



Australian Government

Anti-Dumping Review Panel

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C/O Legal, Audit & Assurance
Department of Industry, Innovation and Science
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By EMAIL

Mr Dale Seymour
The Commissioner of the Anti-Dumping Commission
Anti-Dumping Commission
GPO Box 1632
MELBOURNE VIC 3001

Dear Commissioner

Resealable Can End Closures Exported from Malaysia, the Republic of the Philippines and the Republic of Singapore

The Anti-Dumping Review Panel (“ADRP”) is currently conducting a review (No. 2017/52) of the decision of the Parliamentary Secretary to the Minister for Industry, Innovation and Science made on 20 March 2017 to publish a notice imposing dumping duties on the export of Resealable Can End Closures (referred to as tagger, ring and foil (TRF) ends) from Malaysia, the Philippines and Singapore (“Reviewable Decision”).

As you are aware, I am currently conducting the review.

Pursuant to section 269ZZL of the *Customs Act 1901*, I require that the finding that dumped TRFs ends exported from Malaysia, the Philippines and Singapore had materially hindered the establishment of the Australian industry producing TRFs be reinvestigated.

To clarify, this request for re-investigation is only to address the submission made to the Commission during the investigation that it was the inability of the Australian industry to negotiate competitive steel input prices which caused the material hindrance.

I provide below a summary of my reasons for making the request under s.269ZZL:

1. Three of the applications for review made to the ADRP included the same or a similar ground, namely that the finding of hindrance was not the correct or preferable finding due to a failure to isolate and distinguish a number of critical factors which had a material impact on the Australian industry's performance. The three applications are by Can Makers Institute of Australia Inc, Irwin Packaging Pty Ltd and Visy Packaging Pty Ltd ("Visy");
2. The submissions made with the applications all contend that the Commission did not properly consider whether the inability of Marpac Pty Ltd ("Marpac") to negotiate competitive steel input prices was the cause of the material hindrance suffered by it. They rely on the duty imposed on the Minister by s269TAE(2A);
3. In the Statement of Essential Facts No. 350 (SEF) at section 8.10.4 there is a consideration of this issue and a finding that the Commission was "satisfied that Marpac's tinplate purchases follow the same trend as the corresponding lagged quarterly cold rolled steel (CRC) prices. Marpac's tinplate purchases are not a cause of injury";
4. In a submission in response to the SEF, Visy referred to this finding and asserted that the Commission had erred in relying on the CRC prices because the CRC prices are not aligned to tinplate prices (Doc. 35 in the EPR at page 4). Visy provided material with its submission in support of its contention;
5. In its submission to the ADRP, Visy asserts that the material it provided to the Commission showed a reduction in tinplate prices which coincided with the recent decline in export prices. Visy contends that the Commission failed to take into

account this material and failed to examine its contention that Marpac has not been able to purchase tinplate at competitive prices relative to foreign TRF producers;

6. In its submission to the ADRP, Marpac contends that the price drop in TRFs occurred before the drop in tinplate prices; and
7. While Final Report No 350 refers to the effect tinplate prices can have on TRF prices (Final Report No 350 at section 5.5), it does not appear to have addressed the allegation that higher prices for Marpac's tinplate purchases were the cause of the material hindrance suffered by it. The Final Report also does not appear to have addressed the submission by Visy concerning the reliability of CRC prices.

If you have any issues in relation to the reinvestigation, or if you consider that a conference under section 269ZZHA of the Act would assist in obtaining the further information on the subject of the reinvestigation, please contact the Secretariat.

Please report the results of the reinvestigation by no later than **Wednesday, 9 August 2017**.

Thank you for your assistance.

Yours faithfully,



Joan Fitzhenry
Senior Member
Anti-Dumping Review Panel
3 July 2017