



Australian Government
**Department of Industry, Science,
Energy and Resources**

**Anti-Dumping
Commission**

CUSTOMS ACT 1901 - PART XVB

**STATEMENT OF ESSENTIAL FACTS
NO. 527**

**REVIEW OF ANTI-DUMPING MEASURES
APPLYING TO
RESEALABLE CAN END CLOSURES
EXPORTED TO AUSTRALIA FROM
MALAYSIA
BY FEDERAL METAL PRINTING
FACTORY SDN BHD**

29 September 2020

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ABBREVIATIONS

ABF	Australian Border Force
the Act	<i>Customs Act 1901</i>
Accelerated Review 474	the previous review of Federal Metal's exports to Australia
ADN	Anti-Dumping Notice
AEP	ascertained export price
ANV	ascertained normal value
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975</i>
EPR	electronic public record
the exemption goods	TRFs with diameters not less than 103 mm
Federal Metal	Federal Metal Printing Factory Sdn Bhd. and/or Kian Joo (KJ) Can (Singapore) Pte Ltd
the goods	the goods the subject of the application
IDD	interim dumping duty
the Manual	Dumping and Subsidy Manual
MCC	model control code
the Minister	the Minister for Industry, Science and Technology
mm	millimetres
NIP	non-injurious price
OCOT	ordinary course of trade
original investigation	the investigation that resulted in REP 350
the Regulation	<i>Customs (International Obligations) Regulation 2015</i>
REP 350	<i>Anti-Dumping Commission Report No. 350</i>
REQ	response to exporter questionnaire
RIQ	response to importer questionnaire
review period	1 October 2018 to 30 September 2019
SEF	statement of essential facts
Singapore	the Republic of Singapore
TRFs	tagger, ring and foil ends (the goods)
USP	unsuppressed selling price

1 SUMMARY

1.1 Introduction

This statement of essential facts (SEF) sets out the facts on which the Commissioner of the Anti-Dumping Commission (the Commissioner) proposes to base his recommendations to the Minister for Industry, Science and Technology (the Minister)¹ in relation to a review of anti-dumping measures (in the form of a dumping duty notice) applying to certain resealable can end closures (also referred to in this report as tagger, ring and foil ends, TRFs or the goods) exported to Australia from Malaysia by Federal Metal Printing Factory Sdn Bhd (Federal Metal).

This review was initiated on 1 October 2019, following an application by Visy Packaging Pty Ltd (Visy), an importer of TRFs from Federal Metal. Visy considered it appropriate to review the anti-dumping measures as they relate to exports of TRFs to Australia from Malaysia by Federal Metal because one or more of the variable factors relevant to the taking of the anti-dumping measures had changed. The variable factors that were alleged to have changed are the export price and normal value.

1.2 Legislative background

Division 5 of Part XVB of the *Customs Act 1901* (the Act)² sets out, among other things, the procedures to be followed by the Commissioner when undertaking a review of anti-dumping measures.

Division 5 empowers the Commissioner to reject or not reject an application for review of anti-dumping measures. If the Commissioner does not reject the application, he is required to publish a notice indicating that it is proposed to review the anti-dumping measures covered by the application.³

The Commissioner must, within 110 days after the publication of the notice (or such longer period as is allowed)⁴, place on the public record a SEF on which the Commissioner proposes to base his recommendation to the Minister in relation to the review of anti-dumping measures.⁵

1.3 Preliminary findings

The Commissioner has examined exports of TRFs from Malaysia by Federal Metal for the period 1 October 2018 to 30 September 2019 (the review period) and has found that the variable factors have changed. Specifically, that the:

- ascertained export price (AEP) has changed;
- ascertained normal value (ANV) has changed; and
- non-injurious price (NIP) has changed.

¹ For the purposes of this review, the Minister is the Minister for Industry, Science and Technology.

² All legislative references in this report are to the *Customs Act 1901*, unless otherwise specified.

³ Section 269ZC(4)

⁴ Section 269ZDA(1). It is noted that, on 14 January 2017, the powers and functions of the Minister under section 269ZHI were delegated to the Commissioner. Refer to Anti-Dumping Notice (ADN) No. 2017/10 for further information.

⁵ Section 269ZD(1)

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The preliminary dumping margin for TRFs exported from Malaysia by Federal Metal is **11.6 per cent**.

1.4 Proposed recommendations

The Commissioner proposes to recommend to the Minister that the dumping duty notice have effect as if different variable factors had been ascertained in relation to exports of TRFs to Australia from Malaysia by Federal Metal, and that duties be calculated using the *ad valorem* duty method.

1.5 Responding to this SEF

This SEF sets out the essential facts on which the Commissioner proposes to base his final recommendations to the Minister. The SEF represents an important stage in the review because it informs interested parties of the facts established and allows them to make submissions in response to the SEF.

It is important to note the SEF may not represent the final views of the Commissioner. The final report will recommend whether the dumping duty notice should be varied, and the extent of any interim duties that are, or should be payable.

Interested parties are invited to lodge written submissions in response to this SEF no later than the close of business on **19 October 2020**. 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 Minister.⁶

Submissions should preferably be emailed to investigations2@adcommission.gov.au. Alternatively, submissions may be posted to:

The Director – Investigations 2
Anti-Dumping Commission
GPO Box 2013
Canberra ACT 2601
AUSTRALIA

Confidential submissions must be clearly marked accordingly and a non-confidential version of any submission is required for inclusion on the public record. A guide for making submissions is available on the Anti-Dumping Commission (Commission) website at www.adcommission.gov.au.

The electronic public record (EPR) contains non-confidential submissions by interested parties, the non-confidential versions of the Commission's visit reports, and other publicly available documents. The EPR can be viewed online at www.adcommission.gov.au. Documents on the EPR for this review (EPR 527) should be read in conjunction with this SEF.⁷

⁶ Section 269ZDA(4).

⁷ EPR 527 available [here](#).

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1.6 Final report

The Commissioner's final report and recommendations must be provided to the Minister by **13 November 2020** or within such longer period as may be allowed.⁸

⁸ Section 269ZDA(1).

2 BACKGROUND

2.1 Application and initiation

Following consideration of the application from Visy, the Commissioner decided not to reject the application and on 1 October 2019, initiated a review of the anti-dumping measures on the goods exported to Australia from Malaysia by Federal Metal.

Notification of the initiation of the review was made via Anti-Dumping Notice (ADN) No. 2019/122, which was published on 1 October 2019.⁹ *Consideration Report No. 527* details the Commissioner's reasons for not rejecting the application.¹⁰

2.2 The current measures

The current anti-dumping measures were initially imposed by public notice on 24 March 2017 by the then Assistant Minister for Industry, Innovation and Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science following consideration of *Anti-Dumping Commission Report No. 350* (REP 350).¹¹ These measures are applicable to all exporters from Malaysia, the Philippines and the Republic of Singapore (Singapore).

On 16 August 2018, the then Assistant Minister for Science, Jobs and Innovation altered the notice as it applied to exports from Federal Metal.¹²

Exports of TRFs from Malaysia by Federal Metal are currently subject to the floor price duty method of interim dumping duty (IDD).

2.3 Previous cases

The original measures were imposed following an investigation that resulted in REP 350 (original investigation). A list of selected cases which are relevant to the goods and the present application are summarised below, with full details found on the relevant EPR on the Commission website at www.adcommission.gov.au

⁹ EPR 527 document 3 refers

¹⁰ EPR 527 document 2 refers

¹¹ EPR 350 document 81 refers

¹² ADN 2018/116 available [here](#)

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Case type and report	ADN No.	Date	Country of export	Findings
Investigation REP 350	2017/20	24 March 2017	Malaysia, the Philippines and Singapore	Dumping duties imposed.
Accelerated Review <i>Anti-Dumping Commission Report No. 474</i>	2018/116	16 August 2018	Malaysia	Variable factors determined for Federal Metal.
Review <i>Anti-Dumping Commission Report No. 496</i>	2019/101	11 September 2019	The Philippines	Variable factors amended for Genpacco Inc.
Exemption <i>Anti-Dumping Commission Report No. EX0073</i>	2019/134	30 October 2019	Malaysia, the Philippines and Singapore	Exemption granted for TRFs with diameters not less than 103 millimetres (mm).

Table 1: Summary of key cases relating to TRFs

2.3.1 Exemption EX0073

Subsequent to the commencement of this review, an application for exemption of dumping duties for TRFs with diameters not less than 103 mm (the exemption goods) made by Visy was granted by the Minister.¹³ Although the exemption goods are now exempt from dumping duties upon importation, exports of the exemption goods to Australia are still goods subject to the dumping duty notice. Therefore, export sales of the exemption goods to Australia, and domestic sales of like goods to the exemption goods, are relevant for the purpose of calculating export price and normal value in this review.

2.4 Review process

If anti-dumping measures have been taken in respect of certain goods, an affected party may consider it appropriate to review those measures as they affect a particular exporter or exporters generally. Accordingly, the affected party may apply for,¹⁴ or the Minister may request that the Commissioner conduct,¹⁵ a review of those measures if one or more of the variable factors has changed.

The Minister may initiate a review at any time. However, a review application must not be lodged earlier than 12 months after publication of the dumping duty notice or the notice declaring the outcome of the last review of the dumping duty notice.¹⁶

¹³ ADN 2019/134 available [here](#)

¹⁴ Section 269ZA(1)

¹⁵ Section 269ZA(3)

¹⁶ Section 269ZA(2)(a)

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If an application for a review of anti-dumping measures is received and not rejected, within 110 days of the initiation of a review, or such longer time as the Minister may allow, the Commissioner must place on the public record a SEF on which he proposes to base recommendations to the Minister concerning the review of the anti-dumping measures.¹⁷ The Commissioner has up to 155 days, or such longer time as allowed, to conduct a review and report to the Minister on the review of the anti-dumping measures.¹⁸

During the course of a review, the Commissioner will examine whether the variable factors have changed. Variable factors in this particular review are a reference¹⁹ to the:

- AEP;
- ANV; and
- NIP.

For this review, in making recommendations in his final report to the Minister, the Commissioner must have regard to:²⁰

- the application for review of the anti-dumping measures;
- any submission relating generally to the review of the anti-dumping measures to which the Commissioner has had regard for the purpose of formulating the SEF;
- this SEF; and
- any submission made in response to this SEF that is received by the Commissioner within 20 days of it being placed on the public record.

The Commissioner may also have regard to any other matter considered to be relevant to the review.²¹

At the conclusion of the review, the Commissioner must provide a final report to the Minister. In his final report he must make a recommendation to the Minister that the dumping duty notice:

- remain unaltered; or
- has effect, in relation to a particular exporter or to exporters generally, as if different variable factors had been ascertained.²²

Following the Minister's decision, the Minister must give notice of the decision.²³

2.5 Extensions of time

The Commissioner has granted four extensions of time for the completion of this SEF and the final report.²⁴ The extensions were granted on 9 January 2020, 18 March 2020,

¹⁷ Section 269ZD(1).

¹⁸ Section 269ZDA(1).

¹⁹ Section 269T(4E).

²⁰ Section 269ZDA(3)(a).

²¹ Section 269ZDA(3)(b).

²² Section 269ZDA(1)(a).

²³ Section 269ZDB(1).

²⁴ On 14 January 2017, the powers and functions of the Minister under section 269ZHI were delegated to the Commissioner. Refer to [ADN No. 2017/10](#) for further information.

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18 May 2020 and 15 September 2020.²⁵ As a result, this SEF is due to be placed on the public record by no later than **29 September 2020**.

²⁵ ADN Nos. [2020/002](#), [2020/031](#), [2020/053](#) and [2020/106](#) refer.

3 THE GOODS AND LIKE GOODS

3.1 The goods subject to the anti-dumping measures

The goods the subject to the anti-dumping measures are:

Resealable can end closures (TRFs) comprising:

- *a tinfoil 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.*

Further details regarding the goods are as follows:

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

- *73 mm;*
- *99 mm;*
- *127 mm; and*
- *153/154 mm.*

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

The goods are referred to locally as TRF ends (Tagger, Ring and Foil ends, or TRFs) and can also be known as RLTs (Ring, Lid, Tagger), RLFs (Ring, Lid, Foil) or Penny Lever Ends.

Exclusions:

Goods specifically excluded from the description of the goods are TRFs of nominal size:

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

3.2 Tariff classification

The goods are generally, but not exclusively, classified to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995*:

Tariff	Statistical code	Description
8309.90.00	10	Base metal stoppers, caps and lids (other than crown corks), threaded bungs, bung covers, seals, other packing accessories and parts

Table 2: General tariff classification of the goods

3.3 Model control codes

On 9 August 2018, the Commission advised in ADN No. 2018/128 that a model control code (MCC) structure would be implemented in new investigations, reviews of measures generally and continuation inquiries for cases initiated after this date. As noted in that ADN, in developing the MCC structure the Commission will have regard to differences in physical characteristics that give rise to distinguishable and material differences in price.

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The Commission applied the following MCC structure to the goods in this review.

Category	Sales Data	Cost data
Diameter	Mandatory	Mandatory

Table 3: MCC structure for TRFs

3.4 Like goods

Having regard to the Commission's examination of the Australian industry and the goods in previous cases²⁶ and verification of Federal Metal in the current review,²⁷ the Commission is satisfied that the locally produced goods closely resemble the goods the subject of the application and are like goods given that the:

- primary physical characteristics of the locally produced goods closely resemble the imported goods;
- imported and locally produced goods are commercially alike as they are sold to the same customers and/or compete in the same markets;
- imported and locally produced goods are functionally alike as they have the same end uses and/or are substitutable; and
- imported and locally produced goods are manufactured in a similar manner.

²⁶ [REP 350](#), [Report No. 474](#) and [Report No. 496](#) refer.

²⁷ Federal Metal has not yet agreed to publication of the Commission's verification report.

4 VARIABLE FACTORS

4.1 Finding

The Commissioner finds that the variable factors (being the ascertained export price and ascertained normal value) relevant to the determination of dumping duty payable under the *Customs Tariff (Anti-Dumping) Act 1975* (Dumping Duty Act) have changed.

4.2 Cooperation with the review

4.2.1 Importer questionnaire and verification

The Commission performed a search of the Australian Border Force (ABF) import database and identified Visy as the sole importer of TRFs from Federal Metal during the review period.

The Commission requested that Visy provide a response to an importer questionnaire (RIQ). Visy provided a complete RIQ by the due date.

The Commission conducted a desktop verification of the information provided in Visy's RIQ and is satisfied as to the accuracy, relevance and completeness of the data provided by Visy. The verification report for Visy is available on the EPR.²⁸

4.2.2 Determination of the importer

Section 269T(1) defines the importer as the beneficial owner of the goods at the time of their arrival within the limits of the shipping port or airport in Australia at which they landed.

Based on the information available, the Commission observed that Visy:

- is named as the customer on supplier invoices from Federal Metal;
- is named as the consignee on the bills of lading;
- declares itself as the owner of the goods for entry to the ABF;
- negotiates with Federal Metal for the purchase of TRFs;
- arranges overseas freight, and shipping, insurance, customs clearance, logistics, and storage of the goods after they have been delivered to the Australian port; and
- pays all duties associated with the importation of the goods, including IDD.

Having regard to the definition of importer in section 269T(1), the Commission considers that Visy was the beneficial owner of the goods at the time of their arrival in Australia and, as such, was the importer of the goods.

4.2.3 Exporter questionnaire and verification

Upon initiation of this review, the Commission provided Federal Metal with an exporter questionnaire to complete.

Federal Metal requested an extension of time to provide the Commission with a complete response to the exporter questionnaire (REQ). The Commissioner granted a 14 day extension to Federal Metal to provide the completed REQ. Federal Metal provided a complete REQ by the revised due date.

²⁸ EPR 527, document [9](#) refers.

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The Commission conducted a desktop verification of the information provided in Federal Metal's REQ and is satisfied as to the accuracy, relevance and completeness of the data provided by Federal Metal.

4.2.4 Determination of the exporter

The goods exported to Australia during the review period were produced by Federal Metal and sold through a related trading company. The Commission notes that:

- Federal Metal manufactured the goods;
- Federal Metal was listed as the seller of the exported goods on its commercial invoices;
- Federal Metal was named as the shipper of the goods on the bill of lading for each consignment;
- Federal Metal was named as the seller on the packing lists, purchase order and packing declaration; and
- documents provided in relation to payment of the goods established that Federal Metal received payment for the consignments of goods that it exported.

Having regard to all the information obtained, the Commission considers that Federal Metal is the exporter of the goods the subject of this review.

4.3 Export price

The Commission is satisfied that export sales of the goods by Federal Metal and the related trading company were arms length transactions, as there is no evidence that:

- there was any consideration payable for, or in respect of, the goods other than their price; or
- the price was influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller; or
- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise received a benefit for, or in respect of, the whole or any part of the price.

In respect of Australian sales of the goods by Federal Metal, the Commission finds that the importer has not purchased the goods from the exporter, therefore, export prices cannot be determined under sections 269TAB(1)(a) or 269TAB(1)(b). The Commission has calculated the export price under section 269TAB(1)(c) having regard to all the circumstances of the exportation. Specifically, the export price has been calculated based on the price paid by the importer less transport and other costs arising after exportation.

The Commission's export price calculation is at **Confidential Attachment 1**.

4.4 Normal value

All of Federal Metal's domestic sales made during the review period were to a related customer. The Commission examined these sales and found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than their price; or

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- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.²⁹

However, the Commission found evidence that the price appeared to be influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller as domestic sales were not profitable.

The Commission therefore considers that all domestic sales made by Federal Metal to its related customer during the period were not treated as arms length transactions, pursuant to section 269TAA(1)(b).³⁰

The Commission is satisfied that because of the absence of sales of like goods in arms length transactions in the market of the country of export that would be relevant for the purpose of determining a price under section 269TAC(1), the normal value of goods exported to Australia cannot be ascertained under section 269TAC(1).

The Commission has therefore calculated a normal value under section 269TAC(2)(c) using the sum of:

- the cost to make the exported goods based on the company's records in accordance with section 43(2) of the *Customs (International Obligations) Regulation 2015* (the Regulation);
- selling, general and administrative costs of domestic sales of the goods based on the company's records in accordance with section 44(2) of the Regulation; and
- an amount for profit based on data relating to the production and sale of the same general category of goods in the domestic market in accordance with section 45(3)(a) of the Regulation.

4.4.1 Adjustments

The Commission is satisfied there is sufficient information to justify the following adjustments in accordance with section 269TAC(9), and considers these adjustments necessary to ensure a fair comparison of normal values and export prices.

Adjustment Type	Deduction/addition
Domestic credit terms	Deduct the cost of domestic credit terms
Export credit terms	Add the cost of export credit terms
Export inland transport and handling	Add the cost of export inland transport and handling
Export packaging	Add the cost of export packaging
Export sales commission	Add the cost of export sales commission

Table 4: Normal value adjustments

The normal value calculation is located at **Confidential Attachment 1**.

²⁹ Section 269TAA refers.

³⁰ The Commission notes that the finding in this report that the sales to domestic customers did not take place on an arms length basis relates to the assessment of domestic prices for anti-dumping purposes under section 269TAC. It is not an assessment of the exporter's transfer pricing policy with respect to compliance with the revenue laws of any jurisdiction.

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4.5 Dumping margin

The Commission has calculated a preliminary dumping margin based on the revised variable factors for the review period. The dumping margin has been calculated by comparing Federal Metal's weighted average export prices of the goods during the review period, with the corresponding weighted average normal values in accordance with section 269TACB(2)(a).

The dumping margin in respect of the goods exported to Australia by Federal Metal is **11.6 per cent**.

The dumping margin calculation is provided at **Confidential Attachment 1**.

5 NON-INJURIOUS PRICE

5.1 Non-Injurious Price

While Visy's application did not include the NIP as a variable factor to be reviewed, section 269T(4E)(a) states that a reference to variable factors in a Division 5 review is a reference to the export price, normal value and NIP. Therefore, it is the Commission's practice to review all variable factors in a review.

The NIP is defined in section 269TACA as "the minimum price necessary to prevent the injury, or a recurrence of the injury" caused by the dumped or subsidised goods the subject of a dumping duty notice or a countervailing duty notice.

5.2 Lesser Duty Rule

The calculation of the NIP is relevant for the purposes of the lesser duty rule under the Dumping Duty Act.³¹ The level of dumping duty imposed by the Minister cannot exceed the margin of dumping, but, where the NIP of the goods is less than the normal value of the goods, the Minister must also have regard to the desirability of fixing a lesser amount of duty.

Pursuant to section 8(5BAA) of the Dumping Duty Act, the Minister is not required to have regard to the desirability of fixing a lesser amount of duty in certain circumstances. Neither of those circumstances (being the composition of the Australian industry, or the method of ascertaining normal value in circumstances of a particular market situation in the country of export), are relevant to the present review.

5.3 Calculating the NIP

The Commission generally derives the NIP by first establishing a price at which the Australian industry might reasonably sell its product in a market unaffected by dumping. This price is referred to as the unsuppressed selling price (USP). The Commission's preferred approach to establishing the USP is set out in Chapter 24 of the *Dumping and Subsidy Manual* (Manual) and observes the following hierarchy:

- industry selling prices at a time unaffected by dumping;
- constructed industry prices – industry cost to make and sell plus profit; or
- selling prices of un-dumped imports.³²

Having calculated the USP, the Commission then calculates a NIP by deducting the costs incurred in getting the goods from the export Free On Board point (or another point if appropriate) to the relevant level of trade in Australia. The deductions normally include overseas freight, insurance, into store costs and amounts for importer expenses and profit.

³¹ Section 8(5B) of the Dumping Duty Act refers.

³² The Manual, pp. 134-135, available [here](#).

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5.3.1 The USP for the review period

The Commission sought data and information from the Australian industry member, Marpac Pty Ltd (Marpac) for the review period. Marpac did not respond.

In the absence of information from Marpac, the Commission considers that the USP from the most recently completed accelerated review (Accelerated Review 474)³³ to be the most appropriate information available for this review. That accelerated review also concerned exports of the goods to Australia from Malaysia by Federal Metal. In that review the Commission calculated a USP based on Marpac's weighted average selling price for 127 mm TRFs, as that was the model produced and exported to Australia by Federal Metal in that period.³⁴

In the current review period Federal Metal exported 127 mm and 153 mm TRFs to Australia. As there was no USP calculated in Accelerated Review 474 for 153 mm TRFs, for this size, the Commission examined what other information was available to it. The only available information available is from the original investigation, in which the USP was based on written quotes from Marpac to a potential customer.

5.3.2 The NIP for the review period

Having established the USP, the Commission calculated the NIP using Visy's import costs in the review period, using the same calculation methodology from Accelerated Review 474.

The Commission found that the NIP was higher than Federal Metal's normal value and therefore the lesser duty rule does not apply.

The assessment of the USP and NIP is provided at **Confidential Attachment 2**.

³³ *Anti-Dumping Commission Report No. 474* refers.

³⁴ Accelerated Review 474 examined the review period 1 April 2017 to 31 March 2018

6 FORM OF MEASURES

6.1 Finding

The Commission recommends that the Minister change the form of the anti-dumping measures from the current floor price duty method to the *ad valorem* duty method.

6.2 Consideration of form of measures

The various forms of anti-dumping measures all have the purpose of removing the injurious effects of dumping. However, in achieving this purpose, certain forms of measures will better suit particular circumstances more so than others. In considering which form of measures to recommend to the Minister, the Commissioner will have regard to the *Guidelines on the Application of Forms of Dumping Duty*³⁵ and relevant factors in the market for the goods.

6.2.1 *Ad valorem* duty method

The *ad valorem* duty method is applied as a proportion of the actual export price of the goods. An *ad valorem* dumping duty is determined for the product as a whole, meaning that a single ascertained export price is required when determining the dumping margin. The *ad valorem* duty method is the simplest and easiest form of duty to administer when delivering the intended protective effect. The *ad valorem* duty method also has an advantage where there are many models or types, however, it has a potential disadvantage in that export prices might be lowered to avoid the effects of this duty.

In recommending a change to the form of measures, the Commission notes that the original investigation considered the *ad valorem* duty method most appropriate as multiple TRFs are exported to Australia and a fixed form of measures will not adequately address all the different prices for each TRF size (as there is a distinct difference between sizes). The Commission notes that this finding is still relevant in relation to TRFs exported to Australia.

The Commission also notes that the floor price duty method was imposed on exports by Federal Metal in Accelerated Review 474 which determined that the ascertained export price be the same amount as the normal value. In this review, the Commission has determined export price with regard to all the circumstances of the exportation.

As such, the Commission proposes to amend the form of measures as it applies to Federal Metal and that duties be calculated under the *ad valorem* method.

³⁵ Available [here](#).

7 FINDINGS AND PROPOSED RECOMMENDATIONS

7.1 Findings

The Commissioner finds that, in relation to exports of TRFs to Australia from Malaysia by Federal Metal during the review period, that the:

- ascertained export price has changed;
- ascertained normal value has changed; and
- non-injurious price has changed.

7.2 Proposed recommendations

The Commissioner proposes to recommend to the Minister that:

- the dumping duty notice in respect of exports of TRFs from Malaysia by Federal Metal have effect as if different variable factors had been ascertained; and
- duties be calculated using the *ad valorem* duty method.

8 APPENDICES AND ATTACHMENTS

Confidential Attachment 1	Summary of the export price, normal value and dumping margin
Confidential Attachment 2	Assessment of the USP / NIP for the review period