



Australian Government
Department of Industry,
Innovation and Science

Anti-Dumping
Commission

CUSTOMS ACT 1901 - PART XVB

Public Notice under section 269TD of the Customs Act 1901¹

STATEMENT OF ESSENTIAL FACTS
NO. 350
and
PRELIMINARY AFFIRMATIVE
DETERMINATION

ALLEGED DUMPING OF RESEALABLE CAN END CLOSURES
EXPORTED FROM THE REPUBLIC OF INDIA, MALAYSIA,
THE REPUBLIC OF THE PHILIPPINES AND
THE REPUBLIC OF SINGAPORE

October 2016

¹ This is a public notice under subsection 269TD(4)(a) of the *Customs Act 1901* of the Commissioner's preliminary affirmative determination and a public notice under subsection 269TD(5) of the *Customs Act 1901* of the Commonwealth's decision to require and take securities.

Contents

Contents.....	2
Abbreviations	4
1. Summary of key findings and recommendations.....	5
1.1 Overview of investigation.....	5
1.2 Composition of the Australian TRF industry	5
1.3 Status of the Australian TRF industry	5
1.4 Dumped TRFs exported to Australia.....	5
1.5 Dumped TRFs have materially hindered the establishment of an Australian industry	6
1.6 Proposed measures	6
2. Background	7
2.1 Initiation	7
2.2 Previous cases.....	7
2.3 Preliminary affirmative determination.....	7
2.4 Responding to this SEF.....	7
2.5 Making a submission.....	8
3. The goods and like goods	9
3.1 Preliminary finding.....	9
3.2 Legislative framework.....	9
3.3 The goods.....	9
3.4 Tariff classification.....	10
3.5 Like goods assessment.....	10
3.6 Submissions received in relation to the assessment of like goods.....	12
3.7 The Commission's consideration of submissions in respect of like goods.....	13
4. The Australian industry.....	14
4.1 Preliminary finding.....	14
4.2 Legislative framework.....	14
4.3 Characteristics of the Australian industry	14
4.4 Submissions received in relation to the definition of the Australian industry.....	18
4.5 The Commission's consideration of submissions in respect of the Australian TRF industry	19
5. The Australian market.....	20
5.1 Background.....	20
5.2 Market structure	20
5.3 Price and cost	21
5.4 Competition.....	21
5.5 Demand	22
5.6 Submissions received in relation to the Australian market.....	22
5.7 Consideration of submissions in relation to the Australian market	22
6. Dumping investigation.....	23
6.1 Preliminary finding.....	23
6.2 Methodology for calculating dumping margins	23
6.3 Dumping investigation with respect to investigated countries	24
7. Economic condition of the Australian industry.....	25
7.1 Preliminary finding.....	25
7.2 Approach to injury analysis.....	25
7.3 Price effects	25
7.4 Revenue and profit effects.....	26
7.5 Volume effects	28

PUBLIC RECORD

7.6	Downstream injury	30
7.7	Employment effects.....	30
8.	Has dumping materially hindered the establishment of an Australian industry?	32
8.1	Preliminary findings.....	32
8.2	Cumulative effects of exportations.....	32
8.3	Exclusion from securing potential TRF supply contracts;	33
8.4	Price undercutting	34
8.5	Exclusion from increased market share	36
8.6	Prevention from maintaining or increasing revenue, profits and profitability.....	37
8.7	Employment effects.....	37
8.8	Delay in implementing plans to manufacture larger TRF sizes and unrealised capacity and efficiency 37	
8.9	Other factors - self-injury mitigation effects	38
8.10	Factors other than dumping.....	39
9.	Will dumping and injury continue?	42
9.1	Preliminary findings.....	42
9.2	Discussion	42
10.	Non-injurious price	43
11.	Proposed measures	44
11.1	Discussion	44
12.	Appendices and attachments	45

Abbreviations

\$	Australian dollars
ADN	Anti-Dumping Notice
the Act	<i>Customs Act 1901</i>
the applicant	Marpac Pty Ltd (Marpac)
CFR	Cost and freight
COGS	Cost of goods sold
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
CMIA	Can Manufacturers Institute of Australia Inc.
CTM	Cost to make
CTMS	Cost to make & sell
CTS	Cost to sell
DIBP	Department of Immigration and Border protection
Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975</i>
EBIT	Earnings before interest and tax
EDITA	Earnings before interest, tax, depreciation and amortisation
FOB	Free On Board
GAAP	Generally accepted accounting principles
the goods	the goods the subject of the application (also referred to as the goods under consideration)
Genpacco	Genpacco Ltd
Hindustan	Hindustan Tin Works Ltd
Irwin	Irwin Packaging Pty Ltd
NIP	Non-injurious price
PAD	Preliminary Affirmative Determination
the Parliamentary Secretary	the Assistant Minister for Industry, Innovation and Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science
SEF	Statement of Essential Facts
Sonoco	Sonoco Australia Pty Ltd
TRF	Tagger, ring, foil also known as resealable can end closures
USP	Unsuppressed Selling Price
USITC	United States International Trade Commission
VIP	VIP Packaging Pty Ltd
Visy	Visy Australia Pty Ltd

1. Summary of key findings and recommendations

1.1 Overview of investigation

On 18 May 2016, the Commissioner of the Anti-Dumping Commission (the Commissioner) initiated an investigation into the alleged dumping of resealable can end closures (referred to as tagger, ring and foil (TRF) ends, or TRFs) exported to Australia from the Republic of India (India), Malaysia, the Republic of the Philippines (the Philippines) and the Republic of Singapore (Singapore). The investigation is in response to an application by Marpac Pty. Ltd. (Marpac).

This SEF sets out the essential facts on which the Commissioner proposes to base his final recommendations to the Assistant Minister for Industry, Innovation and Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science (the Parliamentary Secretary).²

1.2 Composition of the Australian TRF industry

The Australian TRF industry consists of persons who manufacture TRFs. Marpac is the only verified manufacturer of TRFs in Australia and therefore the sole member of the Australian industry producing like goods.

The Commissioner has determined that the Australian industry's TRFs are like to the imported TRFs.

1.3 Status of the Australian TRF industry

The Australian TRF industry is not established, as the Commissioner has found that there was no verified production of TRFs in approximately a decade prior to Marpac commencing manufacture. The production undertaken between Marpac's manufacture commencement and the investigation period subject to this investigation does not limit the finding that the industry is not established.

1.4 Dumped TRFs exported to Australia

The Commissioner has preliminarily found that TRFs are exported to Australia at dumped prices by India, Malaysia, the Philippines and Singapore and that the Australian TRF industry has suffered injury in the form of:

- price suppression;
- loss of revenue and profit;
- loss of sales volume;
- downstream loss of revenue, market share and profits from the loss of can manufacturing contracts to which domestic TRFs were supplied; and
- reduced employment.

² The Minister for Industry, Innovation and Science has delegated responsibility with respect to anti-dumping matters to the Parliamentary Secretary and accordingly, the Parliamentary Secretary is the relevant decision maker. On 19 July 2016, the Prime Minister appointed the Parliamentary Secretary to the Minister for Industry, Innovation and Science as the Assistant Minister for Industry, Innovation and Science.

1.5 Dumped TRFs have materially hindered the establishment of an Australian industry

The Commissioner has preliminarily found that dumping has materially hindered the establishment of an Australian TRF industry via:

- exclusion from securing potential TRF supply contracts through;
 - decreasing export prices; and
 - price undercutting;
- exclusion from increased market share and prevention from maintaining market share;
- prevention from maintaining or increasing revenue;
- adverse employment effects;
- prevention from maintaining or increasing profits and profitability;
- delay in implementing plans to manufacture larger TRF sizes to supply the Australian TRF market, which would result in future revenue, profits and market share increases; and
- unrealised capacity utilisation and efficiency.

1.6 Proposed measures

The Commissioner has determined that securities are required to be taken while the investigation continues. The effective duty rate of the securities is equal to the dumping margins calculated.

Country	Cooperative exporter dumping margin	Uncooperative and all other exporters dumping margin
India	-	48.2%
Malaysia	-	131.7%
the Philippines	17.4%	41.5%
Singapore	-	131.7%

2. Background

2.1 Initiation

Public notification of the initiation of this investigation was published on the Anti-Dumping Commission's (Commission's) website via Anti-Dumping Notice (ADN) No. 2016/54³ on 18 May 2016. The background relating to the initiation of this investigation is contained in *Anti-Dumping Commission Consideration Report No. 350* (CON 350).⁴

2.2 Previous cases

The Commissioner has not made previous decisions on the goods subject to this investigation. This is the first time an investigation has been undertaken with respect to these goods and accordingly anti-dumping measures have not previously been imposed.

2.3 Preliminary affirmative determination

In accordance with the *Customs (Preliminary Affirmative Determinations) Direction 2015* (the PAD Direction) the Commissioner published a Day 60 Status Report in lieu of a Preliminary Affirmative Determination (PAD). Details of the Commissioner's reasons for doing so are in the Day 60 Status Report dated 18 July 2016 and published on the electronic public record at www.adcommission.gov.au

Section 9 of the PAD Direction requires the Commissioner to reconsider making a PAD after the publication of a Day 60 Status Report at least once prior to the publication of the Statement of Essential Facts (SEF). After reconsideration, the Commissioner is satisfied that there appears to be sufficient grounds for the publication of a dumping duty notice and for making a PAD. The Commissioner is also satisfied that it is necessary for the Commonwealth to require and take securities under section 42 of the *Customs Act 1901* (the Act) in respect of interim dumping duty that may become payable in respect of the goods exported from India, Malaysia, the Philippines and Singapore entered for home consumption on or after 6 October 2016. These securities will be imposed at the rate specified at chapter 6 of this SEF.

This SEF sets out the Commissioner's reasons for making a PAD.

2.4 Responding to this SEF

This SEF represents an important stage in the investigation. It informs interested parties of the facts established and allows them to make submissions in response to the SEF.

It is important to note that the SEF may not represent the final views of the Commissioner.

Interested parties should respond within 20 days after publication of this SEF. The Commissioner's recommendations in his final report to the Parliamentary Secretary must have regard to any submission that is received within 20 days of this SEF being placed on the public record.⁵ The final

³ Available on Investigation 350 case page on the Commission's website www.adcommission.gov.au

⁴ Ibid

⁵ Subsection 269TEA(3)(a)(iv)]

report will recommend whether or not a dumping duty notice should be published, and the extent of any interim duties that are, or should be, payable.

Responses to this SEF should be received by the Commissioner no later than **25 October 2016**. The Commissioner is not obliged to have regard to any submission made in response to the SEF received after this date if to do so would, in the opinion of the Commissioner, prevent the timely preparation of the report to the Parliamentary Secretary.⁶

The Commissioner must report to the Parliamentary Secretary by 19 November 2016.⁷

2.5 Making a submission

The preferred approach for making submissions is via email to operations2@adcommission.gov.au

If sending submissions via email is not possible, the following alternatives are available:

- Fax number: +61 3 8539 2499; or
- Post to: Director Operations 2
Anti-Dumping Commission
GPO Box 1632
MELBOURNE VIC 3001
AUSTRALIA

Confidential submissions must be clearly marked as 'Confidential' and a non-confidential version of a submission is required for inclusion on the Public Record.

A guide for making submissions is available at the Commission's web site www.adcommission.gov.au.

Documents included in the public record may be examined at the Commission office by contacting the case manager on the details provided below. Alternatively, the public record is available at www.adcommission.gov.au.

Documents on the Public Record for Investigation 350 should be read in conjunction with this SEF.

⁶ Subsection 269TEA(4).

⁷ As 19 November 2016 is a Saturday, the effective date to publish the Final Report will be the following business day Monday 21 November 2016.

3. The goods and like goods

3.1 Preliminary finding

The Commissioner considers that the Australian industry manufactured TRFs are 'like' to the goods under consideration and subject to the application.

3.2 Legislative framework

Subsection 269TC(1) of the Act provides that the Commissioner shall reject an application for a dumping duty notice if, inter alia, the Commissioner is not satisfied that there is, or is likely to be established, an Australian industry in respect of like goods.

In making this assessment, the Commissioner must firstly determine that the goods produced by the Australian industry are "like" to the imported goods. Subsection 269T(1) defines like goods as:

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

An Australian industry can apply for relief from injury caused by dumped or subsidised imports even if the goods it produces are not identical to those imported. The Australian industry must however, produce goods that are "like" to the imported goods.

Where the locally produced goods and the imported goods are not alike in all respects, the Commissioner assesses whether they have characteristics closely resembling each other against the following considerations:

- physical likeness;
- commercial likeness;
- functional likeness; and
- production likeness.

3.3 The goods

3.3.1 The goods description

The goods the subject of the application (the goods) are resealable can end closures (referred to as tagger, ring and foil (TRF) ends, or TRFs) comprising:

- a tinplate outer ring with or without compound;
- an aluminium foil membrane for attachment to the outer ring; and
- a plug or tagger, which fits into the outer ring.

3.3.2 Further information

TRFs are commonly manufactured by the TRF industry in the following nominal sizes (diameters):

- 73mm;
- 99mm;
- 127mm; and

- 153/4mm

The goods may be coated or uncoated and/or embossed or not embossed.

The goods can also be known as RLTs (ring, lid tagger), RLFs (ring, lid, foil) or Penny Lever ends.

3.3.3 Goods specifically excluded

Goods specifically excluded from this application are TRFs of nominal size:

- 52mm;
- 65mm;
- 189mm; and
- 198mm

3.4 Tariff classification

The goods are classified to tariff subheading 8309.90.00, statistical code 10, in Schedule 3 to the *Customs Tariff Act 1995*.

3.5 Like goods assessment

The Dumping and Subsidy Manual (the Manual)⁸ outlines certain “likeness tests” which provide a framework for assessing whether the goods manufactured by Marpac are like to the imported goods. Details of the Commission’s assessment is below.

3.5.1 Physical likeness

The Commission compared the technical specifications (including tolerance ranges) of Marpac’s 73mm TRFs (and proposed specifications for 99mm, 127mm and 153mm) with corresponding imported TRFs.

The following specifications were compared⁹:

Component	Specification
Can body type	composite and steel (low gauge)
Tinplate specification	<ul style="list-style-type: none"> • supplier; • temper; • tin coating thickness; and • tinplate gauge (tagger and ring)
Aluminium foil specification	<ul style="list-style-type: none"> • gauge; and • foil cut*
TRF specification	<ul style="list-style-type: none"> • outside curl diameter; • inside curl diameter*; • chuck fit*;

⁸ www.adcommission.gov.au

⁹ Not all specifications listed above were on every technical drawing received. Where some information was not available from all manufacturers these specifications are denoted with an *.

Component	Specification
	<ul style="list-style-type: none"> • curl height; • countersink depth; and • overall height*

Table 1: TRF specifications compared

The Commission notes that there are range of TRF specifications as per customer requirements. Each TRF has a tagger, ring and foil of approximately the same specification. There are no specifications between the domestic and imported TRFs that constitute a different appearance.

The Commission considers that although different customers may require different tinsplate and aluminium foil gauges to Marpac's current offering, this alone does not warrant a conclusion that Marpac's goods are not like to the imported goods. If this were the case, any gauge difference (due to customer requirements) would suggest that each TRF from each manufacturer is not a like good to any other TRF.

The Commission also received information from Marpac and interested parties that Marpac's TRF do not have the "click seal"¹⁰ that imported TRFs possess. The Commission considers that this "click seal" is a specific customer requirement that does not affect the essential physical likeness of domestic TRFs to imported TRFs.

3.5.2 Commercial likeness

Marpac claimed that its TRFs were competitive with imported TRFs;

- directly, as sales of TRF units to can manufacturers; and
- downstream, as a component on a complete can unit, which then competes with other can manufacturers.

The Commission assessed verified sales data from the Australian industry, importers and exporters and concludes that domestic TRFs are commercially like imported TRFs.

3.5.3 Functional likeness

Marpac claimed that its domestically produced TRF is directly substitutable for imported TRFs. The Commission examined information from exporters and importers to assess this claim. One particular claim made was that TRFs manufactured by Marpac could not be seamed onto a low gauge steel can body as:

- there was too much metal in Marpac's TRF curl;
- there was too little metal in Marpac's TRF curl;
- the aluminium foil cut was too large in Marpac's TRF; and
- the compound placement did not suit.

The Commission considers that although there may be some adjustments required in the manufacturing process for specific customer requirements and adjustments for the particulars of a composite or steel can body, the TRF performs the same function each time and hence domestic TRFs are functionally like imported TRFs.

¹⁰ The "click seal" is an audible "click" sound when replacing the lid or plug into the ring. The "click seal" is a design feature intended to provide confidence to consumers that the can is airtight.

3.5.4 Production likeness

Verified information from the Australian industry, exporters and importers confirms that domestically manufactured goods and imported goods are manufactured from similar raw materials (tinplate and aluminium foil) using a similar manufacturing process. The Commission has verified that TRF manufacture is a standard manufacturing process, whereby taggers and rings are pressed from tinplate sheets and then assembled with the aluminium foil (which is cut from sheet). The Commission observed Marpac's manufacturing facilities and those of one of the major exporters of the goods and notes that the manufacturing processes of all three entities are very similar.

3.6 Submissions received in relation to the assessment of like goods

3.6.1 The goods description is too wide¹¹

The Commission received a submission stating that the goods description is too wide, as Marpac does not have the capacity to manufacture larger sizes other than the 73mm TRF currently manufactured and sold. The Commission was requested to limit the goods description to the 73mm TRF and if not possible, recommend as an alternative "...a Ministerial Exemption for all sizes other than 73mm TRFs on the basis that no like or directly competitive goods are offered for sale in Australia."¹²

Marpac's rebuttal to this submission was that it did limit the goods description to 73mm, 99mm, 127mm and 153mm TRFs by virtue of the statement "...nominal sizes subject to the application..."¹³.

Further submission were received claiming that Marpac's goods and imported goods are not like with respect to:¹⁴

- Physical likeness: Marpac's TRF has a thinner gauge ring making it more susceptible to bending & flexing, which affects the fit, stability and seal quality. There is also no "click seal".
- Functional likeness: Marpac's TRF has a different functional use – ie. not suitable for use with a metal can. Less metal in the curl and a smaller foil cut size is required for use on low gauge steel can bodies to ensure seam quality and ultimate can finish.
- Commercial likeness: Marpac's TRF is not substitutable with imported TRFs due to volume demand and customer supply qualification requirements. Food producer customers will not permit TRFs purchased from Marpac without these qualifications.
- Production likeness: Marpac does not manufacture according to food producer customers qualification policies and procedures.

Marpac provided a rebuttal, stating that its TRF specifications (including the gauge) are a copy of the TRFs previously manufactured by a can manufacturer in Australia for use on low gauge steel can bodies. Given that Marpac currently sell TRFs to an Australian can manufacturer, there are at least two can manufacturers in the Australian industry who consider Marpac's TRFs suitable for low gauge steel and composite can bodies.

Marpac also commented it has tooling to create a click seal and that TRF modifications for different seaming lines is not an unusual occurrence for all can manufacturers.

¹¹ Document numbers 4 and 11 on the public record

¹² Document number 4 on the public record

¹³ Document number 11 on the public record

¹⁴ Document numbers 4 and 11 on the public record

3.7 The Commission's consideration of submissions in respect of like goods

The Commission's understanding of the word "nominal" in Marpac's goods description meant that the four sizes listed were understood to be common examples of TRF sizes imported and used by the Australian market, not that the goods description was to be restricted to those sizes.

In any respect, the goods description cannot be altered after an investigation has been initiated.

If the goods description had been limited to the specific 73mm, 99mm, 127mm and 153/4mm TRF sizes, diameters that may be interchangeable with any of the above sizes would have been excluded from the investigation and any resulting anti-dumping measures – for example a 72.5mm TRF is interchangeable for a 73mm TRF and would have been excluded from the goods description. Such a strict goods description could also invite potential circumvention activities on interchangeable diameters that was never intended.

The Commission also considers that Marpac's manufacture and sale of one TRF size during the investigation period does not limit the inclusion of other TRF sizes in the goods description, as Marpac is claiming its plans to manufacture and sell other TRF sizes is being materially hindered by dumping.

Having determined that TRF sizes not manufactured and sold by Marpac during the investigation period are valid inclusions in the goods description, the Commission has not considered a whether any TRF sizes should be exempt, however interested parties may apply for an exemption should dumping duties be imposed.

The Commission also performed a detailed assessment of the like goods (manufactured and intended to be manufactured by Marpac) with the imported goods under consideration. Whilst noting the features of an imported TRF and those manufactured (current and future) may not warrant a determination of being identical in all respects, the Commission is of the opinion that these features do not constitute material characteristics that render Marpac TRFs as not having characteristics closely resembling the imported TRFs.

The Commission received an excerpt of a food producer's qualification policies and procedures and notes that they are specific to the food producer's standards and qualifications on food handling safety management. The actual production process is not different. The Commission verified that Marpac has food handling safety and management qualifications and considers that there is no evidence to suggest that Marpac would not be able to satisfy the specific supplier accreditation requirements of a particular food producer customer.

4. The Australian industry

4.1 Preliminary finding

The Commissioner finds that prior to and at commencement of TRF manufacture by Marpac, an Australian TRF industry manufacturing like goods was not established.

4.2 Legislative framework

The Commissioner must be satisfied that the “like” goods are in fact produced in Australia. Subsections 269T(2) of the Act specify that for goods to be regarded as being produced in Australia, they must be wholly or partly manufactured in Australia. Under subsection 269T(3), in order for the goods to be considered as partly manufactured in Australia, at least one substantial process in the manufacture of the goods must be carried out in Australia.

4.3 Characteristics of the Australian industry

4.3.1 Persons manufacturing like goods in the Australian TRF industry

In its application,¹⁵ Marpac claimed it is the sole manufacturer of TRFs in Australia. The Commission verified¹⁶ that Marpac wholly manufactures all TRF components and performs the assembly and therefore its TRFs are wholly manufactured in Australia in accordance with the above provisions of the Act.

During the course of the investigation, the Commission received submissions (discussed in detail below at Section 4.4) from interested parties claiming that VIP Packaging Pty. Ltd. (VIP) also manufactured 73mm, 99mm and 153mm TRFs in Australia during the injury and investigation period.

On 16 September 2016 the Commission received unverified evidence of VIP’s TRF production volumes over the investigation period. The Commission was not afforded enough time to verify this evidence and accordingly the Commissioner has not had regard to submissions on this point, for to do so would have prevented the timely publication of this SEF¹⁷. The Commission cannot conclude at this time, the status of VIP as a manufacturer of like goods in Australia.

In accordance with subsection 269T(4) of the Act, Marpac is therefore the only verified member of the domestic industry in terms of the production of like goods where “...there is a person or persons who produce like goods in Australia:

- a. there is an Australian industry in respect of those like goods; and
- b. ...the industry consists of that person or persons.”

4.3.2 Does prior manufacture of like goods preclude an industry from being unestablished?

The Commission questioned whether prior manufacture or a particular level of manufacture of like goods by Marpac automatically indicated an established Australian TRF industry. In answering this question, the Commission examined section 269TG of the Act in conjunction with subsection 269TB(6) to determine how references to an “Australian industry producing like goods” can be

¹⁵ Document 1 on the public record

¹⁶ Document 13 on the public record

¹⁷ Subsection 269TDAA(3)

interpreted with respect to the hindrance of the establishment of an Australian industry for the purposes of a dumping duty notice. Subsection 269TB(6) elaborates on “Australian industry” for the purpose of setting out the industry support requirements for an application under subsection 269TB(1). It provides that (emphasis added):

- (6) *An application under subsection (1) in relation to a consignment of goods is taken to be supported by a sufficient part of the Australian industry if the Commissioner is satisfied that persons (including the applicant) who produce or manufacture like goods in Australia and who support the application:*
- a. account for more than 50% of the total production or manufacture of like goods produced or manufactured by that portion of the Australian industry that has expressed either support for, or opposition to, the application; and*
 - b. account for not less than 25% of the total production or manufacture of like goods in Australia.*

Subsection 269TB(1) includes applications made where a person believes that there are reasonable grounds for the publication of a dumping duty notice where there is an Australian industry producing like goods, and where an Australian industry may be established – there is no distinction in this provision between the particular status of the Australian industry.

The references to production and manufacture in subsection 269TB(6), as well as the words “Australian industry producing like goods” in section 269TG support a view that the Australian industry in section 269TG means an industry that has commenced some production or manufacture. There is also no express requirement for the industry to have carried out a particular level of production (or no production) in order for it be an industry whose establishment could be materially hindered.

Section 269TG supports the publication of a dumping duty notice with respect to an industry that has started some production but may not yet be established.

4.3.3 Is the Australian TRF industry an established industry?

The Commission has not previously investigated claims that dumping has caused hindrance to the establishment of an Australian industry. There is also little guidance in Australian and international law regarding the minimum requirements for determining whether an established domestic industry exists.

The Commission was informed by the approach for assessing “establishment” as discussed in the United States International Trade Commission (USITC) Report on *53-Foot Dry Containers from China*.¹⁸

The Commission considers that the concept of being “established” is not determined at a singular point in time prior to the initiation of production¹⁹. Rather, the assessment of whether an industry is established or not is an assessment of the industry, based on the particular facts of the case. The Commission has considered five indicators that form a framework for assessing whether an Australian TRF industry is established, based on the particular facts of the case.

¹⁸ USITC Final Report, 53-Foot Domestic Dry Containers from China, (701-TA-514 and 731-TA-1250), June 2015
https://pubapps.usitc.gov/applications/publogs/qry_publication_loglist.asp

¹⁹ See above discussion at chapter 4.3.2

None of these indicators in isolation is determinative of whether a domestic industry is established or not and nor is it a requirement that all five indicators must be satisfied for an overall conclusion of the industry's establishment.

The five indicators are:

1. An indicator of an unestablished industry may turn on the length of production, ie. that production has occurred for a relatively short period of time;
2. If domestic production is modest and starts-stops, this may be an indicator of an unestablished industry. Continuous production (whether or not there is production growth) may indicate an established industry;
3. Operational scale with high levels of production and relatively stable market share is likely to indicate an established industry;
4. If the domestic industry has reached a sustainable operational and financial "break-even" point, that may indicate that the domestic industry is established;
5. Is the production activity for which hindrance is claimed, a new product line deriving a production benefit from the utilisation of existing equipment, employment and expertise normally used for existing products? If the production activity is akin to the establishment of a new line and utilising existing customer networks, this may be an indicator of an established industry.

The status of prior TRF manufacture by other can manufacturers:

There is no dispute from Marpac and other interested parties to this investigation that the Australian can manufacturing industry previously manufactured TRFs for the sole purpose of internal transfer as a component on complete can units (composite or low gauge steel can bodies). TRF manufacture in Australia ceased in the early to mid-2000's and this function was replaced by overseas imports until Marpac commenced manufacture in 2014.

In assessing whether this prior TRF manufacture by Australian can manufacturers constituted an existing and established Australian TRF industry prior to the commencement of Marpac's manufacture, the Commission considers that the length of time prevailing between manufacture cessation by the can manufacturers and Marpac's manufacture commencement do not indicate that an established Australian industry existed at or just prior to Marpac's TRF manufacture.

The verified evidence at this stage suggests, at the time of Marpac commencing manufacture, there was no Australian manufacture of TRFs and hence Marpac cannot logically be rendered a late entrant in an established domestic industry. Therefore, the Commission considers that during the investigation period (and for approximately a decade prior to this period), there was no Australian industry (that was established or being established) as defined in subsection 269T(4).

The status of Marpac:

Utilising the "five indicator framework" described above, it is appropriate to consider that production of TRFs by Marpac has occurred for a short period of time (indicator 1), given that production commenced in January 2014. This fact is not in dispute by any interested party to the investigation.

Marpac commenced manufacturing 73mm TRFs for internal use in its own composite can business in January 2014. External sales of TRFs commenced some months later, with its first external TRF-only customer. Based on submissions from interested parties and Marpac's own data and admissions, TRF production is modest (indicator 2), with manufacture of TRF's occurring each month (for both internal and external use) during the investigation period. In this regard, production has been continuous (indicator 2), as there are no "breaks" or "start-stops". Even with a short-lived production growth during the investigation period, Marpac's production volumes are not stable and

there appears to be scope for the conclusion that Marpac's production cannot be definitively continuous such that production occurs at regular and anticipated intervals with forecasted volumes. Further, the rapid decline in production volumes toward the end of the investigation period suggests production instability that indicator 2 appears to describe. Production continuity as an indicator of an established industry has the context of stable production in terms of past, present and future production and in this sense, such a description cannot be applied to Marpac.

Marpac's operational scale is modest and as discussed above, its production and hence ability to maintain a sustained market share is unstable (indicator 3). Despite this instability, Marpac has continued to make a profit on the sale of TRFs to its external customer and internal transfer to its own composite can manufacturing business. The question then as to whether Marpac's operations have reached this sustainable operational and financial "break-even" point (indicator 4) is not easily answered. The key word to this analysis is "sustainable". Several factors in relation to Marpac's expenses have improved its ability to maintain profit. These include involuntary staff retrenchment, a cash flow arrangement with a third party and utilising staff from other production areas to manufacture TRFs on short and limited production runs. In this respect it would not appear that such expense reductions are necessarily "sustainable" in the context of an unestablished industry where the industry is already at a minimum operational and financial level. Despite Marpac's ability to maintain a profit, this profit does not appear to be achieved under sustainable conditions and the subsequent "break-even" point attained does not appear to be sustainable. Further, Marpac has not been able to win new business and hence has not reduced its profit margin as no new sales (at lower prices) have been made.

Marpac's current production of TRFs is limited to the 73mm size. Since Marpac has claimed hindrance to the establishment of an Australian industry that manufactures multiple sizes, there is an argument that these larger sizes may be considered new product lines of the goods already manufactured, utilising existing machinery, staff, expertise and current customer networks (indicator 5) and hence indicating an established industry. However, Marpac did not commence manufacturing 73mm TRFs and then after a period of time identify an opportunity and the means of investment to expand and produce larger sizes. Marpac's business, strategic and investment plans submitted in its application demonstrate that commencement of manufacture (of 73mm TRFs) also signified the commencement of the intended production of larger sizes. The staggering of production of the larger sizes was a strategic business decision (which Marpac claims has been delayed due to dumping) and not subsequent expansion plans (which infers stability of operations) at a later date. Further, the goods description includes all sizes of TRFs (with exceptions noted) and in this regard, larger sizes of TRFs are not considered different goods or a different product line and hence indicator 5 has been satisfied. Therefore it is concluded that Marpac is not introducing a new line of TRFs.

The indicators utilised by the USITC in determining whether a domestic industry is an infant industry form a reasonable framework upon which to apply the specific facts of Investigation 350. The Commission concludes that the Australian TRF industry can be classified as an infant industry and is therefore not established.

4.3.4 Does Marpac have standing to lodge an application for a dumping duty notice?

Subsection 269TB(6) sets out the minimum requirements for industry standing in relation to an application for a dumping duty notice. This subsection is detailed above. As Marpac is the only verified TRF manufacturer in Australia, it accounts for more than 50% of the total manufacture of TRFs expressing support for the application and also accounts for more than 25% of total TRF manufacture in Australia.

Marpac therefore has standing to lodge an application for a dumping duty notice.

4.4 Submissions received in relation to the definition of the Australian industry

4.4.1 Marpac is not the sole manufacturer of TRFs in Australia and hence an Australian industry producing TRFs previously existed²⁰

An initial claim was made by the Can Makers Institute of Australia Inc. (CMIA) that VIP Packaging was a member of the Australian TRF industry manufacturing 73mm, 99mm and 153mm TRFs prior to and during the investigation period. Accordingly it requested the Commission "...to properly assess the composition of domestic production of like goods and ascertain whether the applicant is sufficiently representative of the Australian industry".

In doing so, the CMIA requested that the Commission determine that "...there already existed an established industry producing like goods." Visy also submitted it was aware that VIP manufactured TRFs in Australia, however contended that there was "no established local TRF industry" (see below). Marpac refuted this claim and reiterated it was the only manufacturer of TRFs in Australia, claiming that VIP sought Marpac TRF supply prior to its dumping application being lodged.

After VIP submitted unverified evidence to the Commission, Marpac requested the Commission to verify VIP's claims that it manufactures TRFs.

4.4.2 The can making industry should be considered the relevant industry²¹

A submission was received claiming that there is no local TRF industry and that a public interest test should be applied as "...TRFs of themselves are not an Australian industry that should have the benefit of anti-dumping protection" as:

- TRF manufacture is inefficient;
- Marpac's output is small relative to the volume of TRF imports; and
- Marpac only manufactures one TRF size which does not satisfy the requirements of the Australian can manufacturing industry.

Marpac submitted that TRFs are an "individually saleable intermediary product" which are a separate good from complete can units. It also stated that the Act does not list minimum requirements of an Australian industry to warrant anti-dumping measures.

Marpac also contends that it has the capacity to manufacture larger volumes and Marpac's current size and capacity was not a previous deterrent for can manufacturers who had entered supply negotiations with Marpac. Marpac contends that price was the only reason these negotiations did not continue.

4.4.3 Does the CMIA have standing as an interested party?²²

Marpac submitted that the CMIA was not an interested party to the investigation under section 269T as it is not a valid and active industry organisation. Marpac asked the Commission to investigate CMIA's standing.

²⁰ Documents 4, 5, 10, 11, 28 and 30

²¹ Documents 4, 6 and 11 on the public record

²² Document 11 on the public record

4.5 The Commission's consideration of submissions in respect of the Australian TRF industry

The Commission notes that there are differing opinions as to who constitutes the Australian industry manufacturing like goods, however, the Commission's consideration of the Australian industry is limited to the industry that manufactures TRFs, not end users of the goods.

Points submitted in relation to the Australian industry are addressed in later injury and causation chapters of this SEF. However the Commission notes that anti-dumping matters are confined to the manufacture of like goods and whilst possible anti-dumping measures may have downstream effects on the wider can manufacturing industry, a public interest test is outside the scope of the Act and current government policy.

The Commission met²³ with the president of the CMIA to obtain information and evidence as to the validity of CMIA's standing as an interested party to this investigation and whether its claims could be considered as part of the Commission's enquiries. The Commission notes that the CMIA has legal standing as an industry organisation, however is not clear whether its membership is representative of the wider can manufacturing industry. However, the Commission considers that the CMIA is likely to fall within the definition of 'interested party' in subsection 269T(1) on the basis that some or all of its members use TRFs to manufacture cans and the Commission has also investigated certain claims made, as part of its enquiries. The Commission also notes that submissions from the CMIA to date have been similar to submissions provided by other interested parties.

²³ Document 23 on the public record

5. The Australian market

5.1 Background

As noted in CON 350, the Commission could only *estimate* the market size of TRFs in Australia as the goods are classified to a very general tariff classification, and the goods description entered into the Department of Immigration and Border Protection (DIBP) database was not specific enough to identify with certainty that specific shipments entered contained the goods.

The Commission has utilised verified data obtained from the Australian industry, importers and exporters, as well as DIBP data to define the size and composition of the Australian market size.

5.2 Market structure

The TRF market exists on two competitive levels – direct and downstream.

5.2.1 Direct market

TRFs are sold directly to can manufacturers as componentry for the domestic manufacture of complete can units (composite or low gauge steel can bodies). Can ends (bottoms) are also sold directly as a component, however these goods are not subject to this investigation.

When TRF manufacture ceased in Australia, the market became purely import driven with TRFs sourced directly from overseas can manufacturers, who were manufacturing TRFs for their own purposes and produced additional volumes for specific export to Australia. It appears that a componentry only manufacturer is either rare or does not exist in the global packaging industry.

Marpac commenced manufacture and sales of 73mm TRFs to the direct market in 2014.

5.2.2 Downstream market

The downstream market is the complete can unit market. As a component on a complete can unit, the TRF is an input which affects the price of the can sold to:

- food producers – who purchase and directly fill the can; or
- contract fillers – who purchase the can, fill and sell to food producers.

The downstream market exerts significant downwards cost pressure down the supply chain.²⁴

Marpac also sells in the indirect TRF market by internally transferring its own TRFs as a component of a complete composite can unit, which is sold to food producers for filling. Market size

The Commission has not analysed market size for the injury analysis period, as:

- the Australian industry was not established and production volumes are modest in comparison to the investigation period; and
- the available data (as discussed at chapter 5.1 above) during the injury analysis period would not allow the Commissioner to make a reliable comparison.

²⁴ Interested parties informed the Commission of price pressures experienced by can manufacturers.

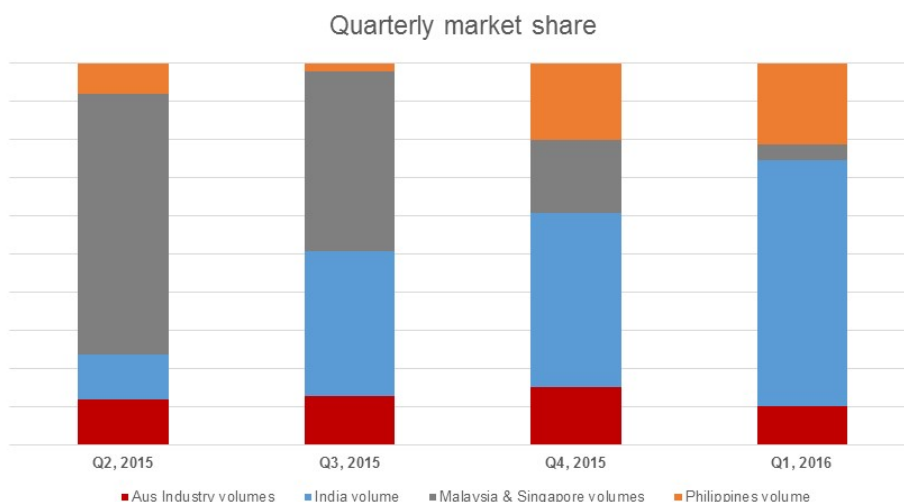


Figure 1: Estimated market share of TRFs²⁵

The Commission did verify Australian industry data from Marpac and notes that production was modest. The Commission's assessment of the Australian TRF market is at **Confidential Attachment 1**.

5.3 Price and cost

The price of TRFs is affected by the usual costs of manufacture – raw materials, manufacturing overheads and labour. Tinplate costs are the major portion of cost to manufacture and hence the price of TRFs. Tinplate is no longer manufactured in Australia and all tinplate purchases (whether for TRFs or low gauge steel can bodies) are imported by the Australian industry.

The Commission was advised that tinplate prices affect the price of TRFs and hence complete can units, as it is a standard contract clause to adjust customer pricing (on a quarterly basis) with decreases and increases in tinplate costs. These prices are predictable, with tinplate prices following a lag time of one quarter after global steel prices. Accordingly, TRF prices are typically not set for periods longer than a quarter to reflect global pricing.

5.4 Competition

There are a limited number of customers in the food packaging industry in Australia, particularly food producers that utilise TRFs as a component closure, due to the specificity of the closure with dry powdered goods and the standardisation of packaging to suit retailer (supermarket) shelf stocking.

Even though there are some small new entrants in the dry powdered foods market, the majority of the market remains limited, and competition between can manufacturers (utilising a TRF closure) is fierce.

²⁵ Based on an analysis of the DIBP import database, the Commission could not identify goods entering Australia during the investigation period from other countries as TRFs. The unverified DIBP data for other imports may also include other metal closures and can ends which are not the goods.

5.5 Demand

There are no particular demand patterns for TRFs, as can manufacture depends on factors such as food producer sales and can manufacturer stock holdings.

5.6 Submissions received in relation to the Australian market

5.6.1 TRF manufacture in Australia is not viable²⁶

Major can manufacturers claimed that TRF manufacture in Australia (for internal transfer as a component of a complete can unit sold to customers) ceased because TRF manufacture is inefficient and labour intensive due to the assembly process, which has not evolved in decades. Overseas supply with lower labour costs makes imported TRFs more viable.

Marpac claims that TRF manufacture ceased as can sales volumes declined, and that it has undertaken research to determine the economic viability and most efficient means of TRF manufacture.

5.7 Consideration of submissions in relation to the Australian market

The Commission notes that Marpac's independent financier²⁷ considers Marpac's business proposition viable and has growth potential. The Commission has performed a more detailed assessment of Marpac's viability in later injury and causation chapters.

²⁶ Documents 4, 5, 6 and 11 on the public record

²⁷ Document 17 on the public record

6. Dumping investigation

6.1 Preliminary finding

The Commissioner's preliminary finding is that there was dumping of TRFs from India, Malaysia, the Philippines and Singapore during the investigation period. The preliminary dumping margins are summarised in the below table.

Country	Cooperative exporter	Cooperative exporter dumping margin	Uncooperative and all other exporters dumping margin
India	-	-	48.2%
Malaysia	-	-	131.7%
the Philippines	Genpacco Ltd	17.4%	41.5%
Singapore	-	-	131.7%

Table 2: Preliminary dumping margins

6.2 Methodology for calculating dumping margins

6.2.1 Export prices

For goods exported to Australia by the exporter specifically named in Table 2 the export price has been calculated under subsection 269TAB(1)(a) as the price paid by the importer to the exporter in an arms length transaction, at Ex-Works (EXW) level.

Export prices for 'uncooperative and all other' exporters from India were determined under subsection 269TAB(3) – further discussion is at chapter 6.3 below.

Export prices for 'uncooperative and all other' exporters from Malaysia, the Philippines and Singapore were determined having regard to all relevant information under subsection 269TAB(3) in accordance with subsection 269TACAB(1), whereby the Commission used the lowest weighted average export price for each TRF size.

6.2.2 Normal value

As there were no domestic sales of TRFs in the countries of export, for exporters specifically named in Table 2, normal value has been determined under subsection 269TAC(2)(c).

Normal value calculations for 'uncooperative and all other' exporters from India were determined under subsection 269TAC(6) – further discussion is at chapter 6.3 below.

Normal values for 'uncooperative and all other exporters', from Malaysia, the Philippines and Singapore have been determined having regard to all relevant information under subsection 269TAC(6) in accordance with subsection 269TACAB(1), whereby the Commission used the highest weighted average normal value for each TRF size.

6.2.3 Dumping margins

Dumping margins were calculated for all exporters by comparing the weighted average of export prices over the whole of the investigation period with the weighted average of corresponding normal values over the whole of that period, in accordance with subsection 269TACB(2)(a). Where appropriate, adjustments were made pursuant to subsection 269TAC(9) (where normal values were calculated under subsection 269TAC(2)(c)) to ensure the comparability of normal values to export prices.

6.3 Dumping investigation with respect to investigated countries

6.3.1 India

The Commission attempted in-country verification of one exporter of TRFs to Australia from India. This exporter, Hindustan Tin Works Ltd (Hindustan) submitted a response to the exporter questionnaire (REQ) that was considered sufficient for the purposes of verification.

The verification team was unable to obtain complete and relevant information within a reasonable time period to complete a timely and efficient verification, which was necessary for the purposes of the investigation.

The Commissioner has an obligation to conduct the investigation in a timely and efficient manner and to avoid unnecessary delays, with specific obligations imposed under the Act in relation to considering interested parties' responses. The Commissioner may, at any time during the conduct of an investigation make a determination regarding the uncooperative status of an interested party.

The Commissioner has had regard to the Act and the *Customs (Extensions of Time and Non-cooperation) Direction 2015* (the Non-cooperation Direction) in relation to:

- Subsection 6(b) of the Non-cooperation Direction: Hindustan's responses were insufficient for the purposes of the investigation and could not, in the Commissioner's view, be rectified quickly. Further complete and verifiable information is required for the purposes of the investigation.
- Subsection 8(b)(ii) of the Non-cooperation Direction: Hindustan did provide information within the legislated period, however this information was not complete or accurate and therefore not relevant to the investigation.

The Commissioner is satisfied that Hindustan has not provided information considered to be relevant to the investigation because a sufficient degree of information relevant to the investigation was not provided and remains outstanding. This has significantly impeded the investigation in accordance with subsection 10 of the Non-cooperation Direction.

As a result, and as directed by subsection 8(b) of the Non-cooperation Direction, for the purposes of subsection 269T(1) of the Act, Hindustan will be considered an uncooperative exporter for the purposes of this investigation and the Commissioner will rely on all other information available in making recommendations and findings in relation to Hindustan. Accordingly, the Commission has had regard to all relevant information and determined export price under subsection 269TAB(3) and normal value under subsection 269TAC(6).

6.3.2 The Philippines

The Commission verified one cooperative exporter of TRFs to Australia from the Philippines. This exporter, Genpacco Ltd. (Genpacco), submitted a REQ that was considered sufficient information to warrant in-country verification.

Further details of the verification team's findings and methodology for calculating the dumping margin are in the verification visit report on the Commission's public record²⁸.

6.3.3 Malaysia and Singapore

The Commission did not receive complete REQs from manufacturers of TRFs in Malaysia or Singapore. As detailed in the Commission's Day 60 Status Report, the Commissioner determined exporters from these countries to be uncooperative.

²⁸ Document 31 on the public record

7. Economic condition of the Australian industry

7.1 Preliminary finding

The Commissioner has preliminarily assessed that the Australian TRF industry has suffered from:

- price suppression;
- loss of revenue and profit;
- loss of sales volume;
- downstream loss of revenue, market share and profits from the loss of can manufacturing contracts to which domestic TRFs were supplied; and
- reduced employment.

7.2 Approach to injury analysis

CON 350 advised that the Commission would examine the Australian market and the economic condition of the Australian industry from January 2014 (the commencement of TRF manufacture by the applicant, Marpac) for injury analysis purposes, and that the investigation period is from 1 April 2015 to 31 March 2016.

At initiation of this investigation, the Commissioner did not have sufficient facts available to make an assessment as to whether the Australian industry had suffered material injury or material hindrance, as Marpac had claimed both forms of injury. The Commissioner nonetheless considered that there appeared to be reasonable grounds for the publication of dumping duty notice and initiated this investigation as a result.

During the course of the investigation, the Commission was able to obtain sufficient evidence that Marpac was a member of an unestablished Australian TRF industry and that its claims of being materially hindered were aligned to the facts of this particular case. The Commission has analysed verified Marpac data in conjunction with verified exporter and importer data, as well as considered submissions from interested parties to the investigation to assess the economic performance of the Australian industry.

The Commission's analysis of the economic condition of the Australian industry is at **Confidential Attachments 1 and 3**.

7.3 Price effects

Price depression occurs when a company, for some reason, lowers its prices. Price suppression occurs when price increases, which otherwise would have occurred, have been prevented.

TRF pricing is volume generated – greater volumes purchased induce a lower price per TRF. During the investigation period, the Australian industry's unit CTMS increased by the same percentage as weighted average (WA) unit price (of both internal transfers and external sales).

The Commission examined different periods within the investigation period to assess the comparative performance between Marpac's unit CTMS and Marpac's weighted average unit prices. The Commission notes the period between:

- Quarters 2 and 3, 2015: Marpac's unit CTMS increased three per cent with a unit price increase of five per cent;

- Quarter 3, 2015 and Quarter 1, 2016: unit CTMS increased by three per cent however there was no corresponding unit price increase for all internal transfers and external sales.

The Commission concludes that during the investigation period, Marpac's position changed and it suffered price suppression, as unit prices did not increase with CTMS.

The Commission considers that price depression is not an injury factor to Marpac, as Marpac has not lowered its prices in AUD terms.

It should also be noted that Figure 3 below shows that Marpac internally transfers TRFs at its market price for external sales. Price suppression has occurred for both internally transferred and external TRF sales.

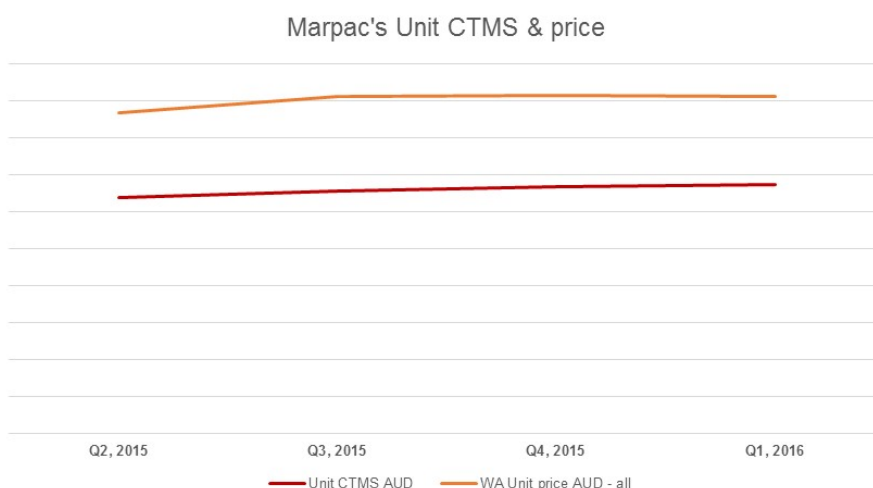


Figure 2: Marpac's 73 mm TRF prices and CTMS

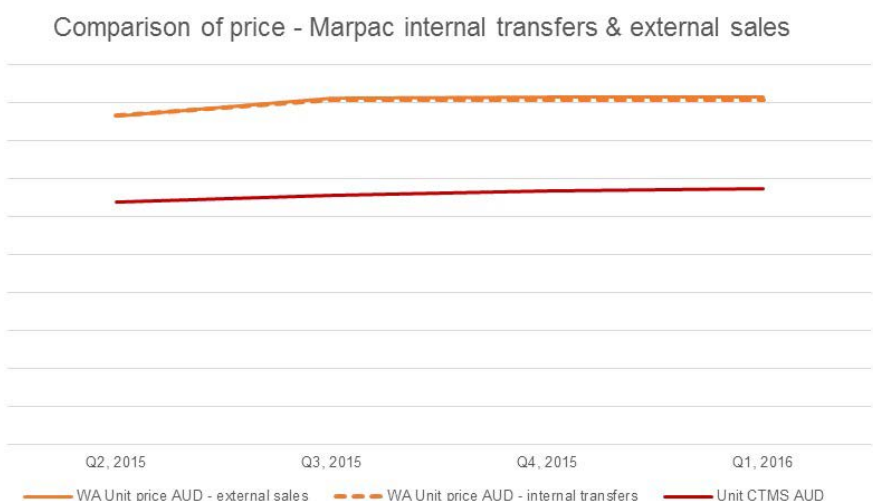


Figure 3: Marpac's 73 mm TRF prices (internal and external) and CTMS

7.4 Revenue and profit effects

As can be observed in Figure 4, after initial growth between Quarter 2, 2015 and Quarter 4, 2015, Marpac's overall TRF revenue fell significantly between Quarter 4, 2015 and Quarter 1, 2016. In

the last Quarter of the of the investigation period, the corresponding CTMS also fell, but at a slower rate. This is in contrast to the beginning of the investigation period, where revenue and CTMS grew at the same rate.

Marpac's efficiency was also calculated as the ratio of [volumes produced : labour costs] and as can be observed Marpac has also suffered efficiency losses due to the decline in volumes which would otherwise improve the efficient manufacture of TRFs.

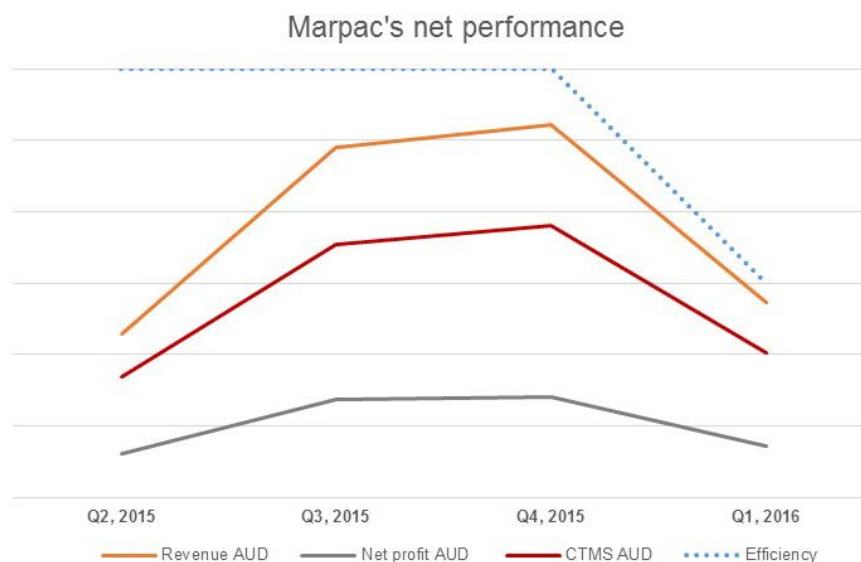


Figure 4: Marpac's net performance over the investigation period

"Efficiency" is on a different scale

After initial growth in unit profitability between Quarters 2 and 4, 2015 Marpac experienced a significant decline in profitability from Quarter 4, 2015 due to declining unit prices. However as TRF is a volume driven commodity, the full picture of Marpac's performance over the investigation period should be analysed in combination with its net performance and volumes produced.

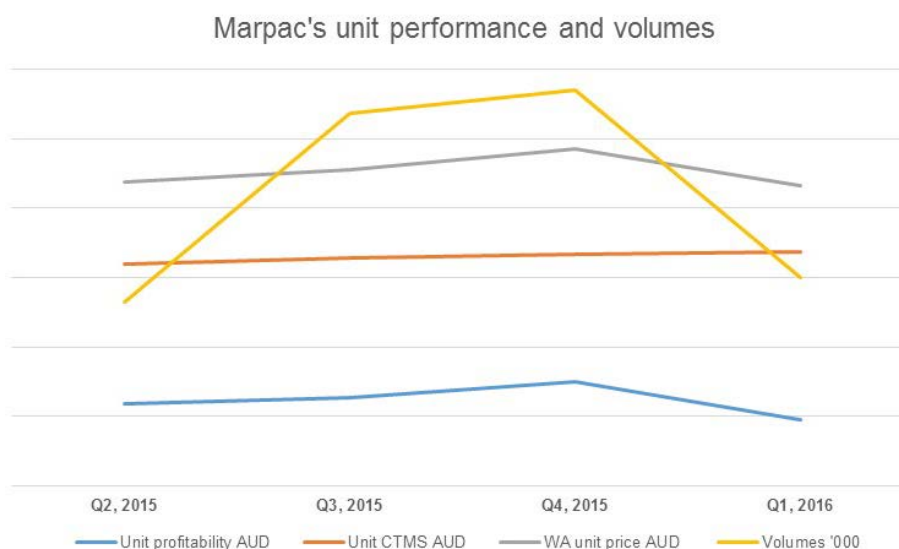


Figure 5: Marpac's unit performance over the investigation period

7.5 Volume effects

The Australian industry sales volumes

The Commission has analysed the output of the Australian industry on a quarterly basis to ensure that Quarter 1, 2016 data can be properly assessed and understood within the context of the injury and investigation period. Figure 6 below shows:

- there was a significant decrease in overall volumes sold and transferred by Marpac after Quarter 4 2015;
- the decrease in overall volumes is driven by a decline in external sales of TRFs;
- Marpac's external sales of TRFs is its primary output;
- internal transfers of Marpac's TRFs have remained relatively steady (with small but incremental growth) in comparison to the initial growth and decline of external TRF sales;

Australian industry TRF sales and transfers

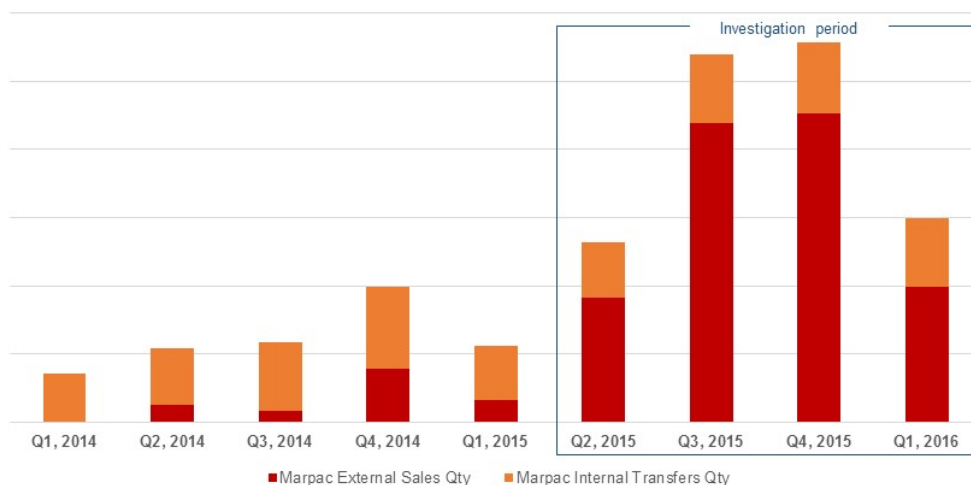


Figure 6: Australian industry sales and transfers

Import volumes in the Australian TRF market

The analysis at Figure 7 below shows that the market share of dumped imports increased significantly in the middle of the investigation period.

There was an overall contraction of absolute volumes arriving in Australian during Quarter 1, 2016 however the Commission notes that as there are no set patterns for ordering and delivery of TRFs (chapter 5.6), this is not a predictive indication of a future (and sustained) contraction in the market.

PUBLIC RECORD

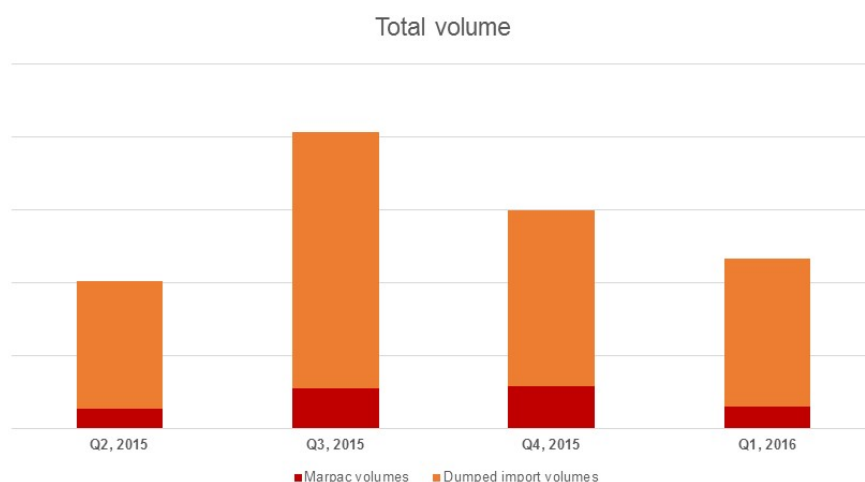


Figure 7: TRF market volume

Figure 8 below shows a comparison of the TRF volumes entering Australia over the investigation period.

The decline in the market share of Malaysia and Singapore TRF imports directly correlates with one importer transitioning and ending primary supply with a TRF manufacturer with operations in both of these countries.

Primary supply for this importer transitioned and swapped to India, with some volumes still imported from Malaysia and Singapore to maintain a secondary supply relationship.

The increased volumes correlate with a decrease in export prices as TRFs are a volume driven commodity, attracting lower prices per thousand TRFs for increased supply volumes.

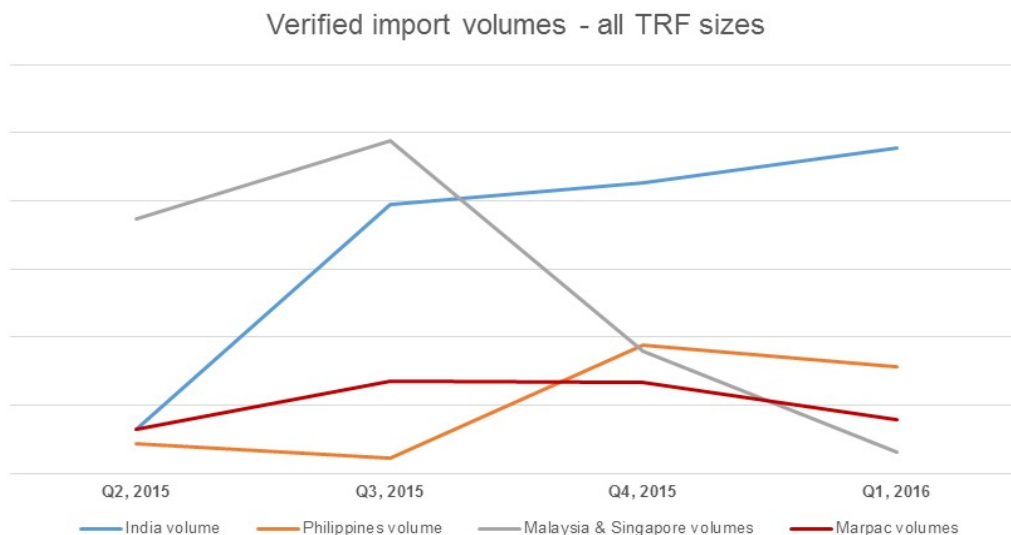


Figure 8: Import volumes from investigated countries

The increase in TRF imports from the Philippines directly correlates with an importer and can manufacturer winning a food producer contract for the supply of complete can units and consequently increasing its TRF volume requirement from its supplier in the Philippines. This same

contract was lost by Marpac's customer for direct TRF sales (the customer is also a TRF importer and can manufacturer) and this correlates directly with Marpac's lost volumes.

The decline in volumes from the Philippines over Quarter 1 2016 does not appear to correlate with any significant market events and as there is no strict import behaviour, i.e. regular and set volumes entering for home consumption, appears to be in the normal course of business.

The Australian industry has been excluded from increasing its market share over the same period.

7.6 Downstream injury

The Commission has also investigated claims that Marpac has suffered downstream injury as a result of:

- its one direct market can manufacturing customer losing a can manufacturing contract in Quarter 4, 2015; and
- Marpac has suffered injury as a result of lost revenue and volumes that Marpac no longer supplied for this contract;

The Commission verified at Figure 9 that Marpac did lose significant external sales volumes from Quarter 4, 2015 and corresponding sales revenues. As Marpac has only one customer in the direct market, downstream injury can be attributed to the contract loss of its customer.

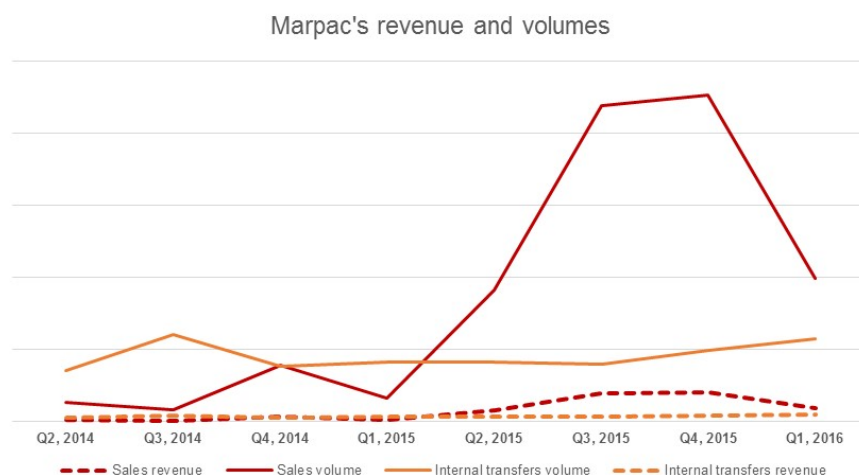


Figure 9: Marpac's revenue and volumes

7.7 Employment effects

Marpac also claimed that it suffered injury through staff retrenchment due to lost sales orders / volumes. Figure 10 below shows the decline in Marpac's employees manufacturing TRFs during the investigation period.

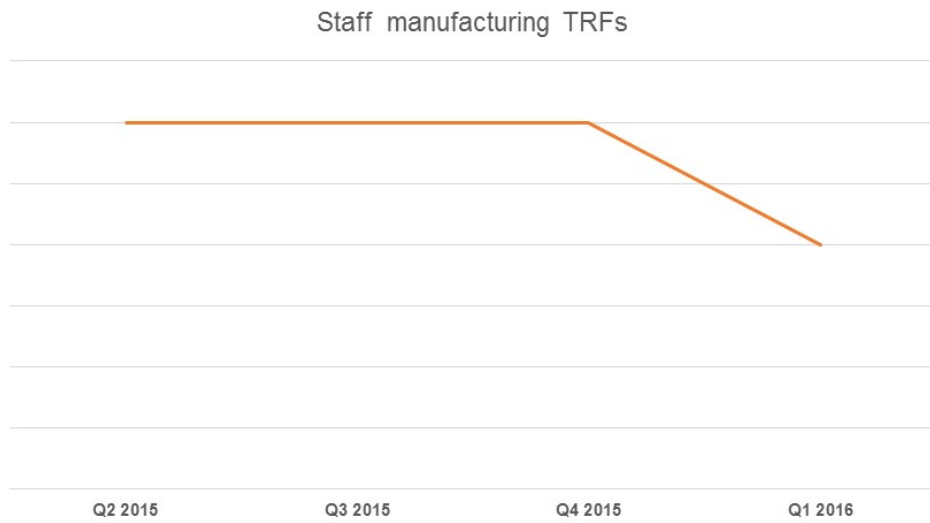


Figure 10: Employees manufacturing TRFs

The Commission verified that Marpac retrenched employees as a result of significantly lower TRF production (the TRF manufacturing process required less hours and therefore less employees). This retrenchment coincides with the lower production volumes experienced from Quarter 4, 2015.

8. Has dumping materially hindered the establishment of an Australian industry?

8.1 Preliminary findings

Before measures can be imposed to remedy injury against dumped imports it must be demonstrated that the Australian industry producing like goods is injured and that the injury is caused by the dumped imports. In the case of dumping causing hindrance to the establishment of an Australian industry, the causation tests require a different analysis of the condition of the unestablished Australian industry and whether dumping has affected the development and performance of the industry beyond what would otherwise have been expected in the normal course of business for a late entrant in an import dominated market.

The Commissioner's preliminary assessment is that that dumped imports from India, Malaysia, the Philippines and Singapore have materially hindered the establishment of an Australian TRF industry via:

- exclusion from securing potential TRF supply contracts through;
 - decreasing export prices; and
 - price undercutting;
- exclusion from increased market share and prevention from maintaining market share;
- prevention from maintaining or increasing revenue;
- adverse employment effects;
- prevention from maintaining or increasing profits and profitability;
- delay in implementing plans to manufacture larger TRF sizes to supply the Australian TRF market, which would have otherwise resulted in future revenue, profits and market share increases; and
- unrealised capacity utilisation and efficiency.

8.2 Cumulative effects of exportations

Subsection 269TAE(2C) sets out the requirements for assessing the cumulative effects of goods exported to Australia from different countries. In relation to a dumping investigation, where exports from more than one country are the subject of investigations resulting from applications under section 269TB that were lodged on the same day (as is the case in this investigation), the cumulative effects of such imports may be assessed if:

- the margin of dumping established for exporters in each country is not negligible; and
- the volume of imports from each country is not negligible; and
- cumulative assessment is appropriate having regard to the conditions of competition between the imported goods and between the imported goods and like goods that are domestically produced.

Having regard to the size of the dumping margins determined to date, the volume of imports and the conditions of competition between the goods exported from India, Malaysia, the Philippines and Singapore and like goods produced by Marpac, the Commission considers it appropriate to consider

the cumulative effect of the dumped imports from all four countries in accordance with the requirements of subsection 269TAE(2C).

8.3 Exclusion from securing potential TRF supply contracts;

The Commission considers that Marpac was excluded from securing TRF supply contracts as a result of continued pressure from declining export prices over the investigation period and increasing volumes of dumped imports. This resulted in an inability to secure increased revenues, and market share.

8.3.1 Export prices

Over the investigation period, the export price decreased for all sizes of TRFs, except for an increase in the price of the 153mm TRFs exported from India. This price increase was the result of less favourable export pricing for one importer.

Figure 11 details export prices from India, Malaysia, the Philippines and Singapore.²⁹

The Commission notes that at the beginning of the investigation period, Marpac's price for 73 mm TRFs was comparable to the prices from India, Malaysia and Singapore.

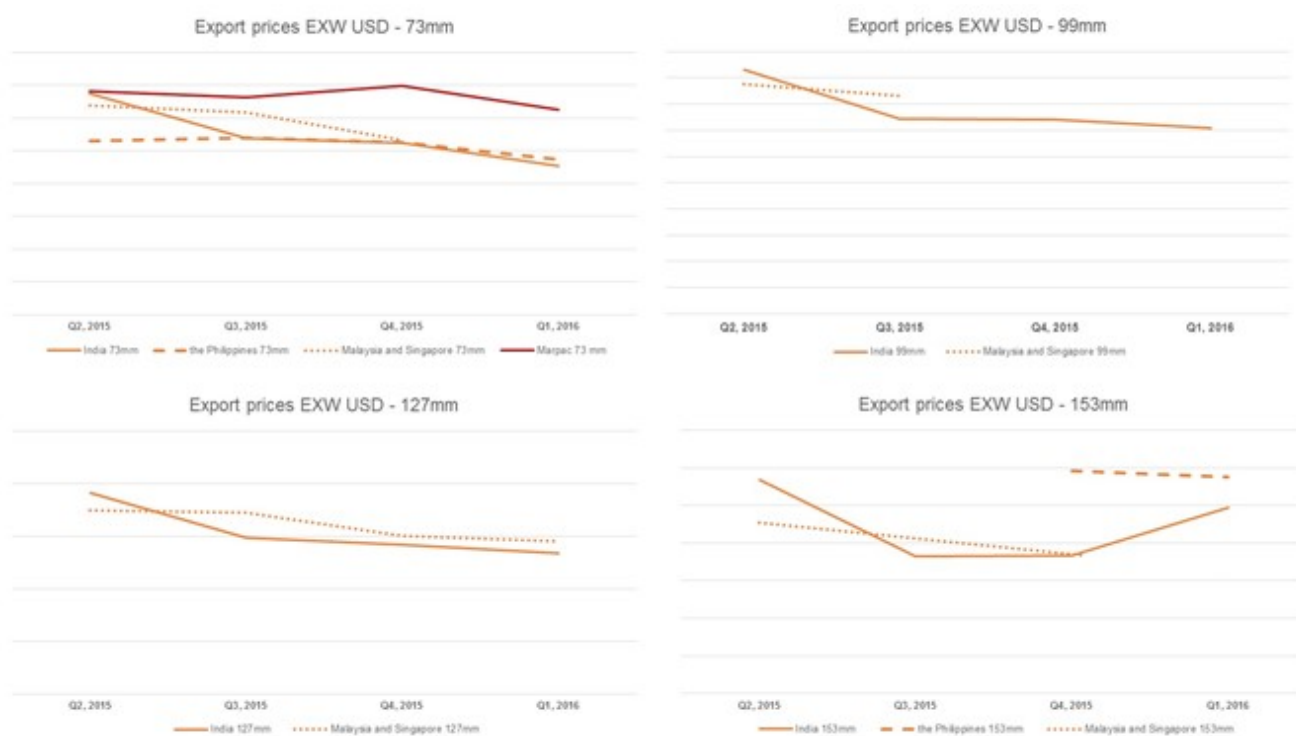


Figure 11: TRF export prices

8.3.2 Size of the preliminary dumping margins

Subsections 269TAE(1)(aa) and 269TAE(1)(ab) of the Act allows the Parliamentary Secretary to have regard to the size of each dumping margin in respect of like goods exported to Australia.

²⁹ Estimates are based on verified exporter and importer data.

The dumping margins outlined in chapter 6.1 are based on a detailed examination of the majority of exports from each country. Given that the dumping margins are substantial, dumped TRFs have a significant price advantage in the Australian market.

8.4 Price undercutting

8.4.1 Methodology to determine post-exportation costs

During the investigation, the Commission asked importers to identify which of its shipments from the DIBP extracts during the investigation period contained TRFs or other goods. Importers did not provide this detailed information prior to verification and the Commission selected samples for downwards verification without knowing if the shipment sampled contained the goods.

Accordingly, some samples selected did not contain the goods.

As samples for price undercutting analysis for the investigation period were limited, the Commission performed an alternate examination of the data available and found that:

- there was a consistent uplift amount on the export invoice price (per TRF size) for post-exportation costs to determine the into store cost to the all importers;
- as importers utilised standard costing to account for the cost of TRFs as a component on a complete can unit (which includes all costs incurred), there must be consistency in the uplift amount identified;
- the Commission's verification of sampled shipments identified that there were immaterial variances between the actual post-exportation costs incurred and the sample standard costs allocated to TRFs by importers during the investigation period.

The Commission's price undercutting analysis can be found at **Confidential Attachment 4**.

8.4.2 Price undercutting results

The Commission assessed price undercutting of 73mm TRFs by comparing the weighted average into-factory price (per 1 000 TRFs in AUD) offered by Marpac for delivery to the factory of its external customer against the comparable into-factory price paid by participating importers (in AUD). Figure 12 below shows that Marpac's prices for 73mm were undercut during the investigation period by imports at this in factory price at a country level of:

Country	Q2, 2015	Q3, 2015	Q4, 2015	Q1, 2016
India	-2.1%	-2.1%	-26.8%	-40.4%
Malaysia and Singapore	-9.9%	-15.5%	-30%	No 73 mm TRFs imported
the Philippines	-19.3%	-19.9%	-19.1%	-21.5%

Table 3: Summary of price undercutting by export country

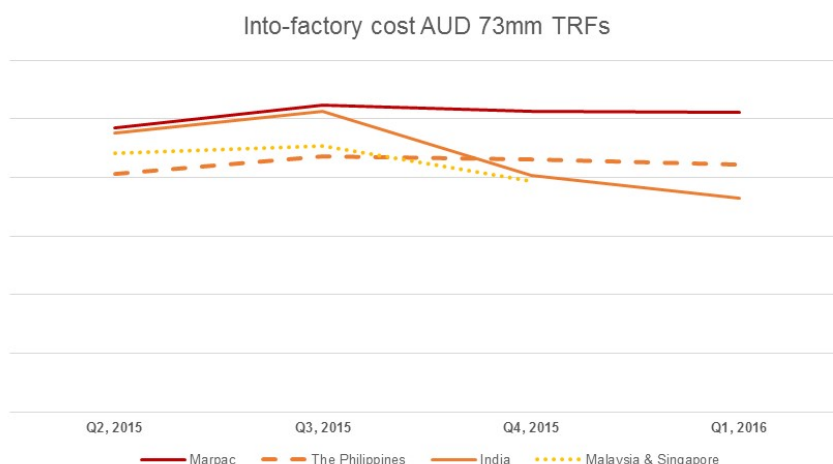


Figure 12: Comparison of into-factory price of 73mm TRFs

The Commission did not calculate the price undercutting for larger TRF sizes imported as Marpac did not manufacture these other sizes during the investigation period and it is not possible to foresee the actual price Marpac would have sold these larger TRFs.

The Commission also received email evidence between Marpac and prospective can manufacturer customers during the investigation period. The evidence shows that:

Potential customer one:

- early in Quarter 2, 2015, Marpac and one potential customer agreed a price for multiple TRF sizes and these prices were considered in line with the market;
- at the end of Quarter 2, 2015, this potential customer received a reduced quote from an Indian manufacturer for all TRF sizes. The potential customer asked Marpac to better each of the quoted prices by five per cent to “justify local sourcing”. The potential customer also exerted pressure on Marpac to procure relevant machinery within a fortnight to manufacture larger sizes (or risk the potential supply agreement). This was based on the predicate of “given this competitive position has now changed so significantly...”. The potential customer ultimately switched its incumbent Malaysian / Singaporean primary supplier to this Indian supplier with supply commencing in Quarter 4, 2015.

Potential customer two:

- in mid-Quarter 4, 2015, Marpac re-entered supply discussions with the potential customer. This potential customer advised that the same Indian TRF manufacturer had offered a quote for 73mm TRFs (including the matching end) at a total price offering slightly higher than Marpac was offering for 73mm TRFs only, and at a price which was lower than the Quarter 2, 2015 price advised.
- Marpac also provided an internal email file note whereby a subsequent discussion with this potential customer indicated that the main supply criteria is price.
- this potential customer has also purchased TRFs from the Indian manufacturer, despite previously having exclusive supply with another manufacturer.

8.4.3 Conclusion on price undercutting

The Commission concludes that TRF import prices continued to decline over the investigation period, with different potential customers offered significantly cheaper TRF prices by exporters.

These dumped prices effectively excluded Marpac from the Australian market in the investigation period, hindering it from becoming established, as;

- there was a significant decrease in export prices, which undercut the prevailing market prices (domestic and import) displayed in Quarter 2, 2015;
- supply from the new Indian manufacturer did not occur immediately in Quarter 2, 2015 (as can manufacturers consumed existing stock on hand and ordered stock with previous suppliers) with supply commencing in Quarter 4, 2015;
- the quotes in Quarter 2, 2015 were not reflected in the Commission's analysis, as supply had not commenced and these quotes correlate with verified prices in Quarter 4, 2015;
- tactics by the can manufacturer to induce Marpac into early supply is secondary to the fact that prices from India were so attractive; and
- the Indian manufacturer also quoted significantly cheaper 73 mm TRF prices to another can manufacturer, which continued to undercut Marpac.

8.5 Exclusion from increased market share

Two significant events occurred in the Australian TRF market during Q4, 2015 of the investigation period:

- an importer changed its primary supplier of TRFs; and
- an importer won a composite can manufacturing contract in relation to which Marpac was a partial previous TRF supplier.

The Commission concludes that Marpac was effectively excluded from the market as a result of dumped prices and accordingly was excluded from gaining market share, which has hindered Marpac from establishing itself in the market.

8.5.1 Downstream injury volume effects – prevention from maintaining market share

The Commission was advised that Marpac's can manufacturer customer was not advised that the food producer customer was seeking alternate can supply and accordingly was advised of the contract loss without opportunity to tender for the supply of complete can units.

In assessing whether this contract loss was caused by dumped TRFs, the Commission has considered:

- the price of the complete can unit (incumbent and new supplier);
- the TRF as an input cost in the price of the complete can unit;
- whether there were other non-TRF considerations in the price of the complete can unit; and
- whether there were non-can considerations for switching supplier.

The Commission reviewed invoices from each supplier for a specific can and its TRF componentry cost allocation and notes that:

- the new price for a can with a dumped 73mm TRF undercuts the previous price;
- the TRF input cost from a dumped TRF on the new can is cheaper than Marpac's TRF on the same can; and
- the portion of TRF cost to revenue obtained is improved with the new can.

The Commission concludes that dumped TRFs permitted a cheaper complete can unit price and this indicates that to maintain a competitive can unit price, the dumped TRFs were essential to keeping prices as low as possible.

The Commission considers the fact that the incumbent manufacturer was not warned of the potential contract loss and given opportunity to maintain the contract suggests that there were also factors other than the price affecting the food producer customer's decision.

However, as advised by food can manufacturers there is intense competition in Australia between can manufacturers with a limited customer base in Australia. If the price was not compelling, regardless of other issues, it may have been unlikely that the food producer would have switched can suppliers.

On balance, the Commission concludes that given the impact of price in the market and in the absence of positive evidence of these factors other than price, dumped TRFs have caused Marpac's downstream injury, affecting volumes ordered and revenue generation.

8.5.2 Conclusion on volume effects

As discussed at chapter 7.5, the volume of dumped imports significantly increased over the investigation period (taking market share from both Marpac and other imports). The Commission considers that given such analysis and the above evidence described in chapter 8.4 and 8.5, dumped import volumes have excluded Marpac from obtaining a larger market share.

8.6 Prevention from maintaining or increasing revenue, profits and profitability

The Commission concludes that Marpac was excluded from the market by virtue of:

- an inability to meet dumped prices from exporters; and
- subsequent inability to win supply contracts, which would have increased its market share.

As such, Marpac has been prevented from increasing its revenue in a market that is not operating under fair and competitive terms.

Further, Marpac has suffered downstream injury that would have at a minimum during the investigation period maintained orders from Marpac's can manufacturer customer, which would have maintained revenues. This in turn has resulted in Marpac being prevented from maintaining or increasing profits and profitability.

8.7 Employment effects

The Commission concludes that the employment injury determined at chapter 7.7 has been caused by dumped TRFs and that the reduction in Marpac's workforce is due to exclusion from gaining market share (increase in volumes ordered) and downstream injury (decrease in volumes ordered).

8.8 Delay in implementing plans to manufacture larger TRF sizes and unrealised capacity and efficiency

The Commission verified that Marpac's plans to commence manufacture of larger sized TRFs was based on its ability to obtain supply contracts for 73mm TRFs during the investigation period and to stagger production of larger sizes.

In the absence of new supply contracts for TRFs, Marpac was unable to implement the staggered production as scheduled. The Commission notes however, that Marpac has submitted³⁰ that it has (after the investigation period) manufactured and sold 99mm TRFs.

The Commission considers that dumped TRFs caused a delay in Marpac's plans to manufacture larger sizes of TRFs.

As a result of delays in implementing its plans, Marpac has unrealised capacity utilisation, as machines that can manufacture larger TRF sizes have been idle during the investigation period. In addition, as larger TRF production runs drive manufacturing efficiency, the loss of volumes and the unrealised capacity utilisation has caused a decline in Marpac's efficiency.

8.9 Other factors - self-injury mitigation effects

Self-injury mitigation is a factor the Commission has assessed in determining whether dumped imports have solely caused hindrance to the establishment of an Australian industry or whether the industry itself has contributed to its own injury. The self-mitigating factors assessed were:

- has Marpac made serious attempts to mitigate the risk of late market entry (in a market solely driven by imports) through the critical evaluation of entry success?
- has there been any consideration and understanding of the market and the cost/price/volume pressures that may result from late entry?
- has Marpac demonstrated a serious commitment to, and viable plans for, commencement or ongoing production? Is there capital investment or available revenue to fund these plans for effective capacity under construction?

8.9.1 Marpac's risk mitigation of late market entry in an import driven market

The Commission verified that Marpac had established an experienced Advisory Board to research, monitor and approve the Plans as they related to the manufacture of all sizes of TRFs.

The Plans themselves consisted of:

- market risks and opportunities;
- detailed market and customer information;
- future opportunities for further capital raising; and
- staggered manufacture of larger TRF sizes to align with capital availability for dies and tooling.

The Advisory Board who manages the strategic operation of Marpac consists of interested parties that do and do not work directly at Marpac, but all who have all worked for various can manufacturers in Australia over an extended period.

The Commission has further taken into account that Marpac's independent financier³¹ also utilised the Plans when assessing Marpac's investment risk.

The Commission concludes that Marpac has implemented appropriate risk mitigation strategies for entry in TRF manufacture in an import driven market.

³⁰ Document 24 on the public record

³¹ Document 17 on the public record

8.9.2 Marpac's consideration of cost/price/volume pressures resulting from late entry

The Commission verified that Marpac's Plans considered the cost of manufacture, price and volumes required in the Australian market and strategies for obtaining increased market share – not in isolation of an import driven market, but with that very fact in consideration. Evidence was also provided showing early support for local TRF supply from at least one can manufacturer (fully imports TRFs) when Marpac was gauging market interest. Later support was received from one can manufacturer (who Marpac currently supplies) and advanced supply negotiations were undertaken with another can manufacturer (who fully imports TRFs) during the investigation period.

Marpac claimed that it researched and entered the TRF market at a time when TRF prices were undumped and that market conditions have since changed as a result of dumped imports.

The Commission has also considered the conditions of competition when self-manufacture of TRFs was previously undertaken by can manufacturers and concludes that Marpac's offering is a unique business proposition for the domestic market under different competitive conditions from previous manufacture.

8.9.3 Marpac's viability for ongoing TRF manufacture

The Commission reviewed Marpac's Plans and confirmed that the Plans are updated to deal with current and foreseeable market events and used to obtain further financial support from Marpac's independent financier.

Marpac had purchased machinery for the manufacture of larger TRFs sizes and had a viable plan for procuring other machinery and tooling as deal with the market's requirements.

8.9.4 Conclusion on Marpac's self-injury mitigation

The Commission has verified that Marpac has considered the market conditions and viability of TRF manufacture in Australia. Further, the Commission considers that the viability and growth of TRF manufacture in Australia by Marpac's independent financier as an affirmation of the potential of an Australian TRF industry to become established.

8.10 Factors other than dumping

In accordance with subsection 269TAE(2A), any factor other than the exportation of dumped goods causing hindrance to the establishment of an Australian industry must be considered. The Commission has examined information received during importer verification visits and submissions from interested parties to assess whether other “non-dumping” sources of injury to Marpac exist.

8.10.1 Quality and TRF specifications³²

Can manufacturers (importers) have claimed that Marpac's TRFs are susceptible to bending and not seaming properly onto the can bodies manufactured. As discussed in the like goods assessment at chapter 3 above, the Commission considers that tinplate gauge is a factor that does not affect the likeness of domestic TRFs with imported TRFs. The Commission also accepts that the tinplate gauge currently used by Marpac is specifically for current customer specifications and in no way limits or prevents Marpac from manufacturing TRFs from thicker gauge tinplate to accommodate other customer specifications. Other claims have been made that Marpac is unable to source quality tinplate from reputable integrated steel mills. The Commission has verified multiple sources of tinplate used by Marpac and overseas TRF manufacturers and notes that tinplate specifications have been the same.

³² Documents 4, 6, 14 and 22 on the public record

The Commission received laboratory testing results for a complete can unit manufactured by Marpac's external customer using a Marpac TRF and compared to the higher-spec offering of a competitor can manufacturer. The Commission notes that that testing focussed on the can body and that the TRF component was not specifically tested. Further, the customer food producer in question requested the Marpac (and can body) unit specifications be manufactured by the new can manufacturer. It was not the customer who had issues with the specification or quality.

In relation to Marpac's TRF not being suitable for low gauge steel can bodies, the Commission assessed the curl specifications of Marpac's TRF and imported TRFs and notes that Marpac's TRF curl dimensions fall within the tolerances of the imported TRFs.

In consideration of the different locations of compound placing required for composite cans and low gauge steel cans, the Commission has seen no evidence that Marpac is unable to make this adjustment.

There does not appear to be any substantive basis to support the claims that the quality and specification of Marpac's TRFs for its current customers is causing Marpac's own injury in establishing itself as an Australian TRF industry.

8.10.2 TRF sizes currently manufactured and ability to meet market demand

Interested parties have claimed that as Marpac does not manufacture all sizes required by the market, it is unable to supply the market with its requirements. The Commission has considered this at chapter 8.9 and considers that Marpac's plans to manufacture larger sizes were not a cause of its own injury. Further the Commission notes that Marpac's current external customer currently purchases Marpac 73mm TRFs and imports the larger TRF sizes.

Further claims have been made that that Marpac is unable to meet the volume requirements of the can manufacturing industry. The Commission verified that Marpac owns the presses required to manufacture larger sizes and that plans existed to update current machinery with higher speed. However, as Marpac experienced significant price and volume pressures from dumped imports, it was unable to implement these plans to manufacture the larger sizes in the volumes required by the market. The Commission also considers that as a member of an unestablished industry, it is not unreasonable for Marpac to stagger its implementation of larger sizes or wait for confirmed supply volumes to implement the investment in updated machines.

8.10.3 Customer supply qualifications not met³³

Submissions have been received stating that Marpac does not meet the strict supplier qualifications required by food producers and accordingly, can manufacturers cannot use Marpac as a supplier. The Commission verified that Marpac is ISO 22000 compliant, has ongoing food handling and safety management practices and its current customers are all food producers or food can manufacturers.

The Commission also notes that there are a variety of food handling and safety practices and qualifications utilised by the can manufacturing industry.

Whilst Marpac may not currently satisfy every individual supplier qualification, nor does any can manufacturer or componentry supplier. The Commission concludes that not currently having specific food producer qualifications does not preclude a supplier from obtaining them and therefore it is not impossible for Marpac to meet these specific individual supplier accreditation requirements. In addition, it is the Commission's understanding that specific food producer qualifications are confidential until such time as when a supplier has been agreed to, but supply start is contingent

³³ Document 4 on the public record

on the supplier achieving these qualifications. In this regard, Marpac could not possibly have these confidential qualifications in place prior to supply commencing.

Marpac not meeting confidential supply qualifications cannot be a source of its own injury.

8.10.4 Tinplate pricing

The Commission examined the verified cost of tinplate purchased by Marpac and whether this caused or contributed to its own injury. The Commission is satisfied that Marpac's tinplate purchases follow the same trend as the corresponding lagged³⁴ quarterly cold rolled steel (CRC) prices.

Marpac's tinplate purchases are nor a cause of injury.

³⁴ Tinplate price is lagged by a quarter following steel prices

9. Will dumping and injury continue?

9.1 Preliminary findings

The Commissioner is of the view that exports of TRFs to Australia from India, Malaysia, the Philippines and Singapore will continue at dumped prices and that continued dumping may continue to cause material hindrance to the establishment to the Australian industry in the foreseeable future.

Pursuant to subsections 269TG(1) and 269TG(2), where the Parliamentary Secretary is satisfied that dumping may continue and because of that material hindrance to the establishment of an Australian industry producing like goods occurred or is likely to occur, anti-dumping measures may be imposed on future exports of like goods.

9.2 Discussion

The Commission's dumping analysis found dumping margins between 17.4 per cent cooperating exporters and 48.2 per cent and 131.7 per cent for uncooperative and all other exporters of TRFs from India, Malaysia, the Philippines and Singapore during the investigation period. It is also of note that exporters who provided a REQ noted that they have excess capacity – this is an indicator that dumping may continue.

The Commission notes that forward orders exist for TRF exports from these countries and that market share has increased from TRFs exported from these countries over the investigation period such that they hold a significant share and influence in the Australian TRF and can manufacturing markets.

The Commission also notes that due to the supply qualifications (period taken and requirements) required from food producers in the manufacture of their complete can units, importers will not easily or quickly switch TRF supply to a manufacturer from a country not subject to this investigation.

10. Non-injurious price

The non-injurious price (NIP) is relevant to subsection 8(5B) of the *Customs Tariff (Anti-Dumping) Act 1975*, which requires consideration of the desirability of fixing a lesser amount of duty if sufficient to remove injury to the Australian industry.

The Commission's *Dumping and Subsidy Manual* specifies that;

"...The Commission will generally derive the NIP from an unsuppressed selling price (USP). The USP is a selling price that the Australian industry could reasonably achieve in the market in the absence of dumped or subsidised imports....". The Commission's *Dumping and Subsidy Manual* further provides the following hierarchy for determining a USP *"...In calculating the USP, the Australian industry's selling prices will normally be used at a time unaffected by dumping. 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. If either of these methods is not appropriate, the selling prices of undumped imports in the Australian market will be used."*

The Commission considers that Marpac's weighted average price of external sales of 73mm TRFs for the quarter immediately preceding the investigation period is a selling price that the Australian industry could reasonably achieve in the market in the absence of dumped imports.

The Commission has calculated a NIP on this basis and compared it with the weighted average normal values for each of the countries and determined that the NIP exceeds those normal values. As a result, the Commission proposes that securities be taken at the amount of the dumping margins as ascertained in this SEF, rather than at the amount of the NIP.

The Commission's calculation of the NIP is at **Confidential Attachment 5**.

11. Proposed measures

The Commissioner proposes to recommend to the Parliamentary Secretary that a dumping duty notice be published in respect of resealable can end closures exported to Australia from India, Malaysia, the Philippines and Singapore

The proposed form of measures in respect of interim dumping duties (IDD) that may become payable, is the *ad valorem* duty method (i.e. a percentage of the export price).

Country	Cooperative exporter dumping margin	Uncooperative and all other exporters dumping margin
India	-	48.2%
Malaysia	-	131.7%
the Philippines	17.4%	41.5%
Singapore	-	131.7%

Table 4: Proposed measures

11.1 Discussion

11.1.1 Rationale

Interim dumping duties may be calculated in accordance with the methods prescribed in the *Customs Tariff (Anti-Dumping) Regulation 2013*. These include:

- combination of fixed and variable duty method (combination duty method);
- floor price duty method;
- fixed duty method (\$X per tonne); or
- *ad valorem* duty method (i.e. a percentage of the export price).³⁵

In assessing the appropriate form of measures, the Commission determines that the *ad valorem* duty method is the most appropriate due to:

- the variable sizes of TRFs exported to Australia - a fixed form of measures will not adequately address all the different prices for each TRF size; and
- large dumping margins have been determined.

11.1.2 Lesser duty rule

The Commission has had regard to the lesser duty rule and has determined that the NIP is not the operative measure for determining the effective rate of duty. In this regard, the dumping margins as calculated will form the proposed IDD.

³⁵ Section 5 of the *Customs Tariff (Anti-Dumping) Regulation 2013*

12. Appendices and attachments

Document Type	Name
Confidential Appendix 1	The Commission's assessment of the Australian market
Confidential Appendix 2	The Commission's dumping margin calculations
Confidential Appendix 3	The Commission's assessment of the Australian industry
Confidential Appendix 4	The Commission's price undercutting calculations
Confidential Appendix 5	The Commission's non-injurious price calculations
Confidential Appendix 6	The Commission's TRF specification comparison and assessment