

GENPACCO INC.

21 July 2019

Director Operations 3
Anti-Dumping Commission
GPO Box 2013
Canberra ACT 2601

Review of measures – Resealable Can End Closures (TRF) exported from the Philippines

Dear Director,

This submission is made on behalf of Genpacco Inco (Genpacco) in response to the Anti-Dumping Commission's (the Commission) Statement of Essential Fact Report No. 496 (SEF 496).

1. Returned exports must be excluded.

During the exporter verification, the Commission was provided with a detailed explanation of the circumstances surrounding certain consignments which were identified as returned goods. Notwithstanding the clear written explanation, the Commission appears to be confused by the nature of the returned goods and their relevance to the current review.

As explained, the returned goods were [REDACTED]. At the time of those export sales and upon receipt of payment by Genpacco from Irwin Packaging (IP), ownership of the TRF's transferred from Genpacco to IP. In [REDACTED]

[REDACTED]. The goods were then [REDACTED] to Australia.

From the time that the goods were sold by Genpacco to IP in [REDACTED], through to the same goods being [REDACTED], the TRFs remained the property of IP at all times. At no point between the [REDACTED], did Genpacco take ownership of the goods.

For this reason, the returned goods cannot be considered an export 'sale' by Genpacco during the review period, as Genpacco at no time owned the goods. The returned goods were owned by IP at all times and [REDACTED]

██████████. The associated sale of these goods and the relevant date of the export sales were sometime between ██████████, and not the current review period.

This view is supported by the Commission's interpretation¹ of '*the definition of 'sale' as a contract for the transfer of property.*' Applied to the current circumstances, there was no transfer of property as the goods were owned by IP at all times, with the contract for transfer for property occurring back in ██████████.

Genpacco therefore submits that it is incorrect to include the returned goods in the calculation of the ascertained export price as the goods were not sold by Genpacco during the review period.

2. Double count of the cost of credit.

In constructing the normal value, the Commission has included the interest expenses incurred by Genpacco during the review period in the SG&A costs. These interest expenses relate to loans taken out by Genpacco to finance the cost of its operations in terms of purchasing necessary materials for production. Payment of these loans and the corresponding interest expenses are tied to payments received from Genpacco's customers. Therefore, included in these finance expenses is the interest incurred by Genpacco in financing the cost of manufacture and sales of the goods to IP during the review period.

In addition, the Commission has also made an upward adjustment for the cost of credit incurred on Genpacco's export sales. This credit adjustment is also intended to reflect the interest cost of extending credit to its customers. However, given that the reported financing charges incurred by Genpacco already include the interest costs on export sales, it is incorrect to include an additional interest charge by way of a export credit adjustment.

The double counting of export credit expenses in the constructed normal value is rectified by deducting the value of the calculated export credit adjustment from the interest expenses included in the constructed normal value, or simply removing the export credit adjustment altogether from the constructed normal value.

3. Specific costs were incorrectly included in SG&A costs.

There are some specific expenses included in the Commission's calculation of SG&A costs which are not relevant in any way to TRF exports to Australia.

Customer charges

The value of PHP ██████████ recorded against the sub-account 'customer charges' relates to a domestic customer of ██████████. As these expenses have no relevance to TRFs, the associated costs should be excluded from the SG&A calculation as they would not be incurred if TRFs were sold domestically.

Retirement benefits

The reported value of PHP ██████████ is an accrual for future retirement liability. As no employee retired during the accounting period, Genpacco did not incur any actual expenses associated with retirement benefits. As this is an unrealised expense, it should not be included in the constructed normal value.

¹ Dumping & Subsidy Manual, November 2018, page 17.

Miscellaneous

Of the reported value of PHP [REDACTED], the amount of PHP [REDACTED] pertains to a financial audit adjustment to reconcile the beginning balance of [REDACTED] and [REDACTED] from domestic customers. As this amount relates solely to domestic customers and does not reflect an actual cost incurred by Genpacco, this amount should be deducted from the verification team's SG&A calculation.

4. Specific costs were incorrectly excluded from SG&A costs.

In calculating Genpacco's SG&A costs to be included in the constructed normal values, Genpacco notes that the Commission omitted certain expenses which are either directly related to the TRF sales, or indirectly related to TRF production.

Foreign exchange gains and losses

Genpacco's accounts show a substantial net forex gain during the review period which has been overlooked by the Commission. These net gains are relevant to the TRFs sold to Australia as these were predominantly denominated in [REDACTED]. In addition, Genpacco achieved net forex gains on its [REDACTED] used in TRF production which were denominated in [REDACTED]. Given that the net gains represent a legitimate and direct net income position on TRF sales, it is reasonable to include these gains in the SG&A costs.

The Commission's Dumping and Subsidy Manual makes clear that the Commission will '*allocate the net transaction foreign exchange gains/losses to the goods on a reasonable basis*'².

Genpacco requests the Commission to reconsider and recalculate the SG&A costs with the inclusion of net transaction forex gains and losses.

Rental income

As explained and highlighted during the exporter verification, Genpacco leases a part of its manufacturing facility to an independent party. This rental income therefore relates to the production of all goods manufactured by Genpacco as the income stream is directly attributable to the manufacturing facility in which domestic and export goods are produced.

The Commission's Dumping and Subsidy Manual states that in considering the treatment of non-operating incomes and expenses, it '*will examine the extent to which each non-operating income/expense item is associated with the production, or manufacture, and sale of the goods, for the investigation period.*'³ The income is derived directly from a part of Genpacco's manufacturing facility being leased to a third party. This can reasonably be regarded as relating to production. Accordingly, Genpacco submits that the rental income should be included in the SG&A costs for the purposes of the constructed normal value.

² Ibid., page 48.

³ Ibid.