Non-Confidential

Primy Corporation
Anti-Dumping and Countervailing Investigation – Deep Drawn Stainless Steel Sinks
Statement of Essential Facts
Submission on Dumping Margin Calculation

1. Introduction

Primy refers to the Statement of Essential Facts (**SEF**) published by the Australian Anti-Dumping Commission (**Commission**) in relation to this investigation on 23 December 2014.

Primy notes that it dumping margin has increased from 4.9% from the dumping margin calculated based on verified information following the verification visit by the Commission (see Visit Report dated September 2014) to 15% in the SEF.

The reasons for the change in the dumping margin calculation are specified on page 38 of the SEF, namely:-

- first, "*the most reasonable method of allocating selling, general and administrative costs for sinks exporters is on the basis of units sold*;" and
- secondly "*the uplifted CTMS (for reasonably competitive market stainless steel costs) should be used to determine profit for Chinese exporters of deep drawn stainless steel sinks*."

It is of concern to Primy that this change in methodology has been adopted for calculating Primy's dumping margin without consultation with Primy or whether the change from the methodology used and accepted following the verification visit report and based on verified information to this alternate methodology and whether it is suitable or appropriate for Primy.. This denial of natural justice is of concern to Primy and Primy maintains that the methodology used following the verification visit in the Visit Report is appropriate for it and provides an accurate and objective assessment of its dumping margin.

Whether the alternate methodology the Commission is now using is appropriate for other exporters, of course, will depend upon their individual circumstances on which Primy is not in a position to comment on.

Primy also notes that the main reason for the change in its dumping margin is due to the change that the Commission has adopted in allocating general selling and administrative expenses (**SGA**).

More specifically, for the allocation of SGA expenses for Primy, it is stated on page 38 of the SEF that "*Consequently, amendments have been made to Primy's CTMS and profit calculations. In making these amendments, the*

Commission has found that it is not in possession of verified sales units for all of Primy's products during the investigation period (i.e. the Commission possesses the sales units for deep drawn stainless steel sinks but not fabricated sinks) and hence the next best available data, the production units for all of Primy's sinks during the investigation period, has been used to allocate selling, general and administrative expenses."

In response to this statement by the Commission, Primy notes that it has fully complied with the Commission's requirements and provided a complete response to the Commission's exporter questionnaire, otherwise the verification visit would have not taken place, and provided all information that the Commission has subsequently requested.

If the Commission now finds that "*it is not in possession of verified sales units for all of Primy's products during the investigation period*", that is not information that the Commission has sought during the investigation or, if sought and obtained has not verified. If there is a defect in the Commission's investigative procedures, this is not a matter for Primy. Primy should and cannot be expected to forsee or predicate what information the Commission may or may not require or may wish to verify. It is a matter for the Commission to raise such matters with Primy if it wishes verified information to be included in the investigation. The Commission apparently has not done so.

Further, in the Visit Report, specifically in section "5. Cost to Make & Sell" "5.4 Selling, general and administrative expenses", the Commission stated that "*We informed Primy that it is the Commission's preference to calculate SG&A as a percentage of revenue.*" Primy also notes that, consistent with the Commission's practice, Primy was similarly informed during verification in connection with the dumping margin calculation that this was the Commission's preference, Accordingly, in the Visit Report Primy's SGA was allocated based on the sales revenue. Now, with nothing changed since verification and the Visit Report, the Commission has changed its SGA calculation methodology for Primy. As indicated earlier above, Primy was not advised prior to the SEF of the possibility of this change of methodology in the dumping margin calculation for Primy, nor the reasons why. Primy is concerned about this failure to advise it of the allocation SGA based on the new methodology being adopted by the Commission.

Primy should not be disadvantaged for any deficiencies in the Commission's investigative process. Primy has fully co-operated in this investigation and provided the Commission with all information request by the Commission and has fully co-operated in the verification process and facilitated the verification of information that the Commission sought to verify. The Commission should base its findings on all information provided to it by Primy that it has requested Primy provide, whether or not that information has been verified. The fact that certain information may not have been verified is a matter for the Commission, not Primy.

2. Review of the dumping margin calculation

Reviewing the dumping margin calculation confirms that the Commission only used the production quantity of sinks during the period of investigation (**POI**) for the allocation of Primy's SGA.

Primy believes that there is a manifest error in the Commission making such an allocation of SGA and this error might be due to an oversight by the Commission of Primy situation of producing a range of products as discussed below.

Verified information provided to the Commission clearly shows that Primy not only produces and sells the deep drawn sinks the subject of this investigation but also sinks not subject to this investigation and also other products. For example, Primy produces and sells faucets (i.e.taps). During verification, the Commission verified the sales invoices for faucets, finished product ledgers of faucets, cost sheets for faucet, and all these documents are on the record in the confidential verification exhibits that substantiate that Primy also produces and sell many products other than subject and non-subject sinks.

As shown on the invoices that the Commission has verified and on the verification exhibits, the vast majority of the faucets are sold separately from sinks. Please refer to **Confidential Exhibit 1** to this submission. The verification exhibits were provided to the Commission during the verification visit and verified (Primy believes they are confidential attachment CTMS 8-8c of the Visit Report) and in those verification exhibits there are inventory ledger and cost sheets for faucets for the sample month of [XXXXXXX] In addition for that month the finished product subledgers for sinks and faucets, which tie the cost of goods sold ledger of Primy for the company-total COGS in that month.

Possibly, unlike other exporters, Primy is not only a producer and seller of subject and non-subject sinks but also faucets are an important part of Primy's production and sales.

Given that Primy produces not only deep drawn sinks the subject of this investigation and sinks that are not subject to this investigation but also other products, such as faucets, a methodology of allocating a company's total SGA only to the production quantity of sinks would seem inappropriate and produce an inflated SGA for sinks that is neither warranted nor reflective of Primy's actual circumstances.

The methodology adopted by the Commission would have the effect that no SGA would be allocated to the sales and production of faucets and other products produced by Primy, which clearly is an absurd result. It is unreasonable to expect and presume, and there is no evidence to support, that Primy did not incur SGA expenses in sales and production of faucets and on other products it produces and all of the SGA incurred by Primy is in relation too sinks. Clearly this is manifestly wrong and it is unclear why the

Commission has adopted a methodology that does not apportion SGA across all goods produced and sold by a company.

Again, Primy believes that there is no reason for the Commission to depart from the methodology used in the Visit Report that provided for an accurate allocation of SGA.

However, if the Commission wishes to allocate SGA to the deep drawn sinks under investigation on a per unit basis, then the Commission must first divide Primy's total SGA between for, example, sinks and faucets and other products. This is because Primy experiences a similar level of selling effort and administrative effort for the sales and production of the faucet products, as well as other products, that it produces and sells. In this context, Primy suggests several options that may be available to calculate a dumping margin based on an allocation of SGA on a per unit produced basis. Those options are:-

Option No. 1: in the Confidential Exhibit attached to this submission as Confidential Exhibit 1, there are cost sheets for faucets for the sample month of [XXXXXXXXX], at the end of which there is the total production quantity of faucets for that month, namely [XXXXX] units. The Commission also has verified information that the production quantity of sinks for this month was [XXXXXX] units. The Commission, therefore, can calculate a ratio of production quantity of sinks among all products, i.e., [XXXXXXXXXXXXXXXXXX]%. The Commission can use this ratio to first allocate the company-total SGA to sinks and then allocate the sinks SGA to production quantity of sinks on a per unit basis. If the Commission chooses to use this methodology, it can use fully rely verified information already available to it without obtaining any new information and the information to be relied upon is based on a randomly selected sample month. This methodology of developing a ratio between sinks and faucets is also based on quantities of units produced, which is in line with the methodology being proposed by the Commission.

Option No.2: Primy has submitted in **Confidential Exhibit 2** to this submission the monthly cost sheets for faucets during the POI. The Commission already has verified information of the monthly cost sheets for sinks for the POI. By adding up the monthly production quantities of sinks and faucets, the Commission can develop a POI ratio for production quantity of sinks from the production quantities of both sinks and faucets. Please refer to **Confidential Exhibit 3** for a POI calculation worksheet based on the cost sheets for sinks and faucets to calculate this ratio (the ratio is column titled "PERCENTAGE OF SINKS" "production quantity"). This POI ratio can be used to first allocate the company-total SGA to sinks and then allocate the sinks SGA to production quantity of sinks on a per unit basis. The table in Confidential Exhibit 3 shows that the POI ratio is very close to the [XXXXXXXX] ratio, which is already on the record.

Option No. 3: If it is proposed to allocate the company-total SGA between sinks and faucets based on value instead of quantity, the documents and information in Option No. 1 and No. 2 can also provide the basis for such an allocation. The POI calculation worksheet in **Confidential Exhibit 3** in which the column titled “PERCENTAGE OF SINKS” “production cost” is the ratio for sinks based on the cost of production values for sinks and faucets during the POI and the [XXXXXXXX] ratio is also based on information before the Commission. This POI ratio (or the [XXXXXXX] sample month ratio) can be used to first allocate the company-total SGA to sinks and then allocate the sinks SGA to production quantity of sinks on a per unit basis.

Option No.4: If the Commission believes that the situation of Primy is different from the other respondents since it produces and sells a range of different products (e.g. faucets, etc.), another reasonable option is for the Commission to use the methodology it applied for Primy in the Visit Report calculation by calculating a percentage based on the sales revenue. As a WTO panel has acknowledged when discussing the SGA expenses ,“*due to the very nature of these costs it is normally not possible to ascertain the precise contribution by each product to these costs*.” (Panel report paragraph 7.264 US-Softwood Lumber V), the nature of the SGA expenses for a company producing multiple groups of products, such as Primy, would indicate that an allocation based on percentage of sales revenue is more reasonable and appropriate. Primy assumes that this was the reason for the the Commission to adopt this methodology for Primy in the Visit Report. Primy submits that this methodology should be retained as being the most accurate and reliable for the allocation of SGA for Primy but, if it is not adopted by the Commission, Primy would request an explanation why and which of the above options the Commission proposes to adopt to rectify its current SGA allocation to sinks only ignoring other products produced by Primy.

3. Conclusion

In light of the foregoing, Primy respectively requests the Commission to recalculate the dumping margin for Primy and revise the securities for Primy at the earliest possible time.

Primy notes that its business is being adversely affected by the artificially high dumping margin due to the erroneous SGA allocation. Hence the need to urgently rectify the deficiencies in the allocation of SGA and the dumping margin and for the level of securities to be revised.

If the Commission has any queries regarding the foregoing or requires further, please advise accordingly. Primy will provide any additional information that the Commission may require.