



# Dutch private companies related to APP - Update

A research paper prepared for Greenpeace Nederland

*Profundo*  
economic research

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## Summary

Asia Pulp & Paper (APP), a pulp and paper group based in Singapore owned by the Indonesian Widjaja family, is strongly expanding its pulp and paper activities in overseas markets in Asia, Europe, North America and Australia. The main reasons for this recent expansion are the structural pulp deficit of the group and a strategic choice to increase export sales to help sustain the strong growth of the paper and packaging production capacity.

For this foreign expansion, the Widjaja family has set up the Dutch holding company Paper Excellence. Through various foreign subsidiaries has acquired several pulp and paper mills in Canada, France and Germany since 2007. Also, Paper Excellence now owns paper marketing companies in several countries in Europe, Japan and Australia. Because of the attractive Dutch tax climate, Paper Excellence is based in the Netherlands.

Another group of Dutch companies, Bentoning Holding and its two subsidiaries, play a complimentary role to the holding activities of Paper Excellence. The Bentoning group provides loans to Paper Excellence's subsidiaries to finance the acquisition of pulp and paper mills.

Until the end of 2010 about US\$ 250 million is invested in the pulp and paper mills and marketing companies owned by Paper Excellence. These total investments are financed for 21% by the shareholdings which Paper Excellence holds in its subsidiaries and for 79% by the loans of Bentoning Holding and its subsidiaries.

The ownership of Bentoning Holding is uncertain while the ownership of Paper Excellence is hidden behind a string of foreign holding companies in Malaysia and the British Virgin Islands. It is, however, very likely that both are ultimately controlled by the Widjaja family. By separating ownership (through Paper Excellence) and financing (through Bentoning Holding) of the pulp and paper mills and marketing companies, the Widjaja family makes optimal use of the favourable tax climate in the Netherlands to minimize both its total tax payments and transparency with regard to its international expansion:

- All attention of foreign media and NGOs is drawn towards the holding company Paper Excellence, while the lion share of the investments flows through Bentoning Holding which can operate in anonymity as it does not own foreign subsidiaries;
- By minimizing equity investments in its subsidiaries and asking them not to pay any dividends, Paper Excellence can continue to qualify as a "small company" - despite its control over subsidiaries with a total value of several hundred millions of dollars. Dutch tax rules allow "small companies" not to consolidate the financial figures of their subsidiaries in their own accounts. This allows Paper Excellence to avoid transparency on the total value, turnover and profit of its subsidiaries;
- Instead of paying dividends, the subsidiaries of Paper Excellence pay significant amounts of interests on the loans they have obtained from Bentoning Holding and its subsidiaries. In 2010 an estimated US\$ 15.8 million passed through Bentoning Holding to its ultimate owners, presumably the Widjaja family. The tax treaties which the Netherlands has concluded with Canada, Malaysia and Indonesia allow for much lower withholding taxes on this interest flow, then when the same money would have flown as dividends from the subsidiaries to their ultimate parent.

The Widjaja's can take optimal advantage of the Dutch tax climate because of the complicated corporate structure set up for them by the Dutch trust company ANT. ANT manages Paper Excellence, Bentoning Holding and its subsidiaries. ANT also manages a range of financing companies which are owned by APP and its subsidiaries. The services it provides to all these companies are for example providing a registered office facilities for these companies, providing managing directors and providing administrative services,

including the drafting of an annual report and filing the reports with the Dutch chamber of commerce.

While setting up holding and financing subsidiaries for foreign companies, purely to minimize tax payments, is not illegal in the Netherlands, ANT is clearly exploring the legal boundaries. And possibly ANT is going beyond them, to optimize the advantages for its client - the Widjaja family. Some examples of dubious actions described in this report are:

- In Paper Excellence's annual report for 2009, ANT reported that the company had assets with a total value of US\$ 8.6 million at the end of 2009. But according to the annual report for 2010, Paper Excellence's assets amounted to US\$ 25.8 million at the end of 2009. This remarkable difference is not explained by ANT and is clearly not in conformity with Dutch accounting laws;
- The Chinese Bank International Ningbo, which is owned by the Widjaja family, in 2010 provided a US\$ 17.5 million loan to Paper Excellence with an interest rate of 0.01%. This type of friendly loans by banks to companies owned by the banks' owners are not allowed by bank regulations, both in China and the Netherlands.
- ANT does not report to the Dutch company register who the ultimate owners of Paper Excellence nor Bentoning Holding are, thereby hiding that both companies have common owners. By doing so, ANT seems to violate the Law on the Supervision of Trust Offices.
- By hiding the fact that interest payments through Bentoning Holding ultimately end up with the ultimate owners of the subsidiaries of Paper Excellence, ANT hides that these interest payments are quasi-dividend payments and should be taxed with higher withholding taxes according to the various tax treaties concluded by the Netherlands with other jurisdictions.

ANT has many shareholders, including major shareholder ABN AMRO. At the end of December 2010, this Dutch bank owned 9.2% of the shares of ANT. Other shareholders are mainly Dutch individuals, including the directors of ANT.

ABN AMRO is also linked to APRIL, the main Indonesian competitor of APP. In 2011, ABN AMRO was involved in loans to both APRIL and its sister company AAA Oils & Fats.

## Introduction

The objective of this research project is to provide more information about Dutch private companies which are related to the Asia Pulp and Paper (APP) group, a pulp and paper group based in Singapore owned by the Indonesian Widjaja family. Profundo's report "Dutch private companies related to APP" dated April 2011 serves as a starting point. This report is updated and additional information is provided, first in January 2012 and then in February 2012.

The main research questions in January 2012 were:

- What is known about the owners of the Dutch holding company Paper Excellence B.V. ("Paper Excellence")?
- What is the relationship between Paper Excellence and the Canadian company Paper Excellence Canada Holdings?
- What are the current activities and assets of the Dutch financing subsidiaries of APP which are still operational?
- What is the size of the dividend payments (in the case of Paper Excellence) and interest payments (in the case of the financing subsidiaries) which flow back to APP?
- Which services does Dutch trust company ANT provide to APP's subsidiaries in the Netherlands?
- Who are the owners of ANT?

The main research questions in February 2012 were:

- What is the role played by Rending B.V. in the financing of the European and American expansion of APP?
- Who are the financiers and owners of Rending B.V.?
- Do other Dutch companies play a role which is comparable with Rending in connection to the international expansion of APP?
- How is ANT involved with Rending and -possible- other Dutch companies playing a comparable role?
- Which role has ABN AMRO in the past two years played in the financing of APRIL?

The Dutch holding company Overveen Generaal Netherlands, which owns PAK 2000, a manufacturer of luxury and specialty packaging based in the United States, is not included in this report. For information about this company, we refer to our report from April 2011.

This report is organised as follows: Chapter 1 gives a brief overview of the APP Group and its recent expansion activities. Chapter 2 describes the Dutch holding company Paper Excellence, which plays an important role in APP's foreign expansion process. Chapter 3 deals with Bentoning Holding and its subsidiaries, which are involved in financing the foreign expansion of the APP Group. Chapter 4 describes the Dutch financing subsidiaries of APP which are still operational. Chapter 5 gives a profile of ANT, the trust company which manages almost all of APP's Dutch subsidiaries. Finally, Chapter 6 deals with the involvement of the Dutch bank ABN AMRO with ANT and APRIL, the largest Indonesian competitor of APP.

A brief summary of the findings of this report can be found on the first page of this report.

# Chapter 1 APP Group

## 1.1 Company profile

According to its website, Asia Pulp & Paper Group (APP) is one of the world's leading pulp and paper companies and is ranked one of the largest vertically integrated pulp & paper producer in Asia, excluding Japan. Its combined pulp, paper and packaging capacities in Indonesia amount to over 7 million tonnes, using fibre from plantations and wood residues of plantation development. APP currently has its principal operations located in Indonesia, and sells its products to more than 65 countries on six continents.<sup>1</sup>

The company was established in Singapore in 1994 as the holding company for all pulp and paper activities of the Sinar Mas Group in Indonesia, China and India. The Sinar Mas Group is an Indonesian conglomerate, established by the Widjaja family, which is mainly active in pulp & paper, palm oil, food, and finance founded in 1962.<sup>2</sup> Although many companies in the Sinar Mas Group have been listed on various stock exchanges, the Widjaja family is still owning controlling stakes.

APP was listed on the New York Stock Exchange in 1995, but it was delisted in 2002 due to its debt default. At present the company is privately owned, through a number of holding companies, by the Widjaja family. Two of APP's subsidiaries, Indah Kiat and Tjiwi Kimia, are however listed on the Jakarta Stock Exchange.<sup>3</sup>

APP's subsidiary APP China was split off from APP in November 2003. APP China now controls the Chinese operations and most of the foreign operations, while APP in Singapore controls the Indonesian activities. Both companies are controlled by the Widjaja family and operate together under the name APP Group.

Currently APP holds majority shares in seven pulp and paper companies in Indonesia:<sup>4</sup>

- PT Ekamas Fortuna
- PT Indah Kiat Pulp & Paper Tbk.
- PT Lontar Papyrus Pulp & Paper Industry
- PT Pabrik Kertas Tjiwi Kimia Tbk
- PT Pindo Deli Pulp And Paper Mills
- PT Purinusa Ekapersada
- PT The Univenus

## 1.2 Foreign expansion of the APP Group

Since its debt crisis of 2001, we estimate the APP Group to have expanded its annual pulp production capacity in Indonesia and China with 2.0 million tons, while its annual paper and packaging production capacity increased with 4.7 million tons. Most of this expansion took place in China.<sup>5</sup> This has led to a significant pulp deficit.

Recently, the APP Group also started to expand its pulp and paper activities in overseas markets in Asia, Europe, North America and Australia. Its foreign expansion includes both distribution and production activities.<sup>6</sup> The main reasons for this recent expansion have to do with the structural pulp deficit of the group and with a strategic choice to increase its export sales to help sustain the strong growth of its paper and packaging production capacity.



The Netherlands plays an important role in APP's foreign expansion process, as the holding companies Paper Excellence B.V. (see Chapter 2), Bentoning Holding B.V. (see Chapter 3) and Overveen Generaal Netherlands B.V. (not included in this report) are located in the Netherlands. Furthermore, APP established several financing companies in the Netherlands (see Chapter 4).

## **Chapter 2 Paper Excellence**

### **2.1 Company profile**

Paper Excellence B.V. (“Paper Excellence”) is a holding company located at Beechavenue 54-80 in Schiphol-Rijk, the Netherlands. Paper Excellence was first registered at the Dutch company register in March 2008.<sup>7</sup>

Through its subsidiaries Paper Excellence owns pulp and paper mills in Canada, France and Germany, as well as paper marketing companies in several countries in Europe, Japan and Australia. The sole shareholder of Paper Excellence is Fortune Everrich Sdn Bhd which is based in Labuan, Malaysia. Through some other intermediate holding companies, Fortune Everrich is likely to be controlled by the Widjaja family - the owners of the APP Group (see Chapter 1).

The following paragraphs provide more information about Paper Excellence and its subsidiaries. Paragraph 2.2 describes the management of the company, while paragraph 2.3 gives an overview of the company’s corporate structure and subsidiaries. Paragraph 2.4 analyses the financing of the company, while paragraph 2.5 discusses its owners and financiers. Finally, paragraph 2.6 explains how dividends can flow from the pulp and paper mills owned by the different subsidiaries, ultimately back to the Widjaja family.

### **2.2 Management**

Paper Excellence is managed by ANT Management (Netherlands) B.V., on behalf of the actual owner of Paper Excellence. ANT Management is based at Claude Debussylaan 24 in Amsterdam, the Netherlands. The company is primarily engaged in providing administrative and other services to companies, assisting with the formation of companies, and participating in- and conducting the management of other companies. The company is part of ANT Trust & Corporate Services N.V. (“ANT”), a Dutch trust company. More information about ANT and ANT Management is provided in Chapter 5.

Until March 2008, Paper Excellence was located at the office of ANT at the Claude Debussylaan in Amsterdam. At that time, the company was moved to its present location: Beechavenue 54-80 in Schiphol-Rijk, the Netherlands.<sup>8</sup> This is an office building managed by Regus, where all kinds of companies can rent a small office.

The directors of Paper Excellence are:<sup>9</sup>

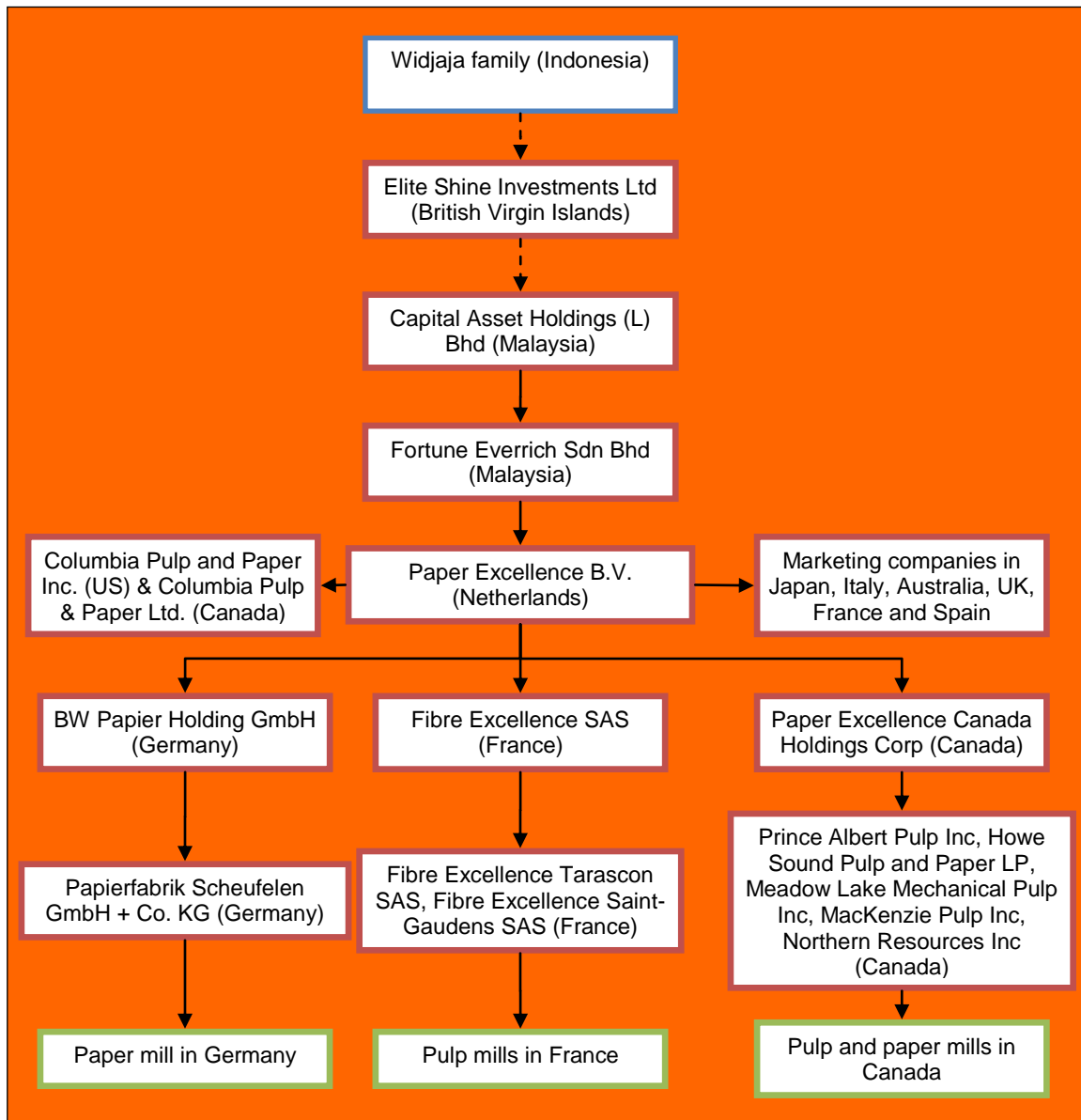
- Hardi Wardhana from Indonesia;
- Pieter Bosse, one of the directors of ANT Management.

### **2.3 Corporate structure**

#### **2.3.1 Overview of subsidiaries**

Figure 1 provides an overview of the corporate structure of Paper Excellence. Its most important subsidiaries are three holding companies: Fibre Excellence SAS (“Fibre Excellence”), based in France, Paper Excellence Canada Holdings Corporation (“Paper Excellence Canada Holdings”), based in Canada and BW Papier Holding GmbH (“BW Papier Holding”), based in Germany.<sup>10</sup>

**Figure 1. Corporate structure of Paper Excellence**



Striped line: Relationship is not confirmed by official documents from company registers.

These three holding companies in turn have a number of subsidiaries which directly own and manage the pulp and paper mills listed in **Fout! Verwijzingsbron niet gevonden..** These mills employ over 2,000 employees in total.<sup>11</sup> The production capacity of the mills is approximately 1.9 million tonnes of pulp and 530,000 tonnes of paper products as shown in Table 1.

**Table 1 Pulp and paper mills owned by Paper Excellence**

Mill	Subsidiary	Location	Date of acquisition	Capacity (tonnes/year)	
				Pulp	Paper
Meadow Lake	Meadow Lake Mechanical Pulp Inc	Canada	Early 2007	400,000	-
Mackenzie Softwood	Mackenzie Pulp Inc	Canada	April 2010	240,000	-
Saint-Gaudens	Fibre Excellence Saint-Gaudens SAS	France	May 2010	305,000	-
Tarascon	Fibre Excellence Tarascon SAS	France	May 2010	250,000	-
Howe Sound	Howe Sound Pulp and Paper LP	Canada	October 2010	400,000	230,000
Prince Albert	Prince Albert Pulp Inc	Canada	March 2011	Constructing (250,000 in 2012)	-
Northern Pulp	Northern Resources Inc	Canada	March 2011	285,000	-
Scheufelen	Papierfabrik Scheufelen GmbH + Co. KG	Germany	May 2011	-	300,000
<b>Total</b>				<b>1,880,000</b>	<b>530,000</b>

Source: Paper Excellence, "Mills", *Website Paper Excellence* ([www.paperexcellence.com](http://www.paperexcellence.com)), viewed January 2012.

Paragraphs 2.3.2 until 2.3.4 will discuss in more detail the holding subsidiaries of Paper Excellence B.V. which own pulp and paper mills in Canada, France and Germany. Paragraph 2.3.5 will deal with the marketing subsidiaries of Paper Excellence, while paragraph 2.3.6 will deal with the two Columbia Pulp and Paper companies.

### 2.3.2 Canadian operations: Paper Excellence Canada Holdings

Paper Excellence B.V. directly and indirectly owns five pulp and paper mills in Canada, listed in Table 1. It seems most likely that Paper Excellence has acquired some of these mills itself, and has later grouped these assets under its Canadian subsidiary Paper Excellence Canada Holdings. At the end of 2010, Paper Excellence still held a direct interest of 27% in Meadow Lake Mechanical Pulp Inc., with the other part of the shares probably owned by Paper Excellence Canada Holdings.<sup>12</sup>

Information from financial magazines confirm that the Canadian companies which directly own the mills, including Howe Sound Pulp & Paper LP and Northern Pulp Nova Scotia Corporation, are ultimately owned by Paper Excellence B.V..<sup>13</sup> The mills which were purchased in a later stage were acquired by Paper Excellence Canada Holdings directly.<sup>14</sup> Paper Excellence Canada Holdings confirms that all five Canadian mills, are now under its control: the company has recently released a document in which it describes employment opportunities at the company. In this document, all five Canadian pulp and paper mills are described.<sup>15</sup>

Paper Excellence Canada Holdings was founded on 31 March 2010. Its current directors are:<sup>16</sup>

- Ed Roste
- Hardi Wardhana
- Sugiarto Kardiman

Hardi Wardhana is also a director of Paper Excellence B.V. in the Netherlands.

The following information could be found on the revenues of the individual pulp and paper mills of Paper Excellence Canada Holdings:

- Howe Sound Pulp & Paper Corporation generates annual revenues of US\$ 110.0 million.<sup>17</sup>
- Meadow Lake Mechanical Pulp Inc generates annual revenues of US\$ 230.3 million.<sup>18</sup>

### 2.3.3 French operations: Fibre Excellence

Fibre Excellence SAS (“Fibre Excellence”) was acquired by Paper Excellence in June 2010. The company has three wholly-owned subsidiaries, all based in France:

- Fibre Excellence Tarascon SAS (“Fibre Excellence Tarascon”);
- Fibre Excellence Saint-Gaudens SAS (“Fibre Excellence Saint-Gaudens”);
- Société d'Exploitation des Bois du Sud Ouest SAS (“SEBSO”).

Fibre Excellence Tarascon and Fibre Excellence Saint-Gaudens both own a pulp mill located in France (see Table 1). SEBSO engages in the logging and in the marketing of wood. The logs are supplied from 32 departments in Southern France to the pulp mills of Fibre Excellence.<sup>19</sup>

Fibre Excellence also has two indirect subsidiaries: BIOENERG, a 51% owned by subsidiary Fibre Excellence Tarascon and FE Energie, a 100% owned by subsidiary Fibre Excellence Saint-Gaudens.<sup>20</sup>

In the year ended December 2010, the subsidiaries of Fibre Excellence generated revenues of € 342.5 million (US\$ 453.9 million), resulting in a profit of € 10.8 million (US\$ 14.3 million). At the end of December 2010, the subsidiaries owned total assets of € 83.5 million (US\$ 110.7 million).<sup>21</sup>

Although Fibre Excellence wholly-owns these companies, revenues were not consolidated in its annual accounts over 2010, probably because the subsidiaries were only acquired during the year. At the end of December 2010 total assets of Fibre Excellence were € 92.4 million, of which € 82.2 million was invested in the subsidiaries. Assets were financed by shareholders (€ 20.9 million) and debt (€ 71.5 million).

The vast majority of this debt (€ 70.4 million) is provided by a Dutch company: Rending B.V. This company therefore financed 86% of the total acquisition sum of the French pulp mills.<sup>22</sup> More information on this company is provided in Chapter 3 **Fout! Verwijzingsbron niet gevonden..**

### 2.3.4 German operations: Papierfabrik Scheufelen

In May 2011 Paper Excellence agreed to acquire Papierfabrik Scheufelen GmbH & Co KG (“Papierfabrik Scheufelen”) from the Finnish company Powerflute Oyj, for € 32.5 million (US\$ 48.4 million) plus the assumption of € 6 million (US\$ 8.9 million) in debt. BW Papier Holding GmbH (“BW Papier Holding”), based in Lenningen, is the major shareholder of Papierfabrik Scheufelen. BW Papier Holding was established in February 2011 and is a subsidiary of Paper Excellence.

Hardi Wardhana is one of the two managers of Papierfabrik Scheufelen and the only manager of BW Papier Holding.<sup>23</sup> Hardi Wardhana is also a director of Paper Excellence and Paper Excellence Canada Holdings.

Papierfabrik Scheufelen generates annual revenues of € 205 million (US\$ 271.7 million).<sup>24</sup>

### 2.3.5 Foreign marketing companies

Apart from the three holding subsidiaries owning pulp and paper mills, Paper Excellence also owns a number of marketing companies in Europe, Australia and Japan:

- All Paper & Print Products Co. Ltd. Japan
- Arco Paper & Print Srl. Italy
- Arco Paper & Print Ltd. United Kingdom
- Arco Paper & Print Pty. Ltd. Australia
- Arco Paper & Print Sarl. France
- Arco Paper & Print S.A. Spain

That these companies are involved in marketing APP products in foreign markets was already known. Arco Paper & Print from the UK was for instance until recently mentioned on the website of APP's subsidiary Indah Kiat as one its foreign agents.<sup>25</sup> But the ownership link between Arco Paper & Print Ltd. and APP was never certain and often denied<sup>26</sup>, although Arco Paper & Print writes on its website: "Established in 2009, we are a wholly owned subsidiary of one of the World's most diverse paper manufacturing groups, engaged in the warehousing and distribution of paper and committed to exceeding our customers expectations."<sup>27</sup> And the director of Arco Paper & Print is Zui Rheng, who is also director of APP China.<sup>28</sup>

At present, the Indah Kiat website mentions another name for its agent in the United Kingdom: Calington Ltd.<sup>29</sup> It looks likely that this company is closely connected to Arco print & Paper, as it even shares the same employees.<sup>30</sup>

### 2.3.6 Columbia Pulp and Paper (US and Canada)

The last two subsidiaries of Paper Excellence are:

- Columbia Pulp and Paper Inc. United States
- Columbia Pulp and Paper Ltd. Canada

These two companies were set up by APP's subsidiary PT Pindo Deli Pulp and Paper Mills in January 2008 as holdings companies for three pulp mills in the United States and Canada the company agreed to buy for US\$ 225 million. The three mills used to be owned by the Canadian company Pope & Talbot, which went bankrupt in September 2008. Two of the mills are located in British Columbia, Canada: at Mackenzie and at Harmac near Nanaimo. The third mill is located in Halsey (Oregon, United States).<sup>31</sup> In February 2008 PT Pindo Deli Pulp and Paper Mills also received a preliminary permission to buy the Fort St. James sawmill in British Columbia, Canada, for US\$ 6 million.<sup>32</sup>

However, in May 2008 PT Pindo Deli cancelled the deal for the Nanaimo, Mackenzie and Halsey pulp mills, but it did want to keep its deal for Fort St. James sawmill in BC, Canada.<sup>33</sup> However, it lost the battle in court to buy the Fort St. James mill and instead, that mill was sold to the new private forest firm Conifex Inc. for US\$ 12.8 million.<sup>34</sup>

Almost two years later, the Mackenzie pulp mill was acquired by Paper Excellence. It probably now is a subsidiary of Paper Excellence Canada Holdings, but it is also possible that it has become a subsidiary of Columbia Pulp and Paper Ltd. after all. The fact that Columbia Pulp and Paper Inc. and Columbia Pulp and Paper Ltd., which were set up by Pindo Deli, now are subsidiaries of Paper Excellence, further confirms that Paper Excellence must be ultimately owned by APP or the Widjaja family.

## 2.4 Financial analysis

### 2.4.1 Investments

According to Paper Excellence's annual report for 2009, the company had assets with a total value of US\$ 8.6 million at the end of 2009.<sup>35</sup> But according to Paper Excellence's annual report for 2010, Paper Excellence's assets amounted to US\$ 25.8 million at the end of 2009. This remarkable difference is hardly explained, Paper Excellence only states that "the principles of valuation and determination of the result remained changed in comparison with the previous year".<sup>36</sup> It seems likely that the ultimate owners in 2010 have decided to shift some more subsidiaries to Paper Excellence and now try to make it appear as if this was done in 2009 already. If this strange manoeuvre is acceptable for the Dutch authorities could be questioned.

If we take the figures of the annual report for 2010 as starting point, the total assets of Paper Excellence increased from US\$ 25.8 million to US\$ 54.7 million during 2010. Apart from a limited amount of cash on bank accounts, these assets largely consist of shareholdings in its subsidiaries (as shown in Table 1). These subsidiaries have a total book value of US\$ 54.1 million.<sup>37</sup>

This sum represents the net asset value of the five pulp and paper mills acquired up till the end of 2010 as well as the marketing subsidiaries of Paper Excellence (see paragraph 2.3). Paper Excellence reports the *net asset value* (assets - liabilities) of its subsidiaries instead of consolidating all assets and liabilities of the subsidiary. This is possible because Paper Excellence meets the Dutch fiscal criteria to qualify as a small company: "A small company is a company which fulfils two of the following three criteria in two successive financial years:

1. the value of the assets at purchase cost or production cost does not exceed € 4.4 million;
2. the net turnover over a financial year does not exceed € 8.8 million; and
3. the average number of employees over a financial year is less than 50.<sup>38</sup>

As Paper Excellence meets the second and third criteria, it is exempted by Dutch tax laws from the obligation to prepare consolidated annual accounts and is allowed to present only the net asset value of its subsidiaries.<sup>39</sup>

The shareholdings of Paper Excellence in its subsidiaries therefore only represent a small part of the total acquisition sum of the pulp and paper mills, a much larger part is financed by loans to Paper Excellence's subsidiaries. As the assets and liabilities of the pulp and paper mills and their direct holdings companies are not consolidated in the annual accounts of Paper Excellence, these annual accounts do not show how large these debts are and from whom they were attracted.

However, in Chapter 3 we will argue that most or all of these loans were probably attracted from Bentoning Holding B.V. and its subsidiaries. Bentoning Holding is a Dutch holding company which - also - seems to be ultimately owned by the Widjaja family. In paragraph 3.4.1 we have estimated that about US\$ 250 million is invested in the pulp and paper mills and marketing companies owned by Paper Excellence. These total investments are financed for 21% by the shareholdings of Paper Excellence in its subsidiaries and for 79% by the loans of Bentoning Holding and its subsidiaries.

### 2.4.2 Sources of finance

As described in paragraph 2.4.1, at the end of 2010 Paper Excellence had invested US\$ 54.1 million in its subsidiaries and had US\$ 0.6 million in cash. How these investments were financed is shown in Table 4.

**Table 2 Sources of finance for Paper Excellence at the end of 2010**

Source of finance	From	Amount (US\$ mln)
Shareholders	Fortune Everrich	US\$ 37.2 million
Bank loan	Bank International Ningbo	US\$ 17.5 million
		<b>US\$ 54.7 million</b>

Source: Paper Excellence, "Publication report for the year 2010", Paper Excellence B.V., January 2012.

As shown in Table 2, the total assets of Paper Excellence were financed at the end of 2010 by an investment of US\$ 37.2 million by its shareholder Fortune Everrich. The remaining US\$ 17.5 million of Paper Excellence's assets is financed by a loan from Bank International Ningbo from China. This bank is controlled by the Widjaja family: it carries the same logo as APP and Mr. Indra Widjaja is one of the two executive directors.<sup>40</sup>

This loan is rather a "friendly investment" by the bank in a company owned by the Widjaja family than a real commercial loan, as the interest rate on the loan is extremely low: 0.01%. If the Chinese banking authorities are aware that Bank International Ningbo is making loans with such a low interest rate to a company related to the bank's owners, and if they approve it, is unknown. Ten years ago, this type of friendly loans by Indonesian banks to companies owned by the banks' owners, caused a large number of banks - including Bank International owned by the Widjaja's - to collapse and necessitated a big government bail-out.

## 2.5 Ownership

### 2.5.1 Fortune Everrich

As shown in Figure 1, Paper Excellence is owned by Fortune Everrich Sdn Bhd ("Fortune Everrich"), based in Labuan (Malaysia). This company was established in June 2003 and is registered at the Companies Commission of Malaysia as an investment holding. Fortune Everrich has three directors:<sup>41</sup>

- Tei Ah Lek Malaysia
- Kuan Chee Hoong Malaysia
- Suresh Kilam Indonesia

Kuan Chee Hoong is also one of the directors of Soppire Venture, which owns Solaris Paper in Australia. Solaris Paper Pty Ltd, an Australian operated and managed affiliate of APP, distributes high quality toilet and tissue paper products throughout the Australasia region.<sup>42</sup>

At the end of December 2008, Fortune Everrich owned total assets of RM 27.3 million (US\$ 5.6 million). At the end of 2009, the assets of the company slightly increased to RM 30.0 million (US\$ 6.1 million). In 2010, the assets increased more than ten-fold, to RM 302.8 million (US\$ 74.1 million).<sup>43</sup>

This increase is only caused partly by the increase in the value of the equity of its subsidiary Paper Excellence from US\$ 8.8 million to US\$ 37.2 million during 2010 (see paragraph 2.4). This probably means that during 2010 Fortune Everrich has invested around US\$ 35 million in one or more other companies, besides Paper Excellence. This could be a similar holding company, owning other foreign subsidiaries of the APP group.



Fortune Everrich generated zero revenues in the years 2008, 2009 and 2010. Revenues were zero because Paper Excellence does not consolidate the financial figures of its subsidiaries in its own annual accounts (see paragraph 2.4). Just like Paper Excellence, its parent company Fortune Everrich therefore has no revenues. As Fortune Everrich does have some costs, it reported a loss of RM 14.3 million (US\$ 2.9 million) in 2008, a slight profit of RM 0.01 million (US\$ 0.00 million) in 2009 and a loss of RM 58.6 million (US\$ 14.3 million) in 2010.<sup>44</sup>

### **2.5.2 Capital Asset Holdings**

Fortune Everrich itself is wholly owned by a company named Capital Asset Holdings (L) Bhd (“Capital Asset Holdings”).<sup>45</sup> This company is probably based in Malaysia, where “(L) Bhd.” is commonly used. The “L” indicates that the company is registered in the island of Labuan, which has a very favourable tax regime. However, nothing could be found about this company. The company is not registered at the Malaysian company register.

### **2.5.3 Elite Shine Investments**

Arco Print & Paper Ltd., which is 100% owned by Paper Excellence, indicates that its ultimate parent company at the end of 2010 was Pyro Success Ltd. on the British Virgin Islands. But in the first half of 2011 this company was replaced by Elite Shine Investments Ltd., also on the British Virgin Islands.<sup>46</sup> Probably Elite Shine Investments owns the Malaysian holding company Capital Asset Holdings, directly or via some intermediate holding companies. No further information could be found on Elite Shine Investments.

### **2.5.4 Widjaja family**

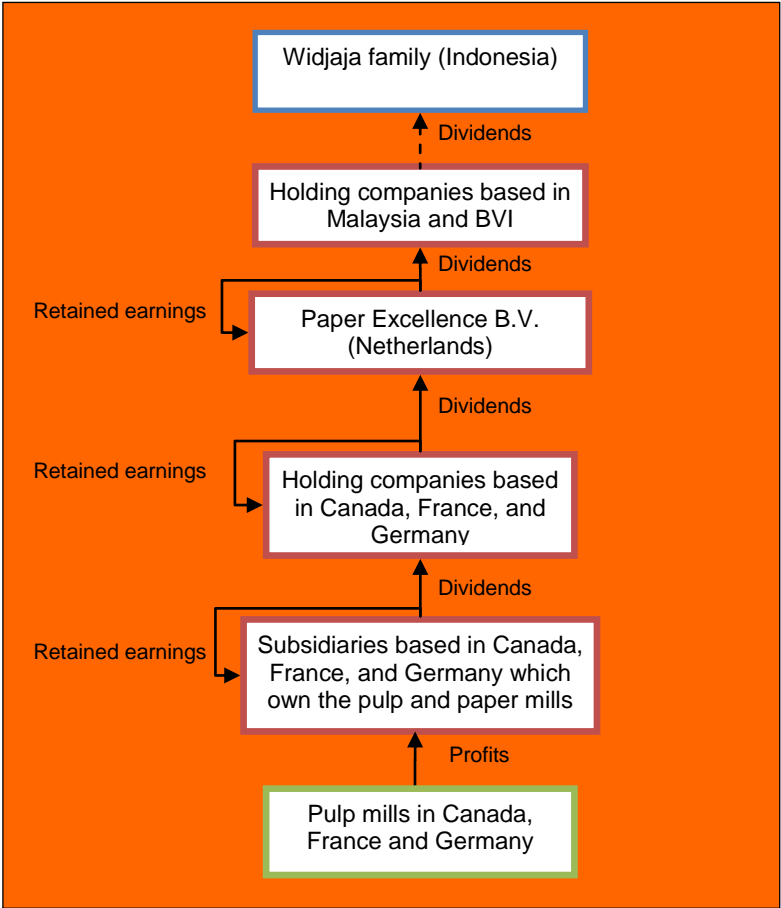
As indicated in Figure 1, we assume that Paper Excellence is ultimately controlled by the Widjaja family. As no information is found on Capital Asset Holdings (L) Bhd. and Elite Shine Investments Ltd., this assumption is not yet confirmed by official company register data. But there are many indications that the Widjaja family is ultimately controlling Paper Excellence, including:

- Press reports in Canada usually describe Paper Excellence as a subsidiary of APP<sup>47</sup>;
- Press reports in Germany state that Jackson Widjaja is the owner of Paper Excellence<sup>48</sup>;
- Paper Excellence’s subsidiary Meadow Lake Mechanical Pulp writes on its website: “In January, 2007, an Indonesian based company, purchased the Mill”<sup>49</sup>;
- Until recently, Raymond Liu was one of the directors of Paper Excellence’s subsidiary Paper Excellence Canada Holdings.<sup>50</sup>
- The address of Hardi Wardhana, one of the two directors of Paper Excellence, is similar to the head office of the Sinar Mas Group in Indonesia;
- The director of Paper Excellence’s subsidiary Arco Paper & Print is Zui Rheng, who is also director of APP China.<sup>51</sup>
- A Paper Excellence spokesperson clarified in April 2010 to an industry magazine that while Paper Excellence is linked to the Widjaja family, which also controls the Sinar Mas Group, it is not a consolidated part of the group’s core activities in paper and board production, which fall under APP’s remit.<sup>52</sup>
- Several financial data services, including Bloomberg Businessweek, MergerStat Database and Reed Elsevier, mention the Sinar Mas Group, based in Jakarta (Indonesia), as the ultimate owner of Paper Excellence.<sup>53</sup>

**2.6 Dividend payments**

When a company generates a profit, that money can either be re-invested in its business activities as retained earnings or be distributed to shareholders in the form of dividends. When the pulp and paper mills in Canada, France and Germany, which are owned by Paper Excellence through holding companies and their subsidiaries, generate profits, a decision has to be made on how these profits are dealt with. If dividends are paid out, the profits will flow from the pulp and paper mills through (part of) the trajectory as demonstrated in Figure 2.

**Figure 2. Dividend payments by Paper Excellence subsidiaries**



The subsidiaries which directly own the pulp and paper mills can either invest the profits made by these mills in their own company as retained earnings, or pay out the dividends to their shareholders, the holding companies owned by Paper Excellence. When these holding companies receive dividends from their subsidiaries, they will make a profit. With regard to this profit they can make a similar decision: they can either keep the profits as retained earnings, for example to finance new acquisitions, or pay out the profits as dividend to Paper Excellence.

If Paper Excellence receives dividends from its subsidiaries, it generates profits and can make a similar decision. But in the period 2008-2010 this was not the case: Paper Excellence did not receive any dividends from its subsidiaries.<sup>54</sup> It is possible that the profits of the pulp and paper mills were retained by the subsidiaries owning the mills, or by the holding companies in the different countries.

Based on the analysis made in Chapter 3 on the role of the Bentoning group, it seems likely that the pulp and paper mills in Canada, France and Germany will not be making huge profits in the coming years and will not pay out dividends to Paper Excellence. The pulp and paper mills yield a considerable interest payment each year, which flows to the creditors of the Bentoning group - which we assume to be related to the Widjaja's as well.

By keeping interest payments of the mills as high as possible, the profits and dividend payments of the mills will remain low. This has two advantages:

- The financial return of the mills will flow to back to the Widjaja's, but through the Bentoning group and not through Paper Excellence. As the Bentoning group has stayed completely out of the media, less attention is drawn towards its money flows;
- No dividend payments, or very low dividend payments, to Paper Excellence keep its annual turnover below the legal threshold of € 8.8 million. Despite its extensive holdings, Paper Excellence can therefore continue to qualify as "small-sized company" and is therefore allowed not to consolidate the accounts of all its subsidiaries in its own accounts. By not consolidating its subsidiaries, Paper Excellence can avoid transparency on the total value, turnover and profit of its subsidiaries.

## Chapter 3 Bentoning Holding

### 3.1 Company profile

Bentoning Holding B.V. is a Dutch holding company established in October 2009. As a holding company it owns 99.99% of Rending B.V. and 50% of Lentebloesem B.V. (the other 50% of Lentebloesem B.V. is owned by Rending B.V.). Through its two subsidiaries Bentoning Holding makes investments in other companies in the forms of loans and possibly shareholdings.<sup>55</sup>

The ultimate owner of Bentoning Holding is unknown, but there are several indications that the company is closely linked to Paper Excellence and its subsidiaries (see Chapter 2) and is also ultimately owned by the Widjaja family. Complementary to Paper Excellence, which has made equity investments in a number of pulp and paper mills and paper marketing companies in Europe, North America and Asia, Bentoning Holding seems to provide loans to a number of the subsidiaries of Paper Excellence.

### 3.2 Management

Bentoning Holding was established in October 2009 and was managed until April 2011 by two employees of ANT (see Chapter 5). Between November 2009 and November 2010 the company was managed by Michael Elias, a director of ANT's subsidiary Amaco. In the period November 2010 until April 2011 Dedde Zeelenberg was the managing director of Bentoning Holding.<sup>56</sup> Zeelenberg is a director of ANT Management<sup>57</sup>

The two subsidiaries of Bentoning Holding have been managed by the same two ANT employees, although there are slight differences in their history. Before November 2009 Rending B.V. was a non-active company with the name Furniture Origins B.V., owned by ANT. In November 2009, 99.99% of the shares were sold to Bentoning Holding B.V. and the name of the company was changed into Rending B.V.<sup>58</sup> Elias managed the company between November 2009 and November 2010, and Zeelenberg from then until April 2011.<sup>59</sup> Lentebloesem B.V. was established in May 2010. Elias managed the company between November 2009 and November 2010, and Zeelenberg from then until April 2011.<sup>60</sup>

In April 2011 all three companies moved from the ANT office to Laan van Kronenburg 2 in Amstelveen. This is an office building managed by Regus, where all kinds of companies can rent a small office. At the same moment Klaas van Blanken became the managing director of all three companies.<sup>61</sup>

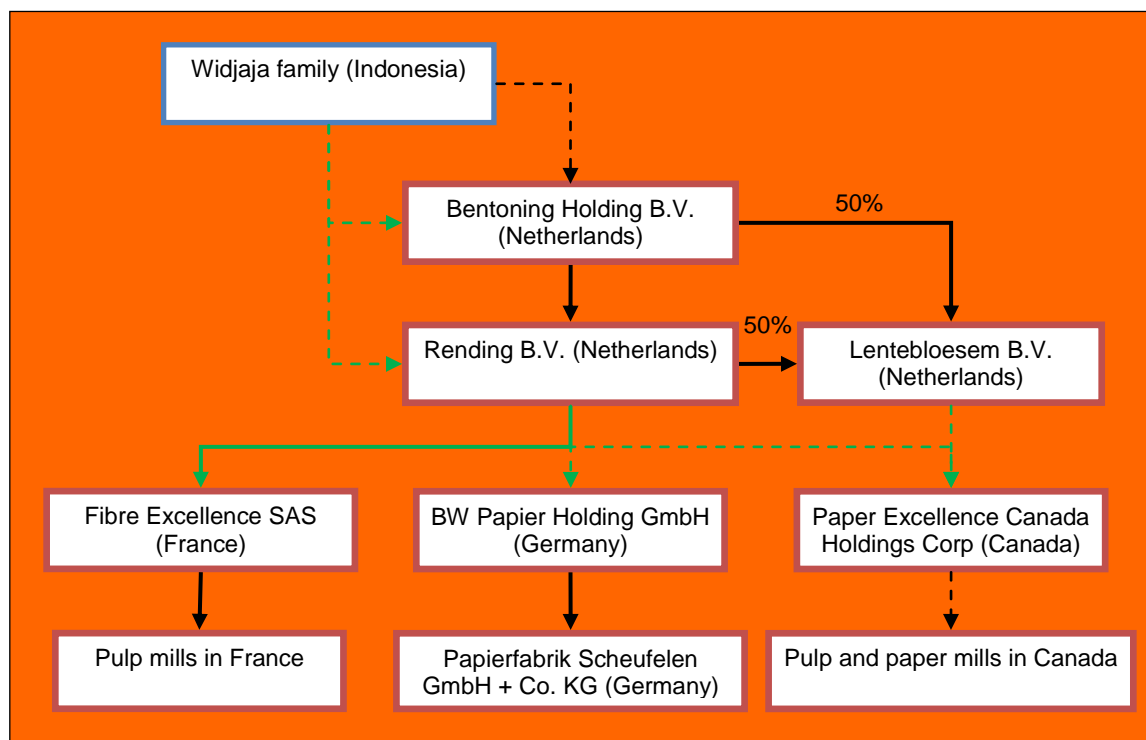
Klaas van Blanken until 2004 worked for Amaco, a subsidiary of ANT. After that, he worked for other companies, but since February 2011 he advertised himself on his LinkedIn profile as: "Financial looking for opportunities".<sup>62</sup>

Since April 2011 he is managing the three companies. But if he is actually employed by ANT to manage them on a contract basis, as was the case with Elias and Zeelenberg, is not clear. It is very probable that managing the three companies does not take much of his time. In April 2011 Van Blanken also started to work as finance manager of Uzimet, the only sheet lead producer in the Netherlands.<sup>63</sup> If and how his two jobs are related is unclear.

### 3.3 Corporate structure

Figure 3 provides an overview of the corporate structure of Bentoning Holding, including the loans Bentoning and its subsidiaries have provided to subsidiaries of Paper Excellence (see Chapter 2). The bold lines are based on evidence from company register filings, while the striped lines are assumptions made by the authors of this report.

**Figure 3. Corporate structure of Bentoning Holding**



Key: Black: ownership; Green: loans; Striped line: Relationship is assumed, but not confirmed by official documents from company registers.

### 3.4 Financial analysis of Bentoning Holding

#### 3.4.1 Investments

Bentoning Holding and its two subsidiaries are closely linked and will be described together, on the basis of the annual reports for 2010 of the three companies. At the end of 2009 the three companies were very small, collectively owning a few tens of thousands of dollars on bank accounts.

During 2010 the three companies expanded strongly, attracting loans to make investments in other companies. Not much is known about these investments, they could include investments in shares of other companies and long-term loans to other companies. We assume that most of their investments are loans to subsidiaries of Paper Excellence (see Chapter 2). Table 3 shows the information known about the outstanding investments of the three companies at the end of 2010.

**Table 3 Investments of the Bentoning group at the end of 2010**

Company	Type of investment	In which company	Amount (US\$ mln)
Rending	Loan	Fibre Excellence	\$ 93.8 million
Rending	Bonds	APP finance companies	\$ 161.0 million
Rending	Unknown	Unknown	\$ 10.0 million
Lentebloesem	Unknown	Unknown	\$ 10.0 million
<b>Total</b>			<b>\$ 264.8 million</b>

Sources: Rending, "Report for the Year 2010", *Rending B.V.*, January 2012; Lentebloesem, "Report for the Year 2010", *Lentebloesem B.V.*, January 2012; Fibre Excellence SAS, "Annual Report 2010", *Fibre Excellence SAS*, September 2011.

As shown in Table 3, the two subsidiaries of Bentoning Holding B.V. had investments outstanding at the end of 2010 with a total value of US\$ 264.8 million. The lion share of these investments were made by Rending B.V.: US\$ 254.8 million. This includes a loan of € 70.4 million (US\$ 93.8 million) which Fibre Excellence SAS (see paragraph 2.3.3) received in 2010 from Rending to finance the acquisition of two French pulp mills.<sup>64</sup>

Rending has also invested in securities to which “a temporary restraining order is attached by the New York State Supreme Court which prohibits payments on these securities”.<sup>65</sup> It is very likely that the securities referred to here are bonds issued by Indah Kiat International Finance B.V. and APP International Finance B.V. (see paragraph 4.2). As the Widjaja’s have reached settlements with some of the main plaintiffs in the New York court case on these bonds (including Oaktree Capital Management and Gramercy Advisors) in 2008 and 2009, it is highly likely that the Widjaja’s at that time have taken over some of these bonds as part of the settlement. Some of these bonds now seem to have been sold to Rending B.V. for an unknown amount. To finance this acquisition, Rending obtained a loan.

Apart from the loan to Fibre Excellence and the old APP bonds, it is possible that Rending and/or Lentebloesem have made investments in the sister company of Fibre Excellence in Canada which also needed huge sums to invest in pulp and paper mills. Paper Excellence Canada Holdings Corporation has acquired five Canada pulp and paper mills between 2007 and early 2011 for an unknown amount (see paragraph 2.3.2). Another sister company of Fibre Excellence, BW Papier Holding, also needed a huge sum (US\$ 57.3 million) to finance the acquisition of Papierfabrik Scheufelen in May 2011. As BW Papier Holding was only established in February 2011, a loan to BW Papier Holding cannot be included in the figures mentioned in Table 3 for the end of 2010. But one of the Bentoning group companies might have provided a loan to BW Papier Holding in 2011, additional to the investments mentioned in Table 3.

If we assume that from the total investments of US\$ 264.8 million of the Bentoning Group about US\$ 200 million is invested as loans in the subsidiaries of Paper Excellence, one can compare this to the US\$ 54.1 million which Paper Excellence has invested in the equity of these same companies (see paragraph 2.4). This would mean that about US\$ 250 million is invested in the pulp and paper mills and marketing companies owned by Paper Excellence. Of these total investments, about 21% is financed by the equity of Paper Excellence and 79% by the loans of the Bentoning group.

**3.4.2 Sources of finance**

As shown in Table 3, the two subsidiaries of Bentoning Holding B.V. had investments outstanding at the end of 2010 with a total value of US\$ 264.8 million. How these investments were financed is shown in Table 4.

**Table 4 Sources of finance for the Bentoning group at the end of 2010**

Company	Source of finance	From	Amount (US\$ mln)
Bentoning Holding	Shareholding	Unknown	\$ 0.0 million
Bentoning Holding	Loans	Unknown	\$ 233.3 million
Rending	Loans	Unknown	\$ 31.5 million
<b>Total</b>			<b>\$ 264.8 million</b>

Sources: Rending, “Report for the Year 2010”, *Rending B.V.*, January 2012; Bentoning Holding, “Report for the Year 2010”, *Bentoning Holding B.V.*, January 2012.

As Table 4 shows, the shareholder(s) of Bentoning Holding actually have not financed the large investments made by the company, through its subsidiaries, in 2010. The shareholder equity of Bentoning Holding was slightly negative at the end of 2010. The investments made by the subsidiaries of Bentoning Holding in 2010 (see Table 3) were financed completed by long-term loans to Bentoning Holding (US\$ 233.3 million) and Rending (US\$ 31.5 million).<sup>66</sup> Who has provided these long-term loans is unclear. The annual reports of Bentoning Holding and Rending divide the loans in two groups:

- Loans with a variable interest rate of Sibor +2.921% (Sibor is the normal interest rate charged in Asia for loans from bank to bank, the “S” stands for Singapore);
- Loans with a fixed interest rate of 5.95%.<sup>67</sup>

If we assume an interest rate of 5.95% for all loans, this will generate annual interest payments of US\$ 15.8 million. These interest payments will flow through the Bentoning group to the ultimate owners of Bentoning Holding, as shown in Figure 3.

### **3.5 Owners and financiers of the Bentoning group**

Who are the owners of Bentoning Holding B.V. and who are the creditors which have provided the US\$ 264.8 million invested by Bentoning’s subsidiaries in Fibre Excellence and other companies in 2010? We do not have a final answer to these questions, but we will analyse some possible options:

- **Shareholders of Bentoning Holding**

When Bentoning Holding was established in October 2009, ANT was the owner.<sup>68</sup> But probably the ownership of Bentoning Holding was later transferred to another company belonging to the Widjaja family. The loan of Rending to Fibre Excellence and the investment of Rending in securities which are probably related to APP, suggest a very close link between the Bentoning Group and the Widjaja’s.

However, the owner of Bentoning Holding could also still be ANT, or somebody else. Who the actual owners are is not very important, as Bentoning group is used for financing purposes rather than for holding purposes, the shareholders have not invested any significant sum in the group and Bentoning is not likely to generate a significant profit. More important is who the creditors of the Bentoning group are, who have provided US\$ 264.8 million in loans.

- **Creditors**

The creditors of Bentoning Holding and Rending have provided loans with a total value of US\$ 264.8 million, which have financed the investments of Rending and Lentebloesem during 2010. These creditors could be the Widjaja’s as well, but also a bank, a hedge fund or another private investor. It seems likely that at least part of the loans is originating from an Asian investor, as the interest rate is linked to the Sibor.

If the loans to the Bentoning group are provided by the Widjaja’s, this raises the question why they would do so. The Widjaja’s could have invested the same amounts more directly via Paper Excellence. This would save the trouble of setting up and managing the Bentoning group separately. There might be three reasons for the Widjaja family to set up the Bentoning group separate from Paper Excellence and to finance most of the acquisitions in pulp and paper mills in France, Germany and Canada through loans rather than through equity:

1. By channelling most of the investments via the Bentoning group, the Widjaja family could hide how much they are actually investing in acquiring pulp and paper mills in Canada, France and Germany. Given their controversial reputation, this might raise less questions.
2. As the Bentoning group seems to invest in the holding companies of the pulp and paper mills in the form of loans, the return on these investments flow (from Canada, France and Germany) via the Netherlands to the ultimate owners (in Indonesia or Malaysia) in the form of interests rather than dividends. From a tax perspective this often is more advantageous. From EU members France and Germany, both dividends and interest payments can usually flow without withholding tax to the Netherlands. But for Canadian companies usually a withholding tax applies on dividend and interest payments to the Netherlands, which might be lower for interest payments. And the tax treaties which the Netherlands has agreed with Malaysia and Indonesia do ask for a withholding tax on dividend payments, but not on interest payments.<sup>69</sup> This lower withholding tax on interest payments applies when the loan is provided by another company or financial institution, but possibly not when the loan is provided by the ultimate parent company. By separating the Bentoning group from Paper Excellence, the Widjaja's might be hoping to hide that they are owning both company groups from the customs authorities in various countries.
3. Paper Excellence claims to qualify as a "small company" based on the requirements mentioned in Article 396 book 2 of the Dutch Civil Code: companies with a turnover below € 8.8 million per year and less than 50 employees are exempted by Dutch tax laws from the obligation to prepare consolidated annual accounts.<sup>70</sup> This is possible because Paper Excellence only holds the shares of its subsidiaries which account for 21% of the total value of these companies. As these subsidiaries are not paying dividends (explained in paragraph 2.6), the turnover of Paper Excellence is minimal. But when Paper Excellence would have the US\$ 264.5 million which are now invested by the Bentoning Group included in its own accounts, its turnover would be much higher. If we assume an interest rate of 5.95% for these loans, this would generate annual interest payments - and thus turnover - of US\$ 15.7 million (€ 11.8 million). With this turnover, Paper Excellence would no longer qualify as a small company and would be obliged to consolidate the accounts of all its subsidiaries in its own accounts. This would create much more transparency on the total value, turnover and profit of its subsidiaries, which the Widjaja family probably aims to avoid.



# Chapter 4 Dutch financing subsidiaries of APP

## 4.1 Introduction

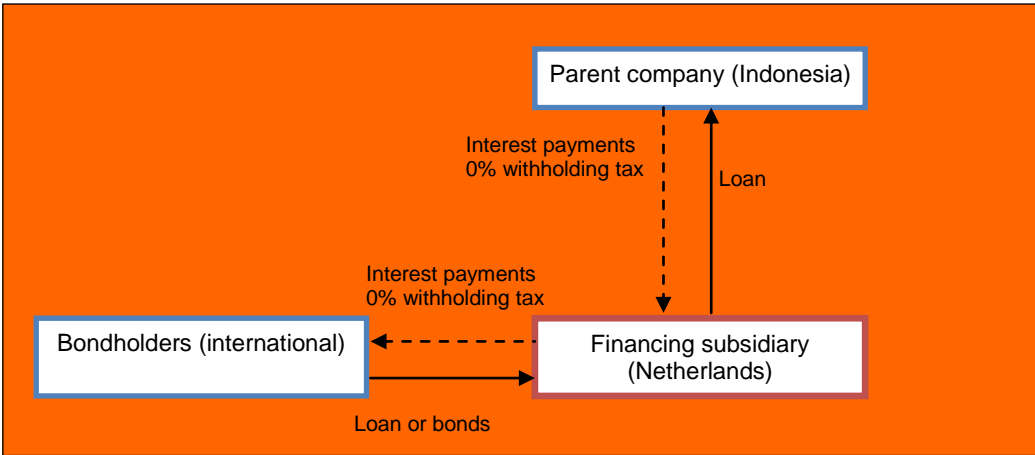
In the 1990s, the APP Group established various financing subsidiaries in the Netherlands. The role of these finance subsidiaries was to attract debt from external financiers and - consequently - to lend this capital to their parent companies. The role of these subsidiaries is explained in paragraph 4.2. After that, paragraph 4.4 gives some financial information about the financing subsidiaries which are still operational. Finally, paragraph 4.6 explains how interest payments are flowing to or from APP.

## 4.2 Role of financing subsidiaries

Foreign financing subsidiaries in tax havens such as the Netherlands and Mauritius are set up by their parent companies to attract debt. Attracting debt can be done in two ways: by attracting a bank loan or by issuing bonds to a number of investors. The capital attracted in this way is then provided as a loan to the Indonesian parent of the foreign financing company. The Dutch (or Mauritian) financing company therefore just acts as an intermediary for the parent company in Indonesia to attract capital.

The reason this capital is channelled through the Dutch financing subsidiary is to avoid withholding tax on interest payments. On the debt attracted, the Indonesian parent needs to pay interest to the foreign financiers. But Indonesian tax authorities levy a withholding tax on interest payments to foreign financiers in most countries. But with a few countries, including the Netherlands, Indonesia has a tax treaty which stipulates that no withholding tax is levied on interest payments to financiers in the Netherlands. The interest payment can therefore flow tax-free to the financing subsidiary in the Netherlands. And, because the Netherlands has similar tax treaties with a large number of countries, the financing subsidiary in the Netherlands can pay the interest tax-free in turn to the actual financiers (either banks or bondholders) in other countries. Figure 4 demonstrates the role of the Dutch financing subsidiary graphically.

Figure 4. Role of financing subsidiary



### 4.3 APP's foreign financing subsidiaries

Table 5 shows that APP and its Indonesian subsidiaries between 1994 and 1997 had various financing subsidiaries in Mauritius and the Netherlands, which were very active in attracting finance through the construction shown in Figure 4.

**Table 5 Debt attracted by financing subsidiaries of APP before the default**

Date	Subsidiary	Country	Description	Amount (US\$ mln)
11-12-97	APP Finance (VI) Mauritius	Mauritius	Zero Cpn Cvt Zero Bonds due '12	293,49
11-12-97	APP Finance (VI) Mauritius	Mauritius	Zero Cpn LYONS due '12	293,60
09-25-97	Pindo Deli Finance Mauritius	Mauritius	10.750% Fxd/Straight Bd due '07	448,64
09-25-97	Pindo Deli Finance Mauritius	Mauritius	11.875% Fxd/Straight Bd due '27	99,75
09-25-97	Pindo Deli Finance Mauritius	Mauritius	11.750% Fxd/Straight Bd due '17	99,24
09-25-97	Pindo Deli Finance Mauritius	Mauritius	10.250% Fxd/Straight Bd due '02	100,00
09-25-97	Pindo Deli Finance Mauritius	Mauritius	10.875% Guaranteed Nts due '27	695,63
09-25-97	Pindo Deli Finance Mauritius	Mauritius	11.750% Guaranteed Nts due '17	744,30
09-25-97	Pindo Deli Finance Mauritius	Mauritius	10.750% Guaranteed Nts due '07	747,74
09-25-97	Pindo Deli Finance Mauritius	Mauritius	10.250% Guaranteed Nts due '02	750,00
07-29-97	Tjiwi Kimia International Finance Co BV	Netherlands	10.000% Fxd/Straight Bd due '04	596,73
06-27-97	Indah Kiat International Finance Co BV	Netherlands	10.000% Fxd/Straight Bd due '07	596,08
02-20-97	APP International Finance Company BV	Netherlands	4.800% Fxd/Straight Bd due '02	13,88
02-14-97	APP Finance (II) Mauritius	Mauritius	375,000.0 \$120.00 Cum Gtd Pfd Shs	375,00
02-05-97	APP International Finance Company BV	Netherlands	4.500% Fxd/Straight Bd due '02	1,56
01-09-97	APP International Finance Company BV	Netherlands	5.000% Fxd/Straight Bd due '02	3,38
11-29-96	APP International Finance Company BV	Netherlands	Ln Style Bd Syn due '99	96,60
11-08-96	Tjiwi Kimia International Finance Co BV	Netherlands	17.675% Fxd/Straight Bd due '01	85,60
06-11-96	APP International Finance Company BV	Netherlands	Float Rate Nts due '99	198,50
05-02-96	APP International Finance Company BV	Netherlands	Medium-Term Nts due '97	1,29
03-05-96	Indah Kiat Finance Mauritius	Mauritius	410,200,000.0 Ord/Common Shs.	221,51
02-29-96	Indah Kiat International Finance Co BV	Netherlands	Export Credit due '04	29,24
02-22-96	Indah Kiat International Finance Co BV	Netherlands	6.150% Fxd/Straight Bd due '00	352,06
09-11-95	APP International Finance Company BV	Netherlands	11.750% Gtd Secured Nts due '05	450,00
09-11-95	APP International Finance Company BV	Netherlands	10.250% Gtd Secured Nts due '00	100,00
08-02-94	Tjiwi Kimia International Finance Co BV	Netherlands	13.250% Global Bonds due '01	200,00
<b>Total</b>				<b>7,593.82</b>
<b>Of which: Netherlands</b>				<b>2,724.92</b>
<b>Of which: Mauritius</b>				<b>4,868.89</b>

Source: Thomson ONE Banker, "Advanced Search", *Thomson ONE Banker* ([www.thomsonone.com](http://www.thomsonone.com)), viewed December 2011.

The following finance subsidiaries were set up by the APP Group in the Netherlands in the 1990s:<sup>71</sup>

- APP International Finance Company B.V.
- Indah Kiat International Finance Company B.V.
- Tjiwi Kimia International Finance Company B.V.
- Tjiwi Kimia Commercial Finance Company B.V.

As shown in Table 5, these subsidiaries have been issuing bonds between 1994 and 1997. However, in 2001 APP and its subsidiaries defaulted on their debt. A complicated debt restructuring process started, for different parts of the APP Group separately. In April 2005 a debt restructuring agreement became effective for the Indonesian subsidiaries of APP, which meant that most of the outstanding debt (bank loans and bonds) of these subsidiaries was converted into long-term debt with lower interest rates.<sup>72</sup> To realise this debt conversion, each Indonesian APP subsidiary set up a Dutch financing company which took over its share of the restructured debt. The new subsidiaries were:

- Indah Kiat Finance B.V.
- Lontar Papyrus Finance B.V.
- Pindo Deli Finance B.V.
- Tjiwi Kimia Finance B.V.

These financing companies (probably) will not attract new capital anymore but are responsible for channelling the interest payments of their parent companies to the foreign financiers (banks and bondholders) whose loans were restructured.

Some American bondholders, including Oaktree Capital Management, Gramercy Advisors and General Electric Capital, objected to the debt restructuring process and started a court case in New York in 2002. The New York State Supreme Court in 2003 ordered a restraining order on a number of APP-bonds, which means that interest payments are halted and the repayment is postponed. This restraining order applies not only to the bonds owned by the bondholders which started the court case, but to all bonds issued at the same dates with a total value of around US\$ 800 million. The court case is still not solved and the restraining order is still in place, although settlements have been reached by APP with the bondholders which started the court case. Their position as plaintiffs in the court case has been taken over since by Warner Mansion Fund, Upwood Investments and Bernal Ventures.<sup>73</sup>

Because of this court case these bonds were therefore kept out of the debt restructuring. For this reason two Dutch finance subsidiaries of the APP Group originating from the 1990s still exist: Indah Kiat International Finance B.V. and APP International Finance B.V. The debt they had outstanding to the bondholders is frozen (no repayments are made) and no interest is paid, until an agreement is reached with these bondholders (through a court ruling or otherwise). The other two Dutch finance subsidiaries of the APP Group originating from the 1990s have been dissolved.

**4.4 Old financing subsidiaries of APP**

**4.4.1 Indah Kiat International Finance Company B.V.**

Indah Kiat International Finance Company B.V. (“Indah Kiat International Finance”) was established in March 1994, before APP defaulted on its debt. The subsidiary is located at Claude Debussylaan 24 in Amsterdam, the Netherlands. The company is managed by ANT (see Chapter 5). Its parent company is PT Indah Kiat Pulp & Paper Tbk, which is a subsidiary of APP.<sup>74</sup> The company has no employees and four managing directors:<sup>75</sup>

- |                   |                 |
|-------------------|-----------------|
| • AH Lek Tei      | Malaysia        |
| • ANT Management  | The Netherlands |
| • Haryanto Suwita | Indonesia       |
| • Rong Ren Lai    | Taiwan          |

In the 1990s the company issued a number of bonds (see Table 5), which were not all restructured during APP’s debt restructuring in 2005. As a result, at the end of September 2011 the company still had a debt of US\$ 375.0 million outstanding to the bondholders. This capital was lent in the 1990s to its parent company, PT Indah Kiat Pulp & Paper Tbk.<sup>76</sup>

**4.4.2 APP International Finance Company B.V.**

APP International Finance Company B.V. (“APP International Finance”) was established in 1995, before APP defaulted on its debt. The subsidiary is located at Claude Debussylaan 24 in Amsterdam, the Netherlands. The company is managed by ANT and its parent company is APP. The company three managing directors:<sup>77</sup>

- ANT Management The Netherlands
- Bujung Wahab Indonesia
- Suresh Kilam India

In the 1990s the company issued a number of bonds (see Table 5), which were not all restructured during APP’s debt restructuring in 2005. As a result, at the end of 2009 the company still has a debt of US\$ 469.5 million outstanding to the former bondholders (no data are yet available for 2010 and 2011). This capital was lent to its parent company, Asia Pulp & Paper Co.<sup>78</sup>

**4.5 New financing subsidiaries of APP**

**4.5.1 Indah Kiat Finance B.V.**

Indah Kiat Finance B.V. (“Indah Kiat Finance”) was established in 2004, after APP defaulted on its debt. The subsidiary is located at Claude Debussylaan 24 in Amsterdam, the Netherlands. The company is managed by ANT. Its parent company is PT. Indah Kiat Pulp & Paper Tbk., which is a subsidiary of APP.<sup>79</sup> Indah Kiat Finance was registered at the Dutch company register in April 2004.

Indah Kiat Finance has the following managing directors:<sup>80</sup>

- ANT Management The Netherlands
- Heather Louise Jewitt United Kingdom
- Hoesin Indonesia
- Petrus Hendrik Bosse The Netherlands
- Suhendra Wiriadinata Indonesia

As part of the debt restructuring of the Indonesian subsidiaries of APP, Indah Kiat Finance in April 2005 issued medium-term notes with a total value of US\$ 1,422.9 million, to replace outstanding debt (bonds and bank loans) of Indah Kiat Pulp & Paper. The notes have the following maturities:<sup>81</sup>

- US\$ 271.8 million 2015
- US\$ 713.4 million 2018
- US\$ 437.7 million 2024

Since then, a small part of this debt has been repaid. At the end of 2009, a total of US\$ 1,297.8 million was still outstanding.<sup>82</sup> At the end of September 2011, the total equity of Indah Kiat Finance remained almost unchanged, so the same amount of bonds was still outstanding.<sup>83</sup>

#### 4.5.2 Tjiwi Kimia Finance B.V.

Tjiwi Kimia Finance B.V. (“Tjiwi Kimia Finance”) was established in 2004, after APP defaulted on its debt. The subsidiary is located at Claude Debussylaan 24 in Amsterdam, the Netherlands. The company is managed by ANT and its parent company is PT Pabrik Kertas Tjiwi Kimia, which is a subsidiary of APP. Tjiwi Kimia Finance was registered at the Dutch company register in April 2004. The company has the following managing directors:<sup>84</sup>

- ANT Management The Netherlands
- Arman Sutedja Indonesia
- Heather Louise Jewitt United Kingdom
- Petrus Hendrik Bosse The Netherlands
- Rudy Sutiono Indonesia

As part of the debt restructuring of the Indonesian subsidiaries of APP, Tjiwi Kimia Finance in April 2005 issued medium-term notes with a total value of US\$ 798.2 million, to replace outstanding debt (bonds and bank loans) of Pabrik Kertas Tjiwi Kimia. The notes have the following maturities:<sup>85</sup>

- US\$ 116.7 million 2015
- US\$ 300.3 million 2018
- US\$ 381.2 million 2025

Since then, a small part of this debt has been repaid. At the end of 2009, a total of US\$ 766.5 million was still outstanding.<sup>86</sup> At the end of September 2011, the total equity of Tjiwi Kimia Finance remained almost unchanged, so the same amount of bonds was still outstanding.<sup>87</sup>

#### 4.5.3 Pindo Deli Finance B.V.

Pindo Deli Finance B.V. (“Pindo Deli Finance”) was established in 2004, after APP defaulted on its debt. The subsidiary is located at Claude Debussylaan 24 in Amsterdam, the Netherlands. The company is managed by ANT and its parent company is PT Pindo Deli Pulp and Paper, a subsidiary of APP.<sup>88</sup>

The company has the following managing directors:<sup>89</sup>

- ANT Management The Netherlands
- Heather Louise Jewitt United Kingdom
- Kosim Sutiono Indonesia
- Petrus Hendrik Bosse The Netherlands
- Suhari Surjadi Indonesia

As part of the debt restructuring of the Indonesian subsidiaries of APP, Pindo Deli Finance in April 2005 issued medium-term notes with a total value of US\$ 854.9 million, to replace outstanding debt (bonds and bank loans) of Pindo Deli Pulp and Paper. The notes have the following maturities:<sup>90</sup>

- US\$ 96.2 million 2015
- US\$ 250.2 million 2018
- US\$ 508.5 million 2025

Since then, a small part of this debt has been repaid. At the end of 2009, a total of US\$ 835.4 million was still outstanding.<sup>91</sup> At the end of September 2011, the total equity of Pindo Deli Finance remained almost unchanged, so the same amount of bonds was still outstanding.<sup>92</sup>

**4.5.4 Lontar Papyrus Finance B.V.**

Lontar Papyrus Finance B.V. (“Lontar Papyrus”) was established in 2004, after APP defaulted on its debt. The subsidiary is located at Claude Debussylaan 24 in Amsterdam, the Netherlands. The company is managed by ANT and its parent company is PT Lontar Papyrus Pulp & Paper, a subsidiary of APP.<sup>93</sup>

Lontar Papyrus Finance has the following managing directors:<sup>94</sup>

- ANT Management The Netherlands
- Heather Louise Jewitt United Kingdom
- Kurniawan Yuwono Indonesia
- Petrus Hendrik Bosse The Netherlands
- Suhendra Wiriadinata Indonesia

Just as the three finance companies discussed above, Lontar Papyrus Finance was set up to issue new debt to replace old debt of its parent company, Lontar Papyrus Pulp & Paper. In practice, this has not happened yet. This is because the company has not reached the stages pending the fulfilment of certain conditions. As at the end of September 2011, the debt restructuring process was still in process.<sup>95</sup>

Therefore, at the end of September 2011 Lontar Papyrus Finance has no debt outstanding. It only has a loan of US\$ 0.8 million outstanding to its parent, financed by the shareholders equity of that same parent.<sup>96</sup>

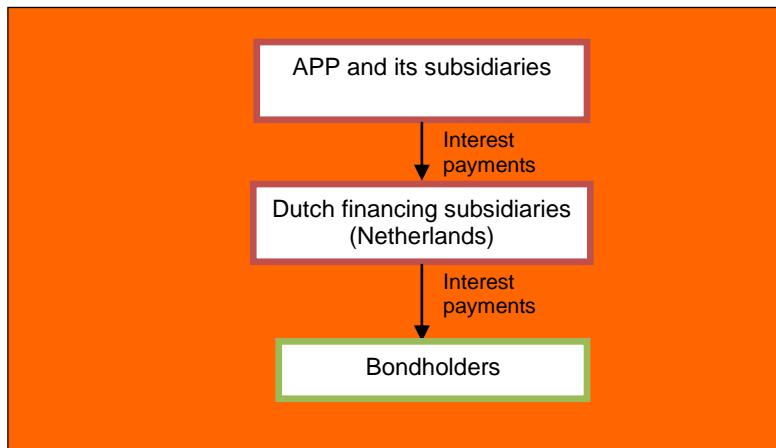
**4.6 Interest payments**

The debt of the two Dutch finance subsidiaries of the APP Group originating from the 1990s which still exist is frozen. Therefore, no interest is paid until an agreement is reached with these bondholders.

Three out of the four subsidiaries which were established in 2004, as part of the restructuring, do currently have bonds outstanding and pay interest to the bondholders. The debt these subsidiaries currently have outstanding was originally raised by APP and its subsidiaries between 1994 and 1997, and was converted to long-term debt as part of the restructuring. The bonds issued by these subsidiaries have maturities between 2015 and 2025.

Therefore, in the case of the financing subsidiaries the interest payments do not flow back to APP, but from APP to the bondholders (see Figure 5).

**Figure 5. Interest payments**



## Chapter 5 ANT

### 5.1 Company profile

ANT Trust and Corporate Services N.V. (“ANT”) is an independent trust company founded in 1994. ANT was established from a merger between Algemeen Administratie en Trustkantoor B.V., which was founded in 1896, and Nederlandsch Administratie- en Trustkantoor N.V., which was founded in 1907. ANT offers management and corporate services, international licensing services, capital market services and real estate services to its clients.<sup>97</sup> On its website ANT explains that it helps companies to use and benefit from financial treaties and arrangements the Netherlands has with a lot of countries all over the world.<sup>98</sup> ANT’s clients mainly exist of ‘corporate clients’ that are active in real estate, leisure, (heavy) industry and energy supply. The company focuses on foreign companies from countries like China and India, whose international investments are still growing.<sup>99</sup>

ANT’s headquarters are located at Claude Debussylaan 24 in Amsterdam, the Netherlands. The company also has a second office in the Netherlands, located in Rotterdam. In addition, it also has offices in Aruba, the British Virgin Islands, Cyprus, Belgium, Curaçao and China.<sup>100</sup>

In 2010, ANT generated revenues of € 26.4 million (US\$ 35.0 million), resulting in a net profit of € 4.5 million (US\$ 6.0 million). These revenues were generated in the Netherlands (80%), Curaçao and Aruba (18%) and Asia (2%). Total assets of ANT amounted to € 35.3 million (US\$ 47.0 million) at the end of 2010.<sup>101</sup>

An important subsidiary of ANT is ANT Management (Netherlands) B.V. (“ANT Management”). The activities of this wholly-owned subsidiary are especially providing administrative and other services, assisting with the formation of companies, and participating in- and conducting the management of other companies. In the year ended December 2010, ANT Management generated revenues of € 16.1 million, resulting in a net profit of € 4.2 million. The revenues were largely generated by management services (21%) and administrative and legal fees (71%).<sup>102</sup>

This chapter is organised as follows: paragraph 5.2 provides an overview of the current directors of ANT and ANT Management. Paragraph 5.3 describes who owns ANT. Paragraph 5.4 gives an overview of the services which ANT provides to the subsidiaries of APP.

### 5.2 Directors

The directors of ANT are:<sup>103</sup>

- Adrianus Cornelis Maria Beerepoot Netherlands
- Andreas Gerardus Maria Nagelmaker Netherlands

The directors of ANT Management are:<sup>104</sup>

- Adrianus Cornelis Maria Beerepoot Netherlands
- Andreas Gerardus Maria Nagelmaker Netherlands
- Dedde Zeelenberg Netherlands
- Heather Louise Jewitt United Kingdom
- Hieronymus Maria van Dijk Netherlands
- Pieter Bosse Netherlands



### 5.3 Shareholders

At the end of December 2010, ANT had the following shareholders which owned or managed more than 5.0% of the company:<sup>105</sup>

• <b>Krykerya Investments Groep</b>	Netherlands	9.9%
• <b>ABN AMRO Bank</b>	Netherlands	9.2%
• <b>Comice Holding</b>	Netherlands	8.0%

The remainder of the shares (72.9%) are spread over 189 shareholders, most of which are Dutch individuals.<sup>106</sup> It is likely that these individuals include the directors of ANT and ANT Management (see paragraph 5.2).

Krykerya Investments Groep and Comice Holding are probably investment companies of the directors of ANT and ANT Management. Krykerya Investments Groep is a holding and financing company which was established in October 2000. The company owns 9.9% of the shares of ANT and also owns 61.9% of Comice Holding B.V. The directors of Krykerya Investments Groep are Adrianus Cornelis Maria Beerepoot, which is a director of ANT and ANT Management, and Heather Louise Jewitt, which is a director of ANT Management.<sup>107</sup> Adrianus Cornelis Maria Beerepoot and Heather Louise Jewitt also are the directors of Comice Holding.<sup>108</sup>

### 5.4 Services to APP subsidiaries

ANT provides management services to all financing companies of APP which are still operational (see Chapter 4), to Paper Excellence (see Chapter 2) and to Bentoning Holding B.V. and its subsidiaries (see Chapter 3). These services are provided through its subsidiary ANT Management.<sup>109</sup>

The management and corporate services provided by ANT can include the following:<sup>110</sup>

- Incorporation of the companies and, if necessary, obtaining permission from the Central Bank and governmental authorities;
- Providing corporate or personal managing directors;
- Providing registered office facilities;
- Office and communication facilities;
- Reception and secretarial services;
- Management services, such as:
  - acting as director under the articles of association or authorised representative;
  - attending to the day-to-day management and the correspondence;
  - monitoring local registration requirements and communication with governmental authorities and the Central Bank;
  - organising the board and shareholders' meetings;
  - supervising incoming and outgoing payments, cash and currency services and electronic banking services;
  - the coordination of all contacts with client-related parties and advisors (tax consultants, legal advisors, civil-law notary, etc.);
  - winding-up and custodian services.
- Administrative services, such as:
  - day-to-day automated administrative services related to the bookkeeping and the national and international payment transactions;

- drawing up financial statements and half-year/quarterly statements in keeping with national and EU legislation;
- consolidation;
- overseeing audits;
- drawing up and filing reports with the Chamber of Commerce;
- keeping company documents and administrative records;
- drawing up and submitting tax returns in consultation with professional tax consultancies;
- making agreements on APAs and ATRs with the tax authorities;
- payroll administration services.

The subsidiaries of APP benefit from several of these services. Some examples are:

- The financing companies of APP which are still operational are all based on the same address as ANT: Claude Debussylaan 24 in Amsterdam. This means that ANT has provided registered office facilities for these companies. Paper Excellence was initially also registered at this address, but in May 2010, the company moved to a different location in Schiphol-Rijk. This location is probably arranged by ANT.
- ANT is providing managing directors to the subsidiaries of APP. The financing subsidiaries as well as Paper Excellence have made use of this service. Pieter Bosse, which is a managing director of ANT Management, is among the directors of many subsidiaries.
- It is likely that ANT also provides administrative services to the subsidiaries, including the formulation of an annual report and filing the reports with the Dutch chamber of commerce.

## Chapter 6 ABN AMRO

### 6.1 Introduction

ABN AMRO is a large Dutch bank, created by the merger of the Dutch parts of the former ABN AMRO Group and Fortis Netherlands which were both acquired by the Dutch state in the fall of 2008.<sup>111</sup> The two banks merged in July 2010.<sup>112</sup> The new ABN AMRO Group N.V. now has 6.8 million customers and 26.200 employees. The bank is active in 28 countries and has more than 500 offices in the Netherlands.<sup>113</sup>

### 6.2 Relationship with ANT

At the end of December 2010, ABN AMRO owned 9.2% of the shares of ANT.<sup>114</sup>

### 6.3 Relationship with APRIL

Asia Pacific Resources International Holdings Ltd ("APRIL") is the pulp and paper holding company of the Indonesian Royal Golden Eagle Group, until September 2009 known as the Raja Garuda Mas Group. The diversified business group is, next to pulp and paper, active in palm oil and related businesses, oil and gas, viscose fibre, and engineering, procurement and construction. The group is controlled by the Indonesian business man Sukanto Tanoto and his family.<sup>115</sup> Tanoto is an ethnic Chinese, who changed his name from Tan Kang Ho.<sup>116</sup> According to Forbes, in 2011 Tanoto was Indonesia's sixth-richest man, with a net worth of US\$ 2.8 billion.<sup>117</sup>

The major subsidiaries of APRIL in Indonesia are:

- PT Riau Andalan Pulp & Paper ("RAPP");
- PT Riau Andalan Kertas ("RAK");

RAPP owns a pulp mill with an annual capacity of 2 million tonnes, located in Riau province, Sumatra. RAK owns a paper mill with an annual capacity of 350,000 tonnes. This paper mill is located within APRIL's 1,750-hectare manufacturing complex in Riau and shares integrated operations with RAPP. In addition, APRIL also owns forest concessions in Riau province, where it cultivates fast-growing plantation trees.<sup>118</sup>

In 2011 ABN AMRO was involved in two loans to APRIL and its sister companies:

- Early 2011 ABN AMRO coordinated a US\$ 500 million loan provided by a group of banks to APRIL. The interest rate was LIBOR + 4.0%. The maturity is unknown.<sup>119</sup>
- In November 2011, AAA Oil & Fats secured a three-year US\$ 200 million commodity trade finance facility from a group of banks, arranged by ABN AMRO and WestLB (Germany). The facility will be used to finance purchase of commodities from suppliers for delivery to international export buyers. AAA Oil & Fats is part of Asian Agri Group, the oil palm plantation division of the Royal Golden Eagle group.<sup>120</sup>

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