jointly issued by Bracell Limited and BHL Limited. August 30, 2016. <https://www1.hkexnews.hk/listedco/listconews/sehk/2016/0829/lt20160829301.pdf>.
- Changing Markets Foundation, WALHI Jawa Barat, Ecologistas en Acción, and Ethical Consumer. 2017. "Dirty Fashion: How Pollution in the Global Textiles Supply Chain is Making Viscose Toxic." June. http://changingmarkets.org/wp-content/uploads/2017/06/CHANGING_MARKETS_DIRTY_FASHION_REPORT_SPREAD_WEB.pdf.

- CNN Indonesia. 2019. "Pemerintah ubah pengawasan di 119 kawasan berikat jadi online." September 20, 2019. <https://www.cnnindonesia.com/ekonomi/20190919173121-532-432046/pemerintah-ubah-pengawasan-di-119-kawasanberikat-jadi-online>.
- Cobham, Alex. 2005. "Taxation Policy and Development." OCGG Economy Analysis Number 2. Oxford: The Oxford Council on Good Governance. http://taxjustice.net/cms/upload/pdf/OCGG_-_Alex_Cobham_-_Taxation_Policy_and_Development.pdf.
- Crivelli, Ernesto, Ruud de Mooij, and Michael Keen. 2015. "Base Erosion, Profit Shifting, and Developing Countries." IMF Working Paper WP/15/118 (May). Washington, DC: International Monetary Fund. <https://www.imf.org/external/pubs/ft/wp/2015/wp15118.pdf>.
- Cuddy, Alice. 2017. "'Give us back our land': Paper giants struggle to resolve conflicts with communities in Sumatra." *Mongabay*, June 9, 2017. <https://news.mongabay.com/2017/06/give-us-back-our-land-paper-giants-struggle-to-resolve-conflicts-withcommunities-in-sumatra/>.
- Deloitte. 2017. "Transfer Pricing Alert January 2017: Minister of Finance Regulation No. 213/PMK.03/2016." Jakarta: Deloitte Tax Solutions. January 11, 2017. <https://www2.deloitte.com/content/dam/Deloitte/id/Documents/tax/id-tax-alert-en-jan2017.pdf>.
- Deloitte. 2018. "Indonesia Tax Guide 2018." August 31, 2018. <https://www2.deloitte.com/content/dam/Deloitte/cn/Documents/international-business-support/deloitte-cn-ibs-indonesia-tax-guide-2018-en-190227.pdf>.
- Detik*. 2007. "Pinnacle Company incar saham Toba Pulp Lestari." October 19, 2007. <https://finance.detik.com/bursa-danvalas/d-842647/pinnacle-company-incar-saham-toba-pulp-lestari>.
- Dharmasaputra, Metta. 2007. *Saksi Kunci* [Key Witness]. Jakarta: Tempo Publishing.
- Direktorat Jenderal Administrasi Hukum Umum (Ditjen AHU). 2020. "Profil Perusahaan PT Toba Pulp Lestari Tbk." Company Profile. Government of Indonesia. Ministry of Law and Human Rights. Directorate General of General Law Administration. February 17, 2020.
- Direktorat Jenderal Bea dan Cukai. 2020 "Customs-Excise Information System and Automation." DJBC website. Government of Indonesia. Ministry of Finance. Directorate General of Customs and Excise. <https://customer.beacukai.go.id/>.
- Direktorat Jenderal Bea dan Cukai. 2020. "AEO." DJBC website. Government of Indonesia. Ministry of Finance. Directorate General of Customs and Excise. Accessed on February 20, 2020. <http://kwbckepri.beacukai.go.id/aeo/>.
- Direktorat Jenderal Pajak. 2011. "Peraturan Direktur Jenderal Pajak Nomor PER-32/PJ/2011 tentang Perubahan atas Peraturan Dirketur Jenderal Pajak Nomor PER-43/PJ/2010 tentang Penerapan prinsip kewajaran dan kelaziman usaha dalam transaksi antara wajib pajak dengan pihak yang mempunyai hubungan istimewa." Government of Indonesia. Ministry of Finance. Directorate General of Taxation. November 11, 2011. https://www.pajak.go.id/sites/default/files/2019-04/PER%20-%202032.PJ_.2011%20tg%20Perubahan%20PER-43.PJ_.2010%20tg%20Penerapan%20Prinsip%20Kewajaran%20dan%20Kelaziman%20Usaha%20.pdf.

ETCN. 2020. "China HS Code Search." <https://hs.e-to-china.com/ks-470200.html>.

Fastmarkets RISI. 2019. "World Pulp Annual Historical Data 2018." Burlington, Massachusetts.

Gaworecki, Mike. 2014. "Dissolving pulp: the threat to Indonesia's forests you've probably never heard of." *Mongabay*, September 23, 2014. <https://news.mongabay.com/2014/09/dissolving-pulp-the-threat-to-indonesias-forestsyouve-probably-never-heard-of/>.

Global Financial Integrity. 2020. "Trade Misinvoicing." Washington, DC. Accessed on February 20, 2020. <https://www.gfintegrity.org/issue/trademisinvoicing/>.

Global Financial Integrity. 2019. "Indonesia: Potential Revenue Losses Associated with Trade Misinvoicing." Washington, DC. <https://gfintegrity.org/report/indonesia-potential-revenue-losses-associated-with-trade-misinvoicing/>.

Government of Indonesia. 2018. "Peraturan Presiden Republik Indonesia, Nomor 13 Tahun 2018 tentang Penerapan Prinsip Mengenali Pemilik Manfaat dari Korporasi dalam Rangka Pencegahan dan Pemberantasan Tindak Pidana Pencucian Uang dan Tindak Pidana Pendanaan Terorisme." March 5, 2018.

Government of Indonesia. 2008. "Undang-Undang Republik Indonesia Nomor 36 Tahun 2008 tentang Perubahan Keempat atas Undang-Undang Nomor 7 Tahun 1983 tentang Pajak Penghasilan." September 23, 2008.

Gunawan, Apriadi. 2012. "Paper mill deploys force in land conflict." *Jakarta Post*, September 22, 2020. <https://www.thejakartapost.com/news/2012/09/22/paper-mill-deploys-force-land-conflict.html>.

Harahap, Rizal. 2020. Jokowi officiates Asia Pacific Rayon plant in Riau. *Jakarta Post*. February 22, 2020. <https://www.thejakartapost.com/news/2020/02/22/jokowi-officiates-asia-pacific-rayon-plant-in-riau-islands.html>.

International Accounting Standards Board. 2019. "IAS 24 Related Party Disclosures." IFRS Foundation website. <https://www.ifrs.org/issued-standards/list-of-standards/ias-24-related-party-disclosures/>.

Jakarta Post. 2014. "Tax Court rejects Asian Agri's appeal." November 6, 2014. <https://www.thejakartapost.com/news/2014/11/06/taxcourt-rejects-asian-agri-s-appeal.html>.

Karokaro, Ayat S. 2017. "Berkonflik lahan dengan Toba Pulp Lestari, Ketua Adat Tungko Ni Solu terjerat hukum." *Mongabay*, May 10, 2017. <https://www.mongabay.co.id/2017/05/10/berkonflik-lahan-dengan-toba-pulp-lestari-ketua-adat-tungko-ni-solu-terjerat-hukum/>.

Katadata. 2020. "Investigasi: Akal-akalan Toba Pulp melipat untung ekspor bubuk kayu." February 7, 2020. <https://katadata.co.id/telaah/2020/02/07/investigasi-akal-akalan-toba-pulp-melipat-untung-ekspor-bubur-kayu/0>.

KBR. 2020. "Dugaan manipulasi dokumen ekspor Toba Pulp Lestari." February 5, 2020. https://kbr.id/berita/02-2020/dugaan_manipulasi_dokumen_ekspor_toba_pulp_lestari_/102174.html.

Kementerian Keuangan. 2016. "Peraturan Menteri Keuangan Republik Indonesia Nomor 213/PMK.03/2016 tentang Jenis Dokumen dan/atau Informasi Tambahan yang Wajib Disimpan oleh Wajib Pajak yang Melakukan Transaksi dengan Para Pihak yang Mempunyai Hubungan Istimewa, dan Tata Cara Pengelolaannya." Government of Indonesia. Ministry of Finance. December 30, 2016. <https://peraturanpajak.com/2017/01/06/pmk-213pmk-032016/>.

Kementerian Lingkungan Hidup dan Kehutanan. 2015. Indonesia's Timber Legality Information System (Sistem Informasi Legalitas Kayu, or SILK). Government of Indonesia. Ministry of Environment and Forestry. <http://silk.dephut.go.id/>.

Kementerian Lingkungan Hidup dan Kehutanan. 2019. "Basis Data Geospasial Lingkungan Hidup dan Kehutanan Tahun 2019." Government of Indonesia. Ministry of Environment and Forestry. <http://appgis.dephut.go.id/appgis/download/1.5.%20Buku%20BASIS%20DATA%20SPASIAL%20KEHUTANAN/BUKU%20BASIS%20DATA%20GEOSPASIAL%202019.pdf>.

Kementerian Lingkungan Hidup dan Kehutanan. 2019. "PT Toba Pulp Lestari Tbk – Laporan Rencana dan Realisasi Pemenuhan Bahan Baku Industri Primer Hasil Hutan Kayu." Government of Indonesia. Ministry of Environment and Forestry.

Kementerian Lingkungan Hidup dan Kehutanan. 2018. "PT Toba Pulp Lestari Tbk – Laporan Rencana dan Realisasi Pemenuhan Bahan Baku Industri Primer Hasil Hutan Kayu." Government of Indonesia. Ministry of Environment and Forestry.

Kementerian Lingkungan Hidup dan Kehutanan. 2017. "PT Toba Pulp Lestari Tbk – Laporan Rencana dan Realisasi Pemenuhan Bahan Baku Industri Primer Hasil Hutan Kayu." Government of Indonesia. Ministry of Environment and Forestry.

Kontan Harian. 2015. Riau Andalan Bikin Produk Pulp Larut. February 25, 2015. <https://kemenperin.go.id/artikel/11218/Riau-Andalan-Bikin-Produk-Pulp-Larut>.

KPMG. 2019. "Corporate tax rates table." KPMG International website. <https://home.kpmg/xx/en/home/services/tax/tax-tools-and-resources/tax-rates-online/corporate-tax-rates-table.html>.

Kravchenko, Alexey. 2018. "Where and How to Dodge Taxes and Shift Money Abroad Using Trade Misinvoicing: A Beginner's Guide." Trade, Investment, and Innovation Working Paper Series No. 1. Bangkok: United Nations Economic and Social Commission for Asia and the Pacific (ESCAP). Trade, Investment, and Innovation Division. https://www.unescap.org/sites/default/files/publications/Where_and_how_to_dodge_taxes_and_shift_money_abroad_using_trade_misinvoicing_A_beginner%E2%80%99s_guide_0.pdf.

Lansdell, O. 2017. The outlook for dissolving wood pulp supply and demand. Hawkins Wright Ltd. May 2017. https://cellulosefibres.eu/wp-content/uploads/2019/04/LansdellOliver_Abstract.pdf.

Lembaga National Single Window. 2020. "Indonesia National Single Window." Government of Indonesia. Ministry of Finance. National Single Window Agency. <https://www.insw.go.id/index.php>.

Lomas, Ulrika. 2019. "BVI, Seychelles to automatically exchange CbC reports." *Tax-News*, September 13, 2019. https://www.tax-news.com/news/BVI_Seychelles_To_Automatically_Exchange_CbC_Reports____97313.html.

- Mahkamah Agung Republik Indonesia. 2012. No. 2239 K/PID.SUS/2012. Supreme Court of the Republic of Indonesia. <https://putusan3.mahkamahagung.go.id/direktori/putusan/2dec38361ab4193b649785cf9c668f52.html>.
- Marini, Marco, Robert Dipplesman and Michael Stanger. 2018. "New Estimates for Direction of Trade Statistics." IMF Working Paper WP/18/16 (January). Washington, DC: International Monetary Fund. <https://www.imf.org/~media/Files/Publications/WP/2018/wp1816.ashx>.
- Miao, Guannan and Fabienne Fortanier. 2017. "Estimating Transport and Insurance Costs of International Trade." OECD Statistics Working Papers 2017/04. Paris: Organisation for Economic Co-operation and Development. <https://www.oecd-ilibrary.org/docserver/8267bb0f-en.pdf>.
- Nugroho, Adrianto Dwi. 2014. "The Asian Agri Case (2012): The Giant Goes Berserk." *Bulletin for International Taxation*. 68 (8): 445-450. August. https://www.ibfd.org/IBFD-Products/Journal-Articles/Bulletin-for-International-Taxation/collections/bit/html/bit_2014_08_id_1.html.
- Organisation of Economic Development and Co-operation (OECD). 2020. "Country-by-Country exchange relationships." OECD website. Accessed on January 24, 2020. <https://www.oecd.org/tax/beps/country-by-country-exchange-relationships.htm>.
- Organisation of Economic Development and Co-operation (OECD). 2019. "Base erosion and profit shifting." OECD website. Accessed on May 16, 2019. <https://www.oecd.org/tax/beps/>.
- Otoritas Jasa Keuangan (OJK). 2015. "Peraturan Otoritas Jasa Keuangan Nomor 31 /POJK.04/2015 tentang Keterbukaan Atas Informasi atau Fakta Material Oleh Emiten atau Perusahaan Publik." [OJK Regulation No. 31/POJK.04/2015 on Disclosure of Information and Material Facts by Issuers and Public Companies]. Government of Indonesia. Financial Services Authority. December 16, 2015. <https://www.ojk.go.id/id/kanal/pasar-modal/regulasi/peraturan-ojk/Documents/Pages/pojk-31-keterbukaan-atas-informasi-fakta-material-oleh-emiten-perusahaan-publik/SALINAN-POJK%20Keterbukaan%20Informasi%20Emiten.pdf>.
- Prakarsa. 2019. "Highlighting Illicit Financial Flow of Indonesia's Top Six Export Commodities." Policy Brief No. 17 (November). Jakarta: Prakarsa.
- Programme for the Endorsement of Forest Certification (PEFC). 2015. "PT Riau Andalan Pulp and Paper." PEFC Certification – Chain of Custody. AJAEU/PEFC/15/00068. Original Registration Date. Expiring Date May 4, 2020.
- PT Toba Pulp Lestari Tbk. 2020a. "Response – PT Toba Pulp Lestari Tbk." Medan, Indonesia. Company announcement. February 3, 2020. <https://www.tobapulp.com/wp-content/uploads/2020/02/Respose-TPL-3-Feb-2020.pdf>.
- PT Toba Pulp Lestari Tbk. 2020b. "Laporan Bulanan Registrasi Pemegang Efek." Medan, Indonesia. Corporate filing number 003/TPL/MDN/I/20(EReport). January 8, 2020. https://www.idx.co.id/StaticData/NewsAndAnnouncement/ANNOUNCEMENTSTOCK/From_EREP/202001/445253b404_fe51cb1b20.pdf.
- PT Toba Pulp Lestari Tbk. 2020c. "Penjelasan atas Pemberitaan Media Massa." February 5, 2020. https://www.idx.co.id/StaticData/NewsAndAnnouncement/ANNOUNCEMENTSTOCK/From_EREP/202002/43d7216f94_a75786ea1f.pdf.

PT Toba Pulp Lestari Tbk. 2019a. *Annual Report 2018* [including Financial Statements as of December 31, 2018 and 2017 and Independent Auditors' Report]. Medan, Indonesia. <https://www.tobapulp.com/wp-content/uploads/2019/05/LAPORAN-TAHUNAN-INRU-2018.pdf>.

PT Toba Pulp Lestari Tbk. 2019b. "Announcement – PT Toba Pulp Lestari switched to producing pulp-dissolving grade." Company announcement. Medan, Indonesia. April 24, 2019. <https://www.tobapulp.com/wp-content/uploads/2019/04/Announcement-24-April-2019.pdf>.

PT Toba Pulp Lestari Tbk. 2018a. *Annual Report 2017* [including Financial Statements as of December 31, 2017 and 2016 and Independent Auditors' Report]. Medan, Indonesia. https://www.idx.co.id/StaticData/NewsAndAnnouncement/ANNOUNCEMENTSTOCK/From_EREP/201804/72dd0fc290_9817598229.pdf.

PT Toba Pulp Lestari Tbk. 2018b. "Announcement – PT Toba Pulp Lestari switched to producing paper pulp." Company announcement. Medan, Indonesia. May 10, 2018. <https://www.tobapulp.com/wp-content/uploads/2018/05/Announcement.pdf>.

PT Toba Pulp Lestari Tbk. 2018c. Letter to Director of Indonesia Stock Exchange from Anwar Lawden, S.H. Company announcement. Medan, Indonesia. May 11, 2018. https://www.idx.co.id/StaticData/NewsAndAnnouncement/ANNOUNCEMENTSTOCK/From_EREP/201805/e4f56b8448_e1aa3b29b1.pdf.

PT Toba Pulp Lestari Tbk. 2017a. *Annual Report 2016* [including Financial Statements as of December 31, 2016 and 2015 and Independent Auditors' Report]. Medan, Indonesia. <https://www.tobapulp.com/wp-content/uploads/2017/07/TPL-AR-2016-Report-s.pdf>.

PT Toba Pulp Lestari Tbk. 2017b. "Keterbukaan informasi kepada pemegang saham mengenai rencana transaksi material dan transaksi afiliasi PT Toba Pulp Lestari Tbk." [Disclosure of information to shareholders about material and affiliated transaction of PT Toba Pulp Lestari Tbk.] Medan, Indonesia. Company announcement. November 22, 2017. <https://www.tobapulp.com/wp-content/uploads/2019/01/Keterbukaan-Information-Transaksi-Material-dan-Afiliasi-Perjanjian-Pinjam-Meminjam-22-November-2017.pdf>.

PT Toba Pulp Lestari Tbk. 2017c. "Letter to Director of Indonesia Stock Exchange from Vinod Kesavan." Medan, Indonesia. March 3, 2017. https://www.idx.co.id/StaticData/NewsAndAnnouncement/ANNOUNCEMENTSTOCK/From_EREP/201703/c623e30904_dd00a72ac7.pdf.

PT Toba Pulp Lestari Tbk. 2016. *Annual Report 2015* [including Financial Statements as of December 31, 2015 and 2014 and Independent Auditors' Report]. Medan, Indonesia. https://www.tobapulp.com/wp-content/uploads/2017/05/INRU_Annual-Report_2015.pdf.

PT Toba Pulp Lestari Tbk. 2015. *Annual Report 2014* [including Financial Statements as of December 31, 2014 and 2013 and Independent Auditors' Report]. Medan, Indonesia. https://www.tobapulp.com/wp-content/uploads/2017/05/INRU_Annual-Report_2014.pdf.

PT Toba Pulp Lestari Tbk. 2014. *Annual Report 2013* [including Financial Statements as of December 31, 2013 and 2012 and Independent Auditors' Report]. Medan, Indonesia. https://www.tobapulp.com/wp-content/uploads/2017/05/INRU_Annual-Report_2013.pdf.

PT Toba Pulp Lestari Tbk. 2013. *Annual Report 2012* [including Financial Statements as of December 31, 2012 and 2011 and Independent Auditors' Report]. Medan, Indonesia. https://www.tobapulp.com/wp-content/uploads/2017/05/INRU_Annual_Report_2012.pdf.

PT Toba Pulp Lestari Tbk. 2012. *Annual Report 2011* [including Financial Statements as of December 31, 2011 and 2010 and Independent Auditors' Report]. Medan, Indonesia. https://www.tobapulp.com/wp-content/uploads/2017/05/INRU_Annual-Report_2011.pdf.

PT Toba Pulp Lestari Tbk. 2011. *Annual Report 2010* [including Financial Statements as of December 31, 2010 and 2009 and Independent Auditors' Report]. Medan, Indonesia. https://www.tobapulp.com/wp-content/uploads/2017/05/INRU_Annual-Report_2010.pdf.

PT Toba Pulp Lestari Tbk. 2010. *Annual Report 2009* [including Financial Statements as of December 31, 2009 and 2008 and Independent Auditors' Report]. Medan, Indonesia. https://www.tobapulp.com/wp-content/uploads/2017/05/INRU_Annual-Report_2009.pdf.

PT Toba Pulp Lestari Tbk. 2009. *Annual Report 2008* [including Financial Statements as of December 31, 2008 and 2007 and Independent Auditors' Report]. Medan, Indonesia. https://www.tobapulp.com/wp-content/uploads/2017/03/INRU_Annual-Report_2008.pdf.

PT Toba Pulp Lestari Tbk. 2008. *Annual Report 2007* [including Financial Statements as of December 31, 2007 and 2006 and Independent Auditors' Report]. Medan, Indonesia.

Pulp & Paper International. 2003. "Toba Pulp Lestari prepares to roll again." 45:3 (April).

Purba, Arnaldo. 2018. *Base Erosion and Profit Shifting in Indonesia*. PhD thesis submitted to the Australian National University. July, 20, 2018. <https://openresearch-repository.anu.edu.au/handle/1885/148758>.

Rainforest Alliance. 2018. "CanopyStyle Verification and Guidelines Evaluation Report for: Sateri Corporate Office and Manufacturing Mills In China." Richmond, Vermont. May 16, 2018. https://www.rainforest-alliance.org/business/wp-content/uploads/2018/10/Canopy-Verification-Report_Sateri_Final-Draft-16MAY2018.pdf.

Reuters. 2009. "Indonesia's Toba Pulp to invest \$150 mln in capacity." November 10, 2009. <https://www.reuters.com/article/tobapulpindonesia/indonesias-toba-pulp-to-invest-150-mln-in-capacity-idUSJAK35424420091110>.

Reuters. 1993. "Factory gas leak sparks mob frenzy." Herald Sun. November 9, 1993.

Sateri Holdings Limited. 2014a. *Annual Report 2013* [including Financial Statements for the Year Ended 31 December 2013 and Independent Auditor's Report]. Hong Kong. <https://www1.hkexnews.hk/listedco/listconews/sehk/2014/0410/ltn20140410829.pdf>.

Sateri Holdings Limited. 2013. *Annual Report 2012* [including Financial Statements for the Year Ended 31 December 2012 and Independent Auditor's Report]. Hong Kong. <https://www1.hkexnews.hk/listedco/listconews/sehk/2013/0411/ltn20130411190.pdf>.

Sateri Holdings Limited. 2012. *Annual Report 2011* [including Financial Statements for the Year Ended 31 December 2011 and Independent Auditor's Report]. Hong Kong. <https://www1.hkexnews.hk/listedco/listconews/sehk/2012/0423/ltn20120423008.pdf>.

Sateri Holdings Limited. 2011. *Annual Report 2010* including Financial Statements for the Year Ended 31 December 2010 and Independent Auditor's Report]. Hong Kong.

Sateri Holdings Limited. 2010. "Sateri Holdings Limited Global Offering." Company prospectus. Hong Kong. November 26, 2010. <http://www3.hkexnews.hk/listedco/listconews/sehk/2010/1126/ltn20101126025.pdf>.

Setiajati, Hidayat. 2017. "Late rush to join Indonesia tax amnesty after \$360 billion declared." *Reuters*, March 31, 2017. <https://www.reuters.com/article/us-indonesia-economy-tax-idUSKBN1720VJ>.

Silka, Tyagita. 2000. "Indonesia's Toba Pulp to invest \$150 mln in capacity." *Reuters*. November 10, 2009, accessed on May 1, 2020. <https://www.reuters.com/article/tobapulp-indonesia/indonesias-toba-pulp-to-invest-150-mln-in-capacity-idUSJAK35424420091110>.

Solomon, Jay and Puspa Madani. 2000. "Jakarta shuts down rayon plant because of environmental worries." *Wall Street Journal*, May 11, 2000.

Suara. 2020. "Dari Porsea ke China, dugaan patgulipat di balik ekspor bubuk kayu." February 3, 2020. <https://www.suara.com/bisnis/2020/02/03/071000/patgulipat-di-balik-ekspor-bubur-kayu-porsea-ke-china>.

Suroyo, Gayatri and Eveline Danubrata. 2015. "Indonesia to crack down on corporate tax avoidance." *Reuters*, February 23, 2015. <https://www.reuters.com/article/us-indonesia-tax-taxavoidance-idUSKBN0LS05320150224>.

Suroyo, Gayatri and Hidayat Setiajati. 2017. "Indonesia tax amnesty nets \$330 billion – now for reform." *Reuters*, March 21, 2017. <https://www.reuters.com/article/us-indonesia-economy-tax/indonesia-tax-amnesty-nets-330-billion-now-for-reform-idUSKBN16S0AS>.

Suwiknyo, Edi. 2017. "Penghindaran pajak: Ruang transfer pricing dipersempit." *Bisnis*, May 3, 2017. <https://finansial.bisnis.com/read/20170503/9/650250/penghindaran-pajak-ruang-transfer-pricing-dipersempit>.

Swan, Collin. 2010. "\$20,000 for a Refrigerator? Abusive Transfer Pricing Explained." Boston: Financial Transparency Coalition. August 2, 2015. <https://financialtransparency.org/20000-for-a-refrigerator-abusive-transfer-pricing-explained/>.

Tax Justice Network (TJN). 2020. "Financial Secrecy Index." TJN website. Accessed on February 24, 2020]. <https://fsi.taxjustice.net/en/introduction/fsi-results>.

Tempo. 2020. "Juris sulap ekspor kayu." February 1, 2020. <https://majalah.tempo.co/read/hukum/159598/jurus-sulap-ekspor-kayu>.

Tempo English. 2020. "Wood export conjuring tricks." February 4–10, 2020. <https://magz.tempo.co/read/36360/wood-export-conjuring-tricks>.

Tempo English. 2020. "The profit margins are nearly the same." February 4–10, 2020. <https://magz.tempo.co/read/36361/toba-pulp-lestari-head-of-public-relations-norma-patty-handini-hutajulu-the-profit-margins-are-nearly-the-same>.

Tempo English. 2020. "Step siblings from a tax haven." February 4–10, 2020. <https://magz.tempo.co/read/36362/step-siblings-from-a-tax-haven>.

Tempo English. 2020. "Suspicious exports: Toba Pulp Lestari is suspected of falsifying export documentation to reduce its tax liabilities." February 4–10, 2020. <https://magz.tempco.co/read/36356/suspicious-exports>.

Thoenes, Sander. 1998. "A nation is let loose to protest, but to what end? In Indonesia, a mill accused of ecocide is closed but reopened after protesters waver." *Christian Science Monitor*, November 2, 1998.

United Nations Commodity Trade Statistics Database (UN Comtrade). Various years. New York: United Nations Statistics Division. Trade Statistics Branch. <https://comtrade.un.org>.

United Nations University. 2020. "Government Revenue Dataset." Accessed on February 24, 2020. <https://www.wider.unu.edu/project/government-revenue-dataset>.

Vidal, John. 2014. "Vast hidden profits: from Asia palm oil giants to a tiny British tax haven." *Guardian*, May 10, 2014. <https://www.theguardian.com/world/2014/may/10/asian-logging-giant-tax-labyrinth-british-virgin-islands>.

Wiedemann, Verena dan Katharina Finke. 2015. "Taxing investments in the Asia-Pacific region: The importance of cross-border taxation and tax incentives." ZEW Discussion Papers No. 15-014. Leibniz Centre for European Economic Research (ZEW). <https://www.econstor.eu/bitstream/10419/107420/1/818760338.pdf>.

World Bank. 2019. "Aspiring Indonesia: Expanding the Middle Class". Washington, DC: World Bank and Australian Government. January 30, 2019. <https://www.worldbank.org/en/country/indonesia/publication/aspiring-indonesia-expanding-the-middle-class>.

World Customs Organization. 2019. "List of Members with Membership Date." August 19, 2019. <http://www.wcoomd.org/-/media/wco/public/global/pdf/about-us/wco-members/list-of-members-with-membership-date.pdf>.

WWF Indonesia, Greenpeace International, and Rainforest Action Network. 2013. Letter to the Forest Stewardship Council with complaint against APRIL Group. May 13, 2013. [http://ic.fsc.org/download.april-group-complaining.1163.htm](http://ic.fsc.org/download/april-group-complaining.1163.htm).

APPENDIX A: PT TOBA PULP LESTARI TBK'S RESPONSE TO TEMPO MAGAZINE ARTICLES OF FEBRUARY 3–9, 2020



PT. Toba Pulp Lestari Tbk.
Office : Uniplaza, East Tower, 3th Floor
 Jl. Letjend Haryono MT No. A-1 Medan 20231
Tel : +62 61 453 2088
Fax : +62 61 453 0967
Mill : Desa Pangombusan, Kecamatan Parmaksian,
 Kabupaten Toba Samosir
Tel : +62 632 734 6000, +62 632 734 6001
Fax : +62 632 734 6006
Sumatera Utara - Indonesia

RESPONSE PT TOBA PULP LESTARI TBK

PT Toba Pulp Lestari Tbk (“Company”) refers to the Tempo Magazine edition 3-9 Februari 2020, which alleges product HS code manipulation. The Company would like to clarify that the HS code used is in accordance with the product classification and legal jurisdictions.

Due to customer demand, the Company produced kraft pulp from mid 2010 to mid 2017. Prior to that, Company produced two kinds of pulp. The appropriate HS codes have been declared at the times these products were exported.

As an entity listed in Indonesia Stock Exchange since 1990, the Company upholds a high level of Good Corporate Governance and is committed to corporate compliance with prevailing laws and regulations.

3 February 2020

PT Toba Pulp Lestari Tbk.
Board of Directors

APPENDIX B. RESPONSE OF PT TOBA PULP LESTARI TBK TO THE MAIN FINDINGS OF THIS REPORT

Kepada Yth:
Ibu Mouna Wasef
Lead Researcher “Pulp and Paper Industry in Indonesia”
Di-
Tempat

Dengan hormat,

Menindaklanjuti surat Ibu No. 2010.16/Auriga-IV/PRO/2020 Perihal Surat Klarifikasi tanggal 20 Oktober 2020, maka melalui email ini, PT Toba Pulp Lestari Tbk (“Perseroan”) ingin menyampaikan tanggapan atas draft laporan riset sebagai berikut:

1. Mengenai tuduhan misklasifikasi produk melalui Berita Majalah Tempo, sudah dilakukan tanggapan melalui situs web Perseroan tanggal 3 Februari 2020.
2. Mengenai tuduhan pengalihan keuntungan, Perseroan telah memproduksi dan menjual produk sesuai dengan harga kewajaran dan setiap tahun dilakukan penilaian kewajaran atas harga produk oleh konsultan independen.
3. Perseroan tidak dapat memberikan penilaian atas dokumen perusahaan lain pada draft laporan riset tersebut.
4. Sebagai perusahaan terbuka yang sahamnya dicatatkan di Bursa Efek Indonesia sejak tahun 1990, Perseroan selalu menjunjung tinggi *Good Corporate Governance* serta tetap berkomitmen untuk menjalankan kegiatan operasional sesuai dengan peraturan dan perundangan-undangan yang berlaku.

Demikian hal ini kami sampaikan, atas perhatiannya kami haturkan terima kasih.

Medan, 29 Oktober 2020

Hormat kami,
PT Toba Pulp Lestari Tbk.
Direktur

Note: This response was received in an email on October 29, 2020. A detailed 5-page summary of findings from the present report was sent to Toba Pulp on October 21, 2020 with a request to provide a response within five days. The response submission date was extended to October 29, 2020 at the request of Toba Pulp.

APPENDIX C. RESPONSE OF THE APRIL GROUP TO THE MAIN FINDINGS OF THIS REPORT

YTH Ibu Mouna Wasef
Lead Researcher Pulp and Paper Industry in Indonesia
Forum Pajak Berkeadilan

Dengan hormat,

Terima kasih atas surat yang dikirimkan kepada kami perihal riset tentang industry pulp and paper Indonesia. Bersama ini kami sampaikan tanggapan atas pertanyaan yang disampaikan kepada kami.

Sebagai latar belakang, kami jelaskan bahwa PT Riau Andalan Pulp & Paper (RAPP) memproduksi Kraft Pulp sejak tahun 1995 dan pada bulan Februari 2016, RAPP telah mendapatkan izin untuk memproduksi Dissolving Pulp dari BKPM. Setelah mendapatkan izin tersebut, RAPP melakukan serangkaian uji coba produksi jenis pulp baru yang kami namakan Acacia Eucalyptus (AE) Pulp yang merupakan modified kraft pulp. Jenis pulp ini menggunakan teknologi baru dengan campuran kayu Acacia Crassicarpa dan Eucaliptus.

Pada tahun 2016, RAPP telah melakukan kerjasama 2 tahun untuk percobaan (trial) pemanfaatan serta peningkatan mutu AE Pulp dengan Sateri di China dengan harapan agar AE Pulp bisa dipakai sebagai bahan baku industri viscose staple fiber. Selama masa percobaan ini, Sateri akan mencampurkan pulp AE dari RAPP dalam proses produksinya dengan komposisi pencampuran tertentu dengan Dissolving Pulp hingga mencapai kualitas yang mereka inginkan. Proses percobaan dan modifikasi komposisi campuran yang bersifat trial and error berlangsung secara intensif dalam periode dua tahun tersebut.

Berhubung produk AE Pulp masih dalam tahap uji coba pengembangan, maka RAPP masih menggunakan HSCode Kraft atau HSCode 4703.290000 hingga spesifikasi produk AE Pulp ini memenuhi standar ekspektasi pembeli. Dan setelah 2 tahun masa uji coba, Sateri memberikan konfirmasi bahwa AE Pulp RAPP bisa mencapai kualitas yang sama atau substitusi Dissolving Pulp bagi proses produksi mereka. Sebagai realisasi kerjasama, RAPP sudah mengeksport sesuai dengan kebutuhan Sateri dengan HS HSCode Dissolving Pulp atau HSCode 4702.000000.

Demikian penjelasan yang bisa kami berikan semoga membantu penulisan riset laporan tentang Industri Pulp and Papernya.

Salam hormat,

Note: This response was received in an email from the APRIL Group's Director of Corporate Affairs, Agung Laksmana, on October 27, 2020. A detailed 4-page summary of findings from the present report was sent to the APRIL Group on October 21, 2020 with a request to provide a response within five days. The response submission date was extended one day to October 27, 2020 at the request of the APRIL Group.

APPENDIX D: DOCUMENTATION OF SUKANTO TANOTO'S ROLE AS THE ULTIMATE CONTROLLING SHAREHOLDER OF PT TOBA PULP LESTARI TBK, DP MACAO, AND SATERI

Sukanto Tanoto is widely reported to hold a controlling interest in PT Toba Pulp Lestari Tbk, DP Macao, and Sateri (which later changed its name to Bracell), as well as other companies named in this report. His control over these companies is structured through a complex network of corporate entities, which extend across numerous jurisdictions and which have changed over time both in name and ownership.

Sateri Holdings Limited's listing prospectus, released in November 2010, identifies Sukanto Tanoto as the ultimate controlling shareholder of Toba Pulp Lestari, DP Macao, SC International Macao, and Sateri Holdings Limited (see Figure 23).¹⁴⁹ At that time, Mr. Tanoto controlled 90.6% of Toba Pulp's shares through Pinnacle Company Limited, a limited liability company incorporated in the Republic of Seychelles.¹⁵⁰ Since June 2019, Pinnacle Company Pte Ltd, incorporated in Singapore, has owned 92.4% of shares in PT Toba Pulp Lestari Tbk.¹⁵¹ The sole shareholder of Pinnacle Company Pte Ltd is Eden Hall Ltd, incorporated in the Seychelles.¹⁵²

Toba Pulp disclosed in a public announcement in November 2017 that DP Macao was owned in whole by Eden Hall Ltd (see Figure 24).¹⁵³ Bracell Limited (formerly Sateri Holdings Limited) also disclosed in August 2016 that Sukanto Tanoto was the ultimate controlling shareholder of DP Macao (see Figure 24).¹⁵⁴ Toba Pulp's Annual Report in 2018 lists the following entities as related parties "under common control": DP Marketing International (MCO) Limited [i.e. DP Macao], PT Riau Andalan Pulp & Paper, RGE Pte Ltd, PT RGE Indonesia, and Sateri (Fujian) Fibre Co., Ltd (see Figure 25).¹⁵⁵ Previously, a 2014 Circular from Sateri Holdings Limited indicated that Sukanto Tanoto controlled Toba Pulp and DP Macao (see Figure 27).¹⁵⁶

In November 2019 and January 2020, Toba Pulp spokesperson Norma Patty Handini Hutajulu responded to questions from Indonesian magazine *Tempo* about Sukanto Tanoto's current ownership of Toba Pulp by stating, "At this time TPL does not have that stockholder in question. Regarding stock ownership in other companies, we do not know."¹⁵⁷

149 Sateri Holdings Limited. 2010. *Op. cit.*

150 Sateri Holdings Limited. 2010. *Op. cit.*

151 Directorate General AHU. 2020. "PT Toba Pulp Lestari Tbk." Company Profile. February 17.

152 Accounting and Corporate Regulatory Authority (ACRA) of Singapore. 2020. "Pinnacle Company Pte. Ltd." Business Profile. February 17.

153 PT Toba Pulp Lestari Tbk. 2017. "Keterbukaan informasi kepada pemegang saham mengenai rencana transaksi material dan transaksi afiliasi PT Toba Pulp Lestari Tbk." [Disclosure of information to shareholders about material and affiliated transaction of PT Toba Pulp Lestari Tbk.] November 22. <https://www.tobapulp.com/wp-content/uploads/2019/01/Keterbukaan-Information-Transaksi-Material-dan-Afiliasi-Perjanjian-Pinjam-Meminjam-22-November-2017.pdf>.

154 Bracell Limited. 2016. "(1) Proposed privatisation of Bracell Limited by BHL Limited by way of a scheme of arrangement under Section 99 of the Companies Act of Bermuda and (2) Proposed withdrawal of listing of Bracell Limited." August 30. <https://www1.hkexnews.hk/listedco/listconews/sehk/2016/0829/ltn20160829301.pdf>.

155 PT Toba Pulp Lestari. 2019. *Op. cit.*

156 Sateri Holdings Limited. 2014. "(1) Major Transaction and Related Transaction in Relation to the Disposal of the Viscose Staple Fiber Business in the PRC. . ." Circular. November 19. <https://www1.hkexnews.hk/listedco/listconews/sehk/2014/1029/ltn20141029952.pdf>.

157 Tempo Magazine. 2020. "The profit margins are nearly the same." February 4. <https://magz.tempo.co/read/36361/toba-pulp-lestari-head-of-public-relations-norma-patty-handini-hutajulu-the-profit-margins-are-nearly-the-same>.

Figure 23. Excerpts from Sateri Holdings Limited's listing prospectus on the Hong Kong Stock Exchange in 2010

From cover page:


Sateri Holdings Limited
賽得利控股有限公司
(Incorporated in Bermuda with limited liability)

GLOBAL OFFERING

Number of Offer Shares under the : 505,330,000 Shares (subject to the
Global Offering Over-allotment Option)
Number of Hong Kong Offer Shares : 50,533,000 Shares (subject to reallocation)
Number of International Offer Shares : 454,797,000 Shares (subject to reallocation and
the Over-allotment Option)
Maximum Offer Price : HK\$9.20 per Offer Share plus brokerage of
1.0%, SFC transaction levy of 0.003% and
Stock Exchange trading fee of 0.005% (payable
in full on application in Hong Kong dollars and
subject to refund)
Nominal value : US\$0.05 per Share
Stock code : 1768

*Joint Global Coordinators and Joint Sponsors
(in alphabetical order)*

 
Joint Bookrunners and Joint Lead Managers

From page 33:

“Ultimate Controlling Shareholder”

Mr. Sukanto Tanoto, the ultimate controlling shareholder of our Company

From page 31:

“TPL”

PT Toba Pulp Lestari, Tbk, a limited liability company incorporated in Indonesia and listed on the Indonesia Stock Exchange. As of the Latest Practicable Date, our Ultimate Controlling Shareholder controlled approximately 90.6% of TPL's issued share capital

From page 24:

“DP Macao”

DP Marketing International Limited — Macao Commercial Offshore, a limited liability company incorporated in Macau on February 15, 2007 and one of our subsidiaries until its disposal effective as of September 30, 2010

From page 30:

“SC International Macao”

SC International Macao Commercial Offshore Limited (formerly known as Alloy Universal Trading (Macao Commercial Offshore) Limited), a limited liability company incorporated in Macau on November 22, 2007 and one of our subsidiaries

From page 28:

“Pinnacle”

Pinnacle Company Limited, a limited liability company incorporated in Republic of Seychelles and controlled by our Ultimate Controlling Shareholder

From page 29:

“RGE”

RGE Pte Ltd, a limited liability company incorporated in Singapore and a company controlled by our Ultimate Controlling Shareholder

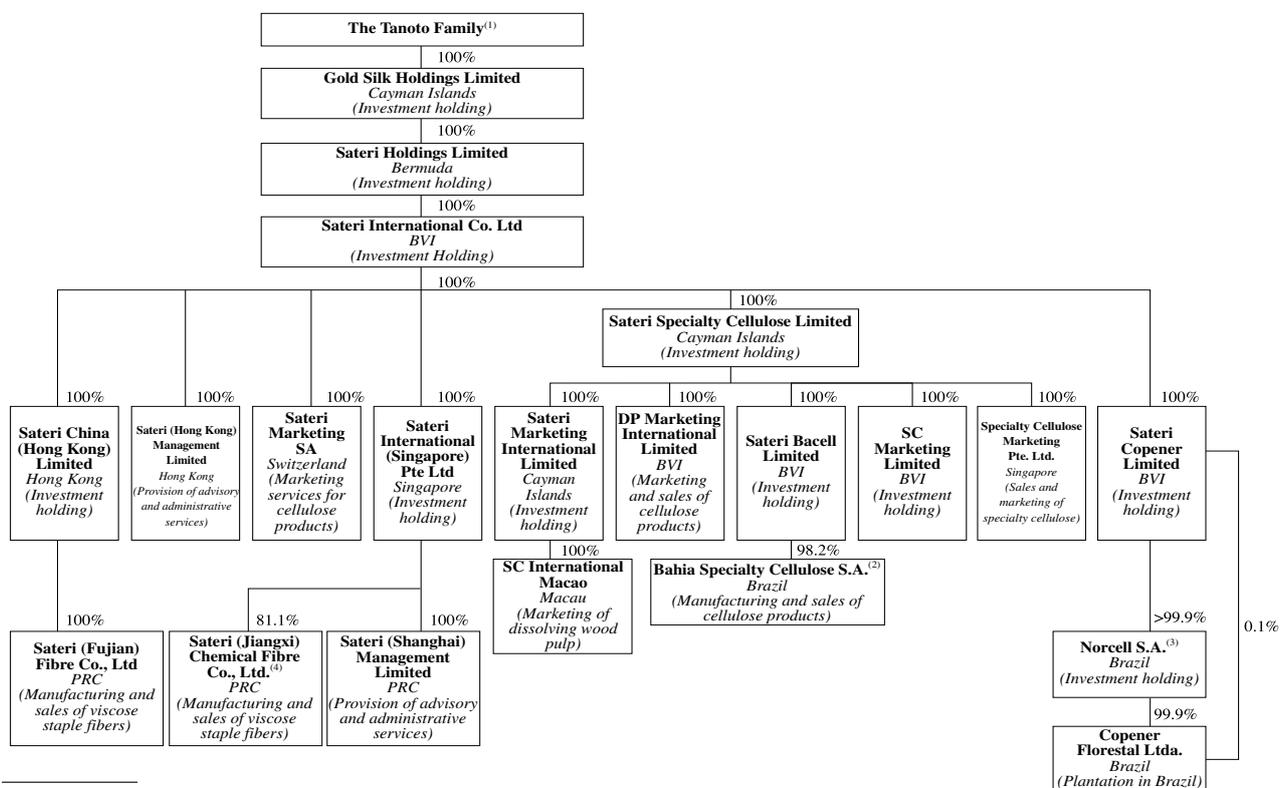
From page 85:

2. Disposal of DP Macao

On August 24, 2010, Sateri Specialty Cellulose entered into a share transfer agreement (which was supplemented by a supplemental agreement dated October 1, 2010) to dispose of its entire shareholding interest in DP Macao with effect from September 30, 2010 to Blue Dot, a company controlled by our Ultimate Controlling Shareholder, for a cash consideration of MOP13,229,521 (US\$1.6 million) which represents the net book value of DP Macao as of September 30, 2010.

From page 87:

Immediately following the Reorganization, our simplified corporate structure will be as follows:



Notes:

- (1) The Tanoto Family beneficially own 100% of Gold Silk. The Trustee holds 100% of the issued share capital of Gold Silk on trust for beneficiaries including the Tanoto Family.

Sateri Holdings Limited. 2010. “Sateri Holdings Limited Global Offering.” Company prospectus. Hong Kong. November 26, 2010. <http://www3.hkexnews.hk/listedco/listconews/sehk/2010/1126/ltm20101126025.pdf>.

Figure 25. Excerpts from Bracell Limited notice of privatization on August 30, 2016

From cover page:

BHL Limited
(incorporated in Bermuda with limited liability)


Bracell Limited
(incorporated in Bermuda with limited liability)
(Stock Code: 1768)

**(1) PROPOSED PRIVATISATION OF
BRACELL LIMITED
BY BHL LIMITED BY WAY OF
A SCHEME OF ARRANGEMENT
UNDER SECTION 99 OF THE COMPANIES ACT OF BERMUDA
AND
(2) PROPOSED WITHDRAWAL OF LISTING OF
BRACELL LIMITED**

Joint Financial Advisers to BHL Limited


CREDIT SUISSE
Financial Adviser to the Company
Morgan Stanley


ANGLO CHINESE
CORPORATE FINANCE, LIMITED
Independent Financial Adviser to the
Independent Board Committee of the Company


From page III-78:

19 Related party disclosures

The Group entered into the following significant transactions with related parties:

<u>Name of related parties</u>	<u>Nature of transactions</u>	Six months ended 30 June	
		2016	2015
		<i>US\$'000</i>	<i>US\$'000</i>
<i>Companies under the common control of the Major Shareholder</i>			
DP Marketing International Macao Commercial Offshore Limited	Sales of goods	148,174	146,492

From page V-3:

“Group” the Company and its subsidiaries from time to time

From page V-2:

“Company” Bracell Limited, a company incorporated in Bermuda with limited liability, whose shares are currently listed on the Main Board (stock code: 1768)

From page III-10:

1 GENERAL INFORMATION

Bracell Limited (the “Company”) was incorporated on 8 June 2010 and registered as an exempted company with limited liability in Bermuda under the Companies Act 1981 of Bermuda (as amended). The Company is controlled by Gold Silk Holdings Limited, a limited liability company incorporated in Cayman Islands and 100% owned and controlled by Mr. Sukanto Tanoto and certain members of his family (the “Major Shareholder”). The address of the principal place of business of the Company is 21/F, China Building, 29 Queen’s Road Central, Central, Hong Kong.

From page V-3:

“Gold Silk”

Gold Silk Holdings Limited, a company incorporated in the Cayman Islands with limited liability, whose entire issued share capital is held by Fiduco

From page V-2:

“Fiduco”

Fiduco Trust Management AG, the trustee of a discretionary trust established by the Ultimate Controlling Shareholder as settlor and whose beneficiaries include the Ultimate Controlling Shareholder and certain members of his family

From page V-6:

“Ultimate Controlling Shareholder”

Mr. Sukanto Tanoto

Source: Bracell Limited. 2016. “(1) Proposed privatisation of Bracell Limited by BHL Limited by way of a scheme of arrangement under Section 99 of the Companies Act of Bermuda and (2) Proposed withdrawal of listing of Bracell Limited.” Document jointly issued by Bracell Limited and BHL Limited. August 30, 2016. <https://www1.hkexnews.hk/listedco/listconews/sehk/2016/0829/ltn20160829301.pdf>.

Figure 26. Excerpts from PT Toba Pulp Lestari Tbk's Annual Report 2018

From cover page:

Laporan Tahunan
2018
 Annual Report



Berinvestasi untuk Masa Depan: Peremajaan Operasional
 Perseroan untuk Meningkatkan Kinerja Usaha Serta Kepedulian
 terhadap Lingkungan dan Masyarakat

*Investing for the Future: Rejuvenating Operations to Improve
 Business Performance and Care for the Environment and
 Community*

From page 175:

30. TRANSAKSI DENGAN PIHAK BERELASI

30. TRANSACTIONS WITH RELATED PARTIES

a. Sifat pihak berelasi

a. Nature of relationships

Perusahaan yang berelasi/ <i>Related parties Company</i>	Sifat hubungan/ <i>Nature of relationship</i>	Sifat transaksi/ <i>Nature of Transactions</i>
Pinnacle Company Pte. Ltd.	Pemegang saham mayoritas / <i>Major Shareholder</i>	Pinjaman/ <i>Loans</i>
DP Marketing International (MCO) Limited	Entitas sependangali / <i>Under common control</i>	Penjualan/ <i>Sales</i>
PT Pec Tech Services Indonesia	Entitas sependangali / <i>Under common control</i>	Pemakaian jasa/ <i>Services</i>
PT Riau Andalan Pulp and Paper	Entitas sependangali / <i>Under common control</i>	Pembelian material/ <i>jasa/ Purchases, services</i>
Forindo Private Limited	Entitas sependangali / <i>Under common control</i>	Pembelian material/ <i>jasa/ Purchases, services</i>
PT Gunung Melayu	Entitas sependangali / <i>Under common control</i>	Pembelian material/ <i>Purchases</i>
PT Hari Sawit Jaya	Entitas sependangali / <i>Under common control</i>	Pembelian material/ <i>Purchases</i>
PT Indo Sepadan Jaya	Entitas sependangali / <i>Under common control</i>	Pembelian material/ <i>Purchases</i>
PT Asianagro Lestari	Entitas sependangali / <i>Under common control</i>	Pembelian material/ <i>Purchases</i>
PT Saudara Sejati Luhur	Entitas sependangali / <i>Under common control</i>	Pembelian material/ <i>Purchases</i>
PT Supra Matra Abadi	Entitas sependangali / <i>Under common control</i>	Pembelian material/ <i>Purchases</i>
PT Nusa Pusaka Kencana	Entitas sependangali / <i>Under common control</i>	Pemakaian jasa/ <i>Services</i>
PT Esensindo Cipta Cemerlang	Entitas sependangali / <i>Under common control</i>	Pembelian material/ <i>Purchases</i>
RGE Pte Ltd	Entitas sependangali / <i>Under common control</i>	Pemakaian jasa/ <i>Services</i>
PT RGE Indonesia	Entitas sependangali / <i>Under common control</i>	Pemakaian jasa/ <i>Services</i>
Sateri (Fujian) Fibre, Co., Ltd	Entitas sependangali / <i>Under common control</i>	Pembelian material/ <i>Purchases</i>

Source: PT Toba Pulp Lestari Tbk. 2019a. Annual Report 2018 [including Financial Statements as of December 31, 2018 and 2017 and Independent Auditors' Report]. Medan, Indonesia. <https://www.tobapulp.com/wp-content/uploads/2019/05/LAPORAN-TAHUNAN-INRU-2018.pdf>.

Figure 27. Excerpts from Circular of Sateri Holdings Limited on November 4, 2014

From cover page:



Sateri Holdings Limited
賽得利控股有限公司
(incorporated in Bermuda with limited liability)
(Stock Code: 1768)

- (1) MAJOR TRANSACTION AND CONNECTED TRANSACTION
IN RELATION TO
THE DISPOSAL OF THE VISCOSE STAPLE FIBER BUSINESS IN THE PRC
- (2) CONTINUING CONNECTED TRANSACTION IN RELATION TO
THE PULP SUPPLY AGREEMENT
- (3) CONNECTED TRANSACTION IN RELATION TO
THE PROVISION OF GUARANTEES
- (4) AMENDMENTS TO THE DEED OF NON-COMPETITION
- (5) CHANGE OF COMPANY NAME AND
AMENDMENT TO THE BYE-LAWS
- (6) DISTRIBUTION TO SHAREHOLDERS
- (7) NOTICE OF SPECIAL GENERAL MEETING

Financial Adviser
to the Company

CREDIT SUISSE 

Independent Financial Adviser
to the Independent Board Committee
and the Independent Shareholders

 ROTHSCCHILD

From page 5:

“Ultimate Controlling Shareholder”

Mr. Sukanto Tanoto, the ultimate controlling shareholder of the Company and Gold Silk

“TPL”

PT Toba Pulp Lestari Tbk, a limited liability company incorporated in Indonesia and listed on the Indonesia Stock Exchange, whose majority shareholder is Pinnacle

From page 3:

“Pinnacle”

Pinnacle Company Limited, a limited liability company incorporated in the Republic of Seychelles and controlled by the Ultimate Controlling Shareholder

From page 2:

“DP Macao”

DP Marketing International Macao Commercial Offshore Limited (formerly known as DP Marketing International Limited — Macao Commercial Offshore), a limited liability company incorporated in Macau and controlled by the Ultimate Controlling Shareholder

From page 1:

“Company” Sateri Holdings Limited, a company incorporated in Bermuda as an exempted company with limited liability, the shares of which are listed on the Main Board of the Stock Exchange (stock code: 1768)

From page 2:

“Gold Silk” Gold Silk Holdings Limited, a limited liability company incorporated in the Cayman Islands and the immediate controlling shareholder of the Company and which is controlled by the Ultimate Controlling Shareholder

From page 3:

“Purchaser” Pacific Viscose Limited, a limited liability company incorporated in Hong Kong and controlled by the Ultimate Controlling Shareholder

“Sale and Purchase Agreement” the Sale and Purchase Agreement dated 29 October 2014 entered into between Sateri International and the Purchaser in relation to the Transaction

Source: Sateri Holdings Limited. 2014. “1) Major Transaction and Related Transaction in Relation to the Disposal of the Viscose Staple Fiber Business in the PRC...” Circular. November 19. <https://www1.hkexnews.hk/listedco/listconews/sehk/2014/1029/ltn20141029952.pdf>.

