

PUBLIC RECORD



Australian Government
**Department of Industry,
Innovation and Science**

**Anti-Dumping
Commission**

**ANTI-DUMPING COMMISSION
REPORT TO THE ANTI-DUMPING REVIEW PANEL**

**REINVESTIGATION OF CERTAIN FINDINGS
CONCERNING RESEALABLE CAN END CLOSURES
EXPORTED FROM MALAYSIA, THE REPUBLIC OF THE
PHILIPPINES AND THE REPUBLIC OF SINGAPORE**

REPORT NO. 431

9 August 2017

Contents

Contents	2
Abbreviations	3
1 Introduction and findings	4
1.1 Introduction.....	4
1.2 The ADRP's request and reasons for this reinvestigation	4
1.3 Findings	5
2 Background	6
2.1 Investigation 350 – the original investigation	6
2.2 Dumping findings.....	6
3 ADRP review	7
3.1 Legislative framework	7
3.2 Review and reinvestigation.....	7
4 Reinvestigation	9
4.1 The Australian TRF industry is an unestablished industry.....	9
4.2 The reliability of CRC prices as an indicator of future tinplate trends	10
4.3 Marpac's price paid for tinplate relative to foreign TRF manufacturers.....	12
4.4 Tinplate prices relative to TRF export prices	13
5 Conclusion	16
6 Findings	17
7 Attachments	18

Abbreviations

the Act	<i>Customs Act 1901</i>
ADRP	Anti-Dumping Review Panel
end user customer 1	[redacted: referred at document 61 on EPR INV 350 and REP 350]
CMIA	Can Makers Institute of Australia Inc.
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
CRC	Cold rolled coil steel
CTM	Cost to make/produce or cost of production
CTMS	Cost to make and sell
Genpacco	Genpacco Inc.
the goods	the goods the subject of the application (also referred to as the goods under consideration or GUC)
HIR 16	Harbor Intelligence Report, June 2016
importer name 4	[redacted: non-participating importer]
incumbent can manufacturer	application of confidential naming convention used in REP 350
India	the Republic of India
INV 350	<i>Anti-Dumping Commission Investigation No. 350</i>
Irwin	Irwin Packaging Pty Ltd
the like goods	like goods to the goods subject of the application
the Manual	<i>The Dumping and Subsidy Manual, April 2017</i>
Marpac	Marpac Pty Ltd
MCP	M.C.Packaging Pte Ltd
Marpac's independent financier	[redacted: referred at document 17 on EPR INV 350 and REP 350]
new supplier	application of confidential naming convention used in REP 350
Parliamentary Secretary	the Assistant Minister for Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science
the Philippines	the Republic of the Philippines
the Regulation	<i>Customs (International Obligations) Regulation 2015</i>
REP 350	<i>Anti-Dumping Commission Report No. 350</i>
SEF 350	Statement of Essential Facts No. 350
Singapore	the Republic of Singapore
Sonoco	Sonoco Australia Pty Ltd
TER 350	<i>Anti-Dumping Commission Termination Report No. 350</i>
TRFs	Tagger, Ring and Foil ends
Visy	Visy Packaging Pty Ltd

1 Introduction and findings

1.1 Introduction

This report provides the results of the reinvestigation of certain findings in *Anti-Dumping Commission Report No. 350* (REP 350) in respect of resealable can end closures (referred to as tagger, ring and foil (TRF) ends, or TRFs) exported to Australia from Malaysia, the Republic of the Philippines (the Philippines) and the Republic of Singapore (Singapore).

As requested by the Anti-Dumping Review Panel (the ADRP), the Commissioner of the Anti-Dumping Commission (the Commissioner) has reinvestigated one specific aspect of the finding that dumped TRFs ends exported from Malaysia, the Philippines and Singapore had materially hindered the establishment of the Australian industry producing TRFs.

1.2 The ADRP's request and reasons for this reinvestigation

As stated in the request of 3 July 2017 from the ADRP Senior Panel Member to the Commissioner, this request for reinvestigation 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. The ADRP provided its reasons for the request for reinvestigation as follows:

- 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 (CMIA), Irwin Packaging Pty Ltd (Irwin) and Visy Packaging Pty Ltd (Visy);
- 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 subsection 269TAE(2A);
- In Statement of Essential Facts No. 350 (SEF 350) 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 coil steel (CRC) prices. Marpac's tinplate purchases are not a cause of injury";
- In a submission in response to SEF 350, 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.¹ Visy provided material with its submission in support of its contention;
- 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;

¹ EPR Document No. 35 at page 4

PUBLIC RECORD

- In its submission to the ADRP, Marpac contends that the price drop in TRFs occurred before the drop in tinsplate prices; and
- While REP 350 refers to the effect tinsplate prices can have on TRF prices,² it does not appear to have addressed the allegation that higher prices for Marpac's tinsplate purchases were the cause of the material hindrance suffered by it. REP 350 also does not appear to have addressed the submission by Visy concerning the reliability of CRC prices.

1.3 Findings

As a result of this reinvestigation, the Commissioner finds:

- CRC prices are reliable as an indicator of future tinsplate price trends;
- CRC prices are utilised by members of the Australian can manufacturing and TRF industries to make future business decisions regarding tinsplate prices and TRF prices from suppliers;
- Marpac's tinsplate prices correlate with CRC price movements, indicating that Marpac pay market price for tinsplate;
- Marpac's tinsplate prices are competitive, relative to overseas TRF manufacturers; and
- the price of tinsplate paid by Marpac did not cause the material hindrance to the establishment of an Australian TRF industry.

The Commissioner affirms the findings in the original investigation.

² REP 350 at section 5.5

2 Background

2.1 Investigation 350 – the original investigation

The Assistant Minister for Industry, Innovation and Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science (the Parliamentary Secretary)³ accepted the findings in REP 350 on 20 March 2017 and published a dumping duty notice⁴ in relation to TRFs exported to Australia from Malaysia, the Philippines and Singapore.

2.2 Dumping findings

The findings in REP 350 were that, during the investigation period 1 April 2015 to 30 March 2016:

- TRFs were exported to Australia at dumped prices by Malaysia, the Philippines and Singapore, and that the volume of dumped goods exported from each country was not negligible; and
- dumped TRFs materially hindered the establishment of an Australian TRF industry by limiting opportunities for:
 - manufacturing for an extended period of time;
 - continuous and stable production;
 - increasing operational scale and higher levels of production;
 - generating a sustainable operational and financial “break-even” point; and
 - implementing plans to increase the range of TRFs manufactured.

The investigation with respect to the Republic of India (India) was terminated due to negligible dumping. The Commissioner’s findings in respect of India were published on the Commission’s website in *Anti-Dumping Commission Termination Report No. 350 (TER 350)* on 17 February 2017. The ADRP affirmed this decision on 11 June 2017 and its reasons are published in *ADRP Decision No. 51*⁵.

Table 1 summarises the dumping margins calculated and duty imposed as a result of REP 350.

Country	Cooperative exporter			Uncooperative and all other exporters		
	Exporter	Dumping margin	Effective rate of duty	Exporter	Dumping margin	Effective rate of duty
Malaysia	-	-	-	All exporters	266.3%	94.2%
the Philippines	Genpacco Inc. (Genpacco)	17.4%	12.8%	All other exporters	41.5%	16.7%
Singapore	-	-	-	All exporters	266.3%	94.2%

Table 1: Dumping margins and duty implemented

³ 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. For the purposes of this investigation the Minister is the Parliamentary Secretary to the Minister for Industry, Innovation and Science.

⁴ Refer to the original investigation case page EPR 350 at www.adcommission.gov.au

⁵ www.adreviewpanel.gov.au

3 ADRP review

3.1 Legislative framework

Division 9 of the Act⁶ sets out the procedures to be followed by the ADRP for review of certain decisions by the Minister or the Commissioner.

In relation to decisions by the Minister, a person who is an interested party⁷ may apply to the ADRP for review of a reviewable decision.⁸ If an application for review is not rejected, the ADRP must make a report to the Minister, which recommends that either:

- the reviewable decision is affirmed; or
- the Minister revoke the reviewable decision and substitute a specified new decision.⁹

Before making a recommendation to the Minister, the ADRP may, by written notice, require the Commissioner to:

- reinvestigate a specific finding or findings that formed the basis of the reviewable decision; and
- report the result of the reinvestigation to the ADRP within a specified period.¹⁰

The Commissioner must conduct a reinvestigation as required by the ADRP and give the ADRP a report of the reinvestigation concerning the finding or findings.¹¹ The report must:

- if the Commissioner is of the view that the finding or any of the findings the subject of reinvestigation should be affirmed, affirm the finding or findings; and
- set out any new finding or findings that the Commissioner made as a result of the reinvestigation; and
- set out the evidence or other material on which the new finding or findings are based; and
- set out the reasons for the Commissioner's decision.¹²

3.2 Review and reinvestigation

The ADRP received the following applications¹³ for a review of the decision made by the Parliamentary Secretary on 20 March 2017 as a result of the findings in REP 350:

⁶ Unless otherwise stated, all legislative references are to the *Customs Act 1901*

⁷ As defined in section 269ZX

⁸ Decisions of the Minister that are reviewable decisions are set out in subsection 269ZZA(1)

⁹ Under subsection 269ZZK(1)

¹⁰ Under subsection 269ZZL(1)

¹¹ Under subsection 269ZZL(2)

¹² Subsection 269ZZ(3)

¹³ www.adreviewpanel.gov.au

PUBLIC RECORD

Interested party		Application date
CMIA	Can Manufacturing Industry Association	20 April 2017
Genpacco	Exporter	11 April 2017
Irwin	Importer	20 April 2017
M.C.Packaging Pte Ltd (MCP)	Exporter	24 April 2017
Visy	Importer	21 April 2017

Table 2: Applications received by the ADRP

As a result of these applications, on 8 May 2017, the ADRP published a notice under subsection 269ZZI(1) indicating its intention to conduct a review.

The following submissions were also received by the ADRP from interested parties:

Interested party		Submission date
Marpac	Australian TRF industry member	8 June 2017
MCP	Exporter	7 June 2017

Table 3: Submissions from interested parties

On 3 July 2017, the ADRP, in conducting its review, wrote to the Commissioner requesting the Commissioner to reinvestigate a specific finding that formed the basis of the reviewable decision.

The specific finding and any new findings that the Commissioner has made as a result of the reinvestigation, are set out in this report.

4 Reinvestigation

The Commission has addressed the ADRP's reasons for reinvestigation by examining the four themes related to the ADRP's request, being;

- the reliability of CRC prices as an indicator of future tinfoil price trends;
- Marpac's ability to source competitively priced tinfoil;
- the relationship between tinfoil prices and the verified export prices determined in Investigation 350; and
- whether Marpac's tinfoil costs caused hindrance to the establishment of an Australian TRF industry.

4.1 The Australian TRF industry is an unestablished industry

The Commission found in REP 350 that the Australian TRF industry was an unestablished industry. Chapter 4.4.2 of REP 350 utilised a "five indicator framework" to analyse and assess the characteristics of an unestablished industry. Without repeating the Commission's analysis in this regard, the overarching feature of an unestablished industry is that it is in a phase of susceptibility where internal and/or external negative effects can cause significant hindrance to progress towards establishment. The Commission considered that:

- in general, the injury to an unestablished Australian industry should be considered with specific reference to the challenges and pressures in the context of an unestablished industry and not to an established industry; and
- specifically, the injury to an unestablished Australian TRF industry should be considered with specific reference to the challenges and pressures in the context of that industry and not to an established TRF industry¹⁴ or to established individual TRF manufacturers.

To that end, the Commission examined in REP 350, Marpac's role as the majority TRF producer in the Australian TRF industry and as a member of the wider Australian can manufacturing industry. Specifically, the Commission examined the conditions of the direct and downstream TRF markets and whether Marpac:

- made a serious attempt to "self-mitigate" against the pressures of late market entry (Chapter 7.5);
- offered TRFs which were appropriately priced so that Marpac was able to obtain and maintain customers; and
- was able to compete in the direct and downstream TRF markets if those markets were unaffected by dumping.

This analysis was part of a broader analysis about whether there were other factors (apart from dumped TRFs) that might have contributed to the performance of the Australian TRF industry. Given the Australian TRF is an unestablished industry, the Commission did not find that it was reasonable or accurate to benchmark the Australian TRF industry directly (on a 1:1 basis of costs, or manufacturing efficiency for example) to established foreign TRF manufacturers, as an unestablished industry has different economic, operational and financial pressures to an established industry or established manufacturer. Instead, the Commission focussed on TRF pricing and competition in Australia, which implicitly considered the cost to make (CTM) TRFs

¹⁴ The Commission found that a TRF industry was a rare occurrence and did not exist in the countries participating with Investigation 350.

including tinplate costs. Such price and competition analysis tacitly confirms Marpac's capacity to manufacture TRFs at a cost (taking into consideration the pressures faced by a new entrant in an unestablished industry) that allowed it to sell and compete with undumped TRFs and suffer injury directly resulting from dumped TRFs.

4.2 The reliability of CRC prices as an indicator of future tinplate trends

The Commission stated in SEF 350 that it was "...satisfied that Marpac's tinplate purchases follow the same trend as the corresponding lagged quarterly cold rolled steel (CRC) prices".¹⁵ The confidential data and analysis used in coming to this conclusion was provided at Confidential Appendix 3, the Commission's assessment of the Australian industry, to SEF 350.

Visy claimed in its post-SEF submission¹⁶ that the Commission erred in relying on CRC prices because CRC prices are not aligned to tinplate prices. During the conduct of Investigation 350, the Commission did not consider this to be a valid claim as:

- the Harbor Intelligence Report, June 2016 (HIR 16) provided by Visy at the Commission's verification visit to Visy, and again at Confidential Attachment 2 to its post-SEF submission states that:

*"Global tinplate spot prices have continued to grow, driven by the cumulative increase of cold rolled steel price and key steelmaking raw materials during the first half of 2016."*¹⁷

- HIR 16 identifies a causal relationship between CRC prices and tinplate prices as tinplate prices are "driven" by CRC prices;
- at the verification visit Visy claimed that it used HIR 16 **[redacted: Visy claimed at its verification visit that the use of HIR 16 was confidential]**
- the Commission undertook its own research during Investigation 350 to determine the composition of tinplate and was satisfied that tinplate is manufactured from CRC base material;
- the Commission was advised by members of the Australian can manufacturing industry that they monitored potential future tinplate price movements by examining historical and current CRC/steel price movements. These movements were monitored to ensure that changes in tinplate prices were or could be reflected in TRF pricing; and
- the Commission obtained evidence that Visy referenced steel price movements as having an effect on TRF prices over time.¹⁸

The Commission has reinvestigated the data and information obtained during Investigation 350 and is satisfied that CRC prices (as the base material for tinplate) were used by the Australian can manufacturing industry as a reliable indicator of trends in future tinplate price movements, which could also be used as a basis for renegotiating TRF prices with exporters.

¹⁵ SEF 350 at 8.10.4

¹⁶ Document 35 on EPR 350, dated 25 October 2016

¹⁷ Confidential Attachment - Harbor Intelligence Report June 2016 (provided as **Confidential Attachment 1** to this Report)

¹⁸ **Confidential Attachment 2** - Email from Visy to Marpac, dated 26 June 2015, stating TRF prices (from an exporter) are adjusted for movements in steel over time.

PUBLIC RECORD

Visy has relied on specific data contained in HIR 16 as evidence of its claims regarding declining tinplate prices over the investigation period, however the Commission considered HIR 16 to be unreliable for the purposes of benchmarking Marpac's tinplate purchase price, as:

- the graph titled "Global Spot Average Tinplate Export Price" calculated a single weighted average export price for eleven countries across South America, Asia and Europe. The Commission considered that the combination of countries listed would have distorted the calculation of actual market prices, particularly where;
 - the unit of measurement was "dollars per metric tonne" – the specific currency and how it was calculated was not provided in HIR 16;
 - no incoterms were listed to explain whether the consolidated price was calculated at ex works (EXW) or free on board (FOB) and the prices graphed could not be determined from the x-axis scale; and
- the infographic titled "World Map of Tinplate Price" provided monthly tinplate prices for March 2016 – June 2016 and the quarterly price movements for a combination of countries and continents. This data was considered unreliable as the comparative prices were a mix of country or continent level, domestic and export price level and domestic prices included "optional tax" without identifying whether prices included taxes or not.

Visy provided no other data or evidence in support of its post-SEF submission claim regarding the relationship between tinplate and CRC prices in a down turning steel market or how this claim and the data in HIR 16 related to Marpac's actual purchases of tinplate relative to actual purchases of tinplate by other TRF manufacturers or Australian steel can manufacturers.

The Commission re-analysed the reliability of CRC prices used for assessment during Investigation 350 (and contained in Confidential Attachment 3 to SEF 350). The analysis performed for this reinvestigation was extended¹⁹ to include additional data sets for CRC market prices and tinplate purchase prices from participating exporters. (see Figure 1 below). The detailed analysis is at **Confidential Attachment 3** to this report.

[redacted Figure 1: contains confidential data regarding tinplate purchases by Hindustan, Genpacco and Marpac]

Figure 1: Lagged²⁰ CRC and tinplate prices for 0.18 – 0.21 gauge

The Commission observes from Figure 1 and Investigation 350 that:

- Hindustan's prices are the result of the Commission's revised tinplate calculations following Hindustan's post-SEF 350 submission. At the time of SEF 350, the Commission had determined significantly higher prices²¹;
- **[redacted: observations from Figure 1 on the comparability of CRC and tinplate prices]** Hindustan were found not to be dumping TRFs after the publication of SEF 350;

¹⁹ The Commission has utilised data that was obtained during Investigation 350 and sought some additional data for the purpose of this reinvestigation.

²⁰ CRC prices were lagged by one quarter for analysis in SEF 350 and the extended analysis in Figure 1 to assess the reliability of CRC prices as an indicator of future tinplate price movements. ie. CRC price in Q1 should be reflective of subsequent downstream tinplate prices in Q2, as advised by interested parties. Unverified data for uncooperative exporters from Malaysia and Singapore has not been included in this analysis.

²¹ See SEF 350, TER 350 and ADRP Decision No. 51 for reasons for recalculation.

PUBLIC RECORD

- **[redacted]**: observations from Figure 1 on the comparability of CRC and tinplate prices] and Genpacco were found to be dumping TRFs in Investigation 350;
- tinplate gauge is a consideration in price determination, however there are different approaches to pricing per metric tonne (MT), e.g. lower gauge tinplate may be more expensive per MT than higher gauge tinplate due to the further manufacturing process of thinning the tinplate; and
- it is not possible to directly compare each data set on a 1:1 basis given the limited availability of tinplate pricing data²², tinplate prices vary according to gauge and sheet dimension, different delivery terms, domestic prices versus export prices, tax variability, importation charges (customs, handling and transport from port to factory) and any trader fees. For example; **[redacted]**: comparability of tinplate prices between Hindustan, Genpacco and Marpac]

The above consideration appears consistent with the approach in HIR 16, however the Commission obtained verified data (applicable taxes, delivery etc.) which assisted in making a meaningful comparison, as opposed to making assumptions on the variables in each data set.

The Commission has reconsidered the data from Investigation 350 (from Confidential Attachment 3 to SEF 350 and **Confidential Attachment 3** to this report) and remains satisfied that lagged CRC prices correlate with verified tinplate prices and hence CRC prices are a reliable indicator of future trends in tinplate prices.

Further, the Commission confirms that Marpac's tinplate prices also correlate with CRC prices as demonstrated in Figure 1. In SEF 350, and as advised by interested parties, it is a common business practice to make assessments of future tinplate pricing trends and decisions on future TRF prices based upon observed movements in CRC prices.

4.3 Marpac's price paid for tinplate relative to foreign TRF manufacturers

Visy stated in its post-SEF submission²³ that "[t]he fact the *[sic]* Marpac is not prudent enough in being able to buy tinplate at competitive prices (relative to other TRF manufacturers) should not lead to the conclusion that other TRF manufacturers are dumping".

During Investigation 350, the Commission considered claims from importers regarding other entities' tinplate and manufacturing costs to be based on assumption, as no evidence was provided in support of such claims.

The Commission verified during Investigation 350 that:

- Marpac demonstrated prudent tinplate purchasing practices, utilising the experience and global networks of steel traders **[redacted]**: (company 1) Marpac's steel trader and company (2) Marpac's independent financier];
- notably, **[redacted]**: Marpac's independent financier] [has] significant global resources and networks to obtain competitive tinplate prices; and
- **[redacted]**: other customer and business relationships of Marpac's independent financier].

²² During Investigation 350, the case team also sought assistance with obtaining tinplate market prices from within the Department of Industry, Innovation and Science, however such pricing was not available.

²³ Document 35 EPR Investigation 350

Figure 1 shows the verified comparative tinplate prices paid by Marpac, Hindustan and Genpacco over the investigation period. Given the variability in the data sets²⁴ (as listed above in Chapter 4.2), the Commission is satisfied that Marpac's tinplate purchases are competitive relative to the purchasing conditions of the Australian TRF industry and foreign TRF manufacturers.

Ultimately, the Commission was not satisfied during Investigation 350 that Marpac's tinplate purchases were prohibitively expensive²⁵, even given its status as a member of an unestablished TRF industry. The Commission has not found any alternate verified evidence that disputes this conclusion.

4.4 Tinplate prices relative to TRF export prices

As there were no domestic sales of TRFs from participating exporters, the Commission constructed normal values – see Chapter 6 of REP 350 and Chapter 3 of TER 350. The cost of tinplate used to calculate the CTM of TRFs bound for export was the same CTM used as the basis of calculating the normal value. In other words, if the decline of tinplate prices over the investigation period was the sole factor in reducing export price for exported TRFs, then similarly, such a decline in tinplate prices would be reflected in the normal value.

The Commission considered in REP 350 that a decline in tinplate price may be a trigger for an importer to renegotiate the export price of TRFs, however this was not always the case. For example, [redacted: importer name stated its TRF pricing strategy with a TRF exporter]²⁶.

Regardless of the reason for a decline in export price – whether CRC or tinplate prices, the results of a pricing negotiation²⁷ or an increase in quantity sold to the importer²⁸ – the Commission examined whether that export price was less than the normal value (using the same tinplate cost inputs), i.e. are the TRFs exported at dumped prices, and the effect of both dumped and undumped TRFs in the Australian market and the subsequent effect on the unestablished Australian TRF industry.

The Commission notes the reference in Visy's application to the ADRP to declining tinplate prices, and Visy's summation of the Commission's apparent conclusion that TRF "...purchase prices simply mirror movements in tinplate prices."²⁹

The Commission concluded at Chapter 5.5 of REP 350 that "[t]he price of TRFs is affected by the costs to manufacture – raw materials, manufacturing overheads and labour. Tinplate costs are the major portion of the cost to manufacture and hence the price of TRFs... The Commission was advised that tinplate prices are the main driver of changes to TRF pricing..." In this regard, it appears that both the Commission and Visy agree that there is not a direct linear relationship between tinplate price or price paid by a TRF manufacturer and TRF export price, i.e. that there are other factors to take into consideration. For example, the Commission examined the cost of tinplate used in the manufacture of TRFs (CTM), which includes the efficient and effective use of that tinplate. Whilst tinplate price has a role in that assessment, potentially, cheaply *priced* tinplate could be inefficiently used, resulting in a higher tinplate *cost* for TRF manufacture.

²⁴ Figure 1 shows the weighted average quarterly price of tinplate for Marpac, Hindustan and Genpacco. The price includes different tinplate gauge, tinplate dimensions (plate size) and source.

²⁵ The Commission considers that any cost input which is prohibitively expensive would cause the CTM to have an adverse effect on an industry's ability to appropriately price its product and hence ability to sell. The Commission found that this was not the case during the investigation period.

²⁶ [redacted: importer name] Verification Program at GP 3 – provided as **Confidential Attachment 4** to this Report

²⁷ Importers and exporters renegotiate TRF prices on at least a quarterly basis – there are no supply contracts.

²⁸ See REP 350 – volumes sold to an importer can also be a cause for a decline in export price.

²⁹ Visy's application to the ADRP, Attachment B at [4.8(c)]

PUBLIC RECORD

The Commission has re-examined the relationship between export price for 73 mm TRFs, TRF quantity sold, material costs (dominated by cost of tinplate) and CTM for participating exporters Hindustan and Genpacco. The detailed analysis is found in **Confidential Attachment 5** to this report.

Figure 2 shows that Hindustan's undumped export price **[redacted: confidential comparison between export price and CTM]** (and hence normal value) and the *rate of change* of inputs to revenue and quantity between Quarters 2 and 3, 2015 (per '000 TRFs) is:

- material costs **[redacted: confidential data]** per cent;
- export revenue **[redacted: confidential data]** per cent; and
- quantity sold **[redacted: confidential data]** per cent.

[redacted Figure 2: contains confidential data comparing Hindustan's CTM and export price]

Figure 2: Hindustan Tin Works CTM and export price comparison

Over the investigation period, using Quarter 2, 2015 as the baseline (per '000 TRFs):

- material costs **[redacted: confidential data]** per cent;
- export revenue **[redacted: confidential data]** per cent; and
- quantity sold **[redacted: confidential data]** per cent.

It is also important to note that Hindustan sold TRFs to **[redacted: importer name 1³⁰, importer name 2, importer name 3 and importer name 4³¹]** during the investigation period and the data in this analysis represents the weighted average cost and price for all these importers. The conditions of sale for **[redacted: importer name 1]** may not be the same for the other importers.

By contrast, Genpacco's CTM (and hence normal value) **[redacted: confidential comparison between export price and CTM]** – see Figure 3. The *rate of change* of inputs to revenue and quantity between Quarters 2 and 3, 2015 (per '000 TRFs) is:

- material costs **[redacted: confidential data]** per cent;
- export revenue **[redacted: confidential data]** per cent; and
- quantity sold **[redacted: confidential data]** per cent.

[redacted Figure 3: contains confidential data comparing Genpacco's CTM and export price]

Figure 3: Genpacco CTM and export price comparison

Over the investigation period, using Quarter 2, 2015 as the baseline (per '000 TRFs):

- material costs **[redacted: confidential data]** per cent;
- export revenue **[redacted: confidential data]**; and

³⁰ **[redacted: confidential pricing comparison between importer customers]**

³¹ Importer name 4 chose not to participate in the investigation

PUBLIC RECORD

- quantity sold [redacted: confidential data] per cent.

[redacted: confidential comparison between Genpacco and Marpac]

In both cases, if tinfoil price movements and subsequent cost are supposed to represent direct savings to importers via a reduction in export price, then the Commission would expect to see a linear relationship between material costs and export price. This is not observed in the data.

Therefore the price of tinfoil used in TRF manufacture is not the sole or direct basis for movements in export price.

The Commission confirmed in REP 350, the cost of tinfoil is one of multiple factors that contribute to the sale price of TRFs. However, the Commission did not examine tinfoil price or export price in isolation when performing its industry, market and injury and causation investigation and analysis. The Commission examined whether dumped TRFs caused material hindrance to the establishment of an Australian TRF industry by examining TRF prices and competition in the Australian direct and downstream markets.

5 Conclusion

The Commission performed detailed Australian TRF market segmentation analysis and analysis of the condition of the Australian TRF industry in REP 350 to assess the factors that caused material hindrance to the establishment of an Australian TRF industry.

The Commission was able to directly link the price of dumped TRFs to the injury factors suffered by Marpac, which then hindered the establishment of an Australian TRF industry. Specifically, this related to the purchase of complete composite can units purchased by **[redacted: end user customer 1]**, a food producer in the downstream market;

- **[redacted: incumbent can manufacturer sold composite cans to end user customer 1 using Marpac 73 mm TRFs];**
- **[redacted: incumbent can manufacturer]** is Marpac's only direct market customer;
- **[redacted: new supplier won the supply contract from incumbent can manufacturer]** based solely on price³² – in-principle agreement to commence supply, subject to specification development, testing³³ and qualification procedures occurred in early 2015;
- **[redacted: negotiation history between end user customer 1 and new supplier];**
- dumped TRFs sold by **[redacted: supply arrangements between a TRF exporter and its can manufacturer customer to satisfy end user customer 1]** can volumes commenced entering the Australian market from Q3, 2015 – see Figure 3;
- dumped TRFs purchased by **[redacted: new supplier]** allowed the price of its complete composite can units to be cheaper than the **[redacted: incumbent can manufacturer]-Marpac offering;** and
- **[redacted: new supplier]** supply to **[redacted: end user customer 1]** commenced in Q1, 2016, resulting in a direct loss of supply for Marpac in the same period.

The Commission was also informed by multiple interested parties (manufacturers, the Australian can manufacturing industry and its end-user customers) that the food packaging market is extremely competitive where price of food cans is the primary consideration in supply agreements.

The Commission verified that Marpac had customers during the investigation period in the direct and downstream markets. The Commission has re-examined Marpac's supply relationships in the direct and downstream markets and considers, if Marpac's TRF and complete composite cans (utilising a TRF closure) were not price competitive³⁴, then it would have no customers. Marpac made a profit on its TRFs and composite cans, and so accordingly, its CTMS (including the cost of tinplate used) must also be competitive relative to the prices Marpac's customers could achieve from another TRF supplier. Further, Marpac's customer in the direct market, **[redacted: status of incumbent can manufacturer and Marpac's customer]** It is the Commission's view that due to downstream market pressures and competition observed in the market, **[redacted: Marpac's direct market customer]** could not justify purchasing from Marpac if Marpac's prices were not competitive.

³² See end user customer 1 meeting Minute_FOUO - provided as **Confidential Attachment 6** to this Report or PUBLIC version, document 61 on EPR Investigation 350

³³ **[redacted: specific testing data]** – provided as **Confidential Attachment 7** to this Report

³⁴ Exported TRFs incur additional export and import costs (to the export price). The landed TRF cost (all costs incurred by importers to get the TRFs to their factories) is the cost which is comparable to Marpac's price.

6 Findings

The Commissioner has examined the findings in this reinvestigation report and concludes that it was not the inability of the Australian industry to negotiate competitive steel input prices which caused material hindrance to the establishment of an Australian industry.

This conclusion is based on the following findings:

- CRC prices are a reliable indicator of tinsplate trends and potential future TRF prices as interested parties provided information to the Commission stating that they monitored steel movements for the purposes of making business decisions;
- as Marpac's tinsplate prices were also reflective of CRC price movements, and it is usual business practice to follow CRC price trends as an indicator of tinsplate price trends, Marpac's prices were reflective of global market prices;
- tinsplate prices are relevant to export prices, in so far as the price paid for tinsplate will be reflected in the cost of tinsplate used in TRF manufacture, however the Commission's analysis considered the full cost to make (and cost to make and sell) TRFs when undertaking its dumping investigation;
- Marpac sourced competitively priced tinsplate relative to overseas TRF manufacturers and sold its TRFs in the Australian direct and downstream TRF markets at a profit; and
- Marpac's TRFs prices and hence its cost to make (including the cost of tinsplate) are also competitive.

7 Attachments

Confidential Attachment 1	Visy's Harbor Intelligence Report, June 2016
Confidential Attachment 2	Email from Visy to Marpac, dated 26 June 2015
Confidential Attachment 3	CRC and tinplate market analysis
Confidential Attachment 4	[redacted: importer name verification program]
Confidential Attachment 5	TRF export price analysis
Confidential Attachment 6	Meeting Minute – [redacted: end user customer 1]
Confidential Attachment 7	[redacted: specific test data]