



As Trustee for Marpac Unit Trust

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Reuben McGovern
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Investigations 3
Anti-Dumping Commission
Level 35
55 Collins St
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18/5/18

Re: Duty Assessments for Resealable Can End Closures (TRF's) exported from Malaysia, the Republic of the Philippines and the Republic of Singapore

Dear Rueben

Thank you for the opportunity to provide further data on this issue.

Please find accompanying this letter Marpac's confidential response to sales and CTMS Appendices A4 and A6 relating to the goods under consideration for the period 01 April 2017 to 31 March 2018.

Marpac's views on the appropriate calculation of the Unsuppressed Selling Price (USP) and Non-Injurious Price (NIP) are set out below.

The Dumping and Subsidy manual (p133) states *"the USP can be derived from the Australian Industry's selling prices at a time unaffected by dumping or subsidisation ... or "if there are sound reasons for not using this approach, a price may be constructed based on the industry's cost to make and sell, plus a profit"*.

Marpac would like the Commission to utilise an USP based on Marpac's CTMS Plus a profit margin when calculating the effective rate of duty for this accelerated review.

The use of Marpac's selling prices is not appropriate for determining the USP as noted in the ADC final report (REP 350)

1. it concluded that *"the Australian TRF Industry is an unestablished industry that could be materially hindered by dumped imports"* (page 35).
2. analysis of the Australian market size for TRF's (pages 41-42) indicates that volumes of imports from countries found to be dumping (Malaysia, Singapore and Philippines) made up the vast majority of the total Australian market size.
3. The fact that dumped imports held a majority market share of the Australian TRF market in the first half of the investigation period would suggest that -all things being equal - they would have held a majority market share in the quarter immediately preceding the investigation period. Just as report found that Marpac's sales volume and value in the investigation period was negatively impacted by the dumped imports, it also holds that these impacts would have been felt by Marpac in the quarter immediately preceding the investigation period.
4. the establishment of an Australian industry has been *"materially hindered as a result of dumped imports from Malaysia, the Philippines and Singapore"* (page 48), thus sales prices would not reflect those prices achievable in an established market.

As such, an USP calculated on market prices from Marpac's sales during the quarter immediately preceding the investigation period do not appropriately represent Australian industry's selling prices at a time unaffected by dumping as they are required to in order to be used to calculate a USP and subsequent NIP.

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It is difficult to ascertain a realistic Unsuppressed Selling Price (USP) based on Marpac's selling prices as the market has been and still is being significantly hindered as a result of, and ongoing, dumped imports.

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This accelerated review has been requested specifically on behalf of Kian Joo from Malaysia for 127mm TRF's. It is noted in the Dumping and Subsidy Manual that the Australian anti-dumping legislation does not prescribe a methodology for calculating the NIP and that the industry USP is usually used (p134). Marpac considers that its working sheets validated by the Commission in the investigation previously, provide a suitable basis for determining an USP. It submits that the USP ex works to be used for a 127mm TRF is:



See Excel Spreadsheet Marpac Confidential Response 1-4-17 to 31-3-18 Tab "Purchased Tinplate"

*The profit margin in the composite can industry is typically [redacted] of the selling price. TRF mark ups prior to the startup of manufacture by Marpac were [redacted] as a TRF is considered a specialty end that requires specialized equipment that is specific to TRF manufacture and also requires special multi stage manufacturing techniques.

The confirmation of this loss of margin is found in REP 350 "over the investigation period, the export price decreased for all TRF sizes" (p50)

The Commission determined levels of dumping to be 266.3% for Malaysia and Singapore and 17.4% for Genpacco (Philippines) and 41.5% all other exporters from the Philippines. The Commission found that:

"the dumping margins outlined in chapter 6 are material and as the Australian Industry is an unestablished Industry, the size of the dumping margins from Malaysia, Singapore and the Philippines is especially material to an unestablished industry" (REP 350, p50)

The report also found that "The Commission concludes that Marpac's business model and operations are viable for ongoing TRF manufacture" (REP 350, p54).

Regarding causal link, Report 350 found that: "During the investigation period, Marpac experienced a significant decline in supply of 73 TRF's, which it sold in the direct market to its sole can manufacturer customer who operated in the composite can market segment" (REP 350, p56).

It further noted that:

"The commission verified that this decline in external supply volumes from quarter 4, 2015 was a result of:

- *Marpac's can manufacturer customer losing a complete can unit contract (for a food producer) to a competitor can manufacturer in the downstream market and composite can market segment; and*
- *The competitor utilised a dumped TRF closure" (REP350, p56)*

The Commission met with the food producer and was advised that the sole reason for them switching can manufacturer was due to price (REP 350, p57)

Marpac would like to bring to the attention of the Anti-Dumping Commission that since the imposition of the dumping duties, there has been no meaningful engagement from the other parties, with Marpac.

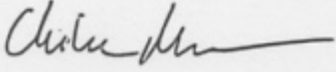
Marpac have continued to manufacture 73mm and 99mm TRF's.

- Marpac have the flexibility to meet any specification variations in tinplate gauge.
- Marpac have the capacity to meet all of the domestic market requirements.
- Marpac are qualified to the highest standards and currently supply the baby food market
- Marpac are certified to ISO 22000

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Should you have any further questions please do not hesitate to contact either myself [REDACTED]

Regards

A handwritten signature in black ink, appearing to read 'Charlie Maher', with a long horizontal flourish extending to the right.

Charlie Maher