



CUSTOMS ACT 1901 - PART XVB

CONSIDERATION REPORT NO. 238

**APPLICATION FOR A DUMPING DUTY NOTICE AND
COUNTERVAILING DUTY NOTICE**

**CERTAIN DEEP DRAWN STAINLESS STEEL SINKS
EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA**

11 March 2014

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ABBREVIATIONS

ACBPS	Australian Customs and Border Protection Service
The Act	<i>Customs Act 1901</i>
AD Agreement	<i>Anti-Dumping Agreement</i>
ADN	Anti-Dumping Notice
the applicant	Tasman Sinkware Pty Ltd
AUD	Australian dollars
CBSA	Canadian Border Services Agency
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
CTM	Cost to make
CTMS	Cost to make & sell
DDP	delivered duty paid
EXW	Ex-works
FIEs	foreign-invested enterprises
Fletcher Building	Fletcher Building (Australia) Pty Ltd
FOB	Free On Board
FY	financial year
GOC	Government of China
NIP	non-injurious price
the goods	the goods the subject of the application (also referred to as the goods under consideration or GUC)
the Parliamentary Secretary	the Parliamentary Secretary to the Minister for Industry
RBA	Reserve Bank of Australia
the Regulations	<i>Customs Regulations 1926</i>
SASAC	State-owned Assets Supervision and Administration Commission of the State Council
SBB	Steel Business Briefing
SCM Agreement	<i>Agreement on Subsidies and Countervailing Measures</i>
SIE	state-owned or state invested enterprises
SIMA	<i>Special Imports Measures Act</i> (Canada)
Tasman	Tasman Sinkware Pty Ltd
USD	United States dollars
USITC	United States International Trade Commission
USP	Unsuppressed Selling Price
WTO	World Trade Organisation

1 SUMMARY AND RECOMMENDATION

This report provides the results of the Anti-Dumping Commission's (the Commission's) consideration of an application for:

- the publication of a dumping duty notice in respect of deep drawn stainless steel sinks exported to Australia from the People's Republic of China (China); and
- the publication of a countervailing duty notice in respect of deep drawn stainless steel sinks exported to Australia from China.

1.1 Application of law to facts

Division 2 of Part XVB (the Division) of the *Customs Act 1901* (the Act)¹ sets out procedures for considering an application for a dumping duty notice and countervailing duty notice.

1.1.1 The role of the Commission

The Commission is responsible for preparing a report for the Commissioner of the Anti-Dumping Commission (the Commissioner), examining an application for a dumping duty notice and a countervailing duty notice.

In this report, the following matters are considered in relation to the application:

- whether the application complies with subsection 269TB(4);
- whether there is, or is likely to be established, an Australian industry in respect of like goods;
- whether there appear to be reasonable grounds for the publication of a dumping duty notice and a countervailing duty notice in respect of the goods the subject of the application.

1.1.2 The role of the Commissioner

The Act empowers the Commissioner, after having regard to the Commission's report, to reject or not reject an application for the publication of a dumping duty notice or a countervailing duty notice.

If the Commissioner decides not to reject the application, the Commissioner must give public notice of the decision providing details of the investigation.

¹ All references in this report to sections of legislation, unless otherwise specified, are to the *Customs Act 1901*.

1.2 Findings and conclusions

The Commission has examined the application for the publication of a dumping duty notice and a countervailing notice in relation to deep drawn stainless steel sinks exported from China.

The Commission is satisfied that:

- the application complies with the requirements of subsection 269TB(4) (the reasons for being satisfied are set out in Chapter 3 of this report);
- there is an Australian industry in respect of like goods (as set out in Chapter 4 of this report); and
- there appear to be reasonable grounds for the publication of a dumping duty notice and a countervailing duty notice in respect of the goods the subject of the application (as set out in Chapters 5, 6, 7 and 8 of this report).

1.3 Recommendation

The Commission recommends that the Commissioner decide not to reject the application.

If the Commissioner accepts this recommendation, to give effect to that decision, the Commissioner must publish the notice at **Attachment 1** indicating that the Commission will inquire into whether the grounds exist to publish a dumping duty notice.

2 BACKGROUND

2.1 Application

On 31 January 2014, Tasman Sinkware Pty Ltd (Tasman) lodged an application requesting that the Parliamentary Secretary to the Minister for Industry (the Parliamentary Secretary) publish a dumping duty notice and countervailing duty notice in respect of deep drawn stainless steel sinks exported to Australia from China.

Tasman alleges that the Australian industry has suffered material injury caused by deep drawn stainless steel sinks exported to Australia from China at dumped and subsidised prices.

Tasman claims the industry has been injured through:

- lost sales volumes;
- reduced market share;
- price depression;
- price suppression;
- loss of profits and profitability;
- reduced return on investment;
- reduced capacity utilisation; and
- reduced employment numbers and wages.

2.2 The goods the subject of the application

2.2.1 Description

The goods the subject of the application (the goods) are:

Deep drawn stainless steel sinks with a single deep drawn bowl having a volume of between 7 and 70 litres (inclusive), or multiple drawn bowls having a combined volume of between 12 and 70 litres (inclusive), with or without integrated drain boards, whether finished or unfinished, regardless of type of finish, gauge, or grade of stainless steel and whether or not including accessories.

Additional product information

The application contains the following further information in relation to the goods the subject of the application.

For the purposes of this definition, the term “deep drawn” refers to a manufacturing process using metal forming technology to produce a smooth basin with seamless, smooth, and rounded corners. Deep drawn stainless steel sinks are available in various shapes and configurations and may be described in a number of ways including flush mount, top mount, or undermount (to indicate the attachment relative to the countertop). Stainless steel sinks with multiple deep drawn bowls that are joined through a welding operation to form one unit are covered by the scope of the investigations. “Finished or unfinished” refers to

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whether or not the imported goods have been surface treated to their intended final “finish” for sale. Typically, finishes include brushed or polished.

Deep drawn stainless steel sinks are covered by the scope of the investigation whether or not they are sold in conjunction with accessories such as mounting clips, fasteners, seals, sound-deadening pads, faucets (whether attached or unattached), strainers, strainer sets, rinsing baskets, bottom grids, or other accessories.

Excluded from the definition of the goods the subject of this application are stainless steel sinks with fabricated bowls. Fabricated bowls do not have seamless corners, but rather are made by notching and bending the stainless steel, and then welding and finishing the vertical corners to form the bowls. Stainless steel sinks with fabricated bowls may sometimes be referred to as “fabricated sinks”.

Deep drawn stainless steel sinks are commonly used in residential and non-residential installations including in kitchens, bathrooms, utility and laundry rooms. When used in the context of bathrooms, deep drawn stainless steel sinks may there be referred to, for marketing purposes, as “wash basins”. As noted above, deep drawn stainless steel sinks may have may, or may not, have a single (or multiple) integrated drain board that forms part of the sink structure, designed to direct water into the sink bowl.

2.2.2 Tariff classification

The application states that the goods are classified within tariff subheading 7324.10.00 (statistical code 52), in Schedule 3 of the *Customs Tariff Act 1995*.

The Australian Customs and Border Protection Service’s (ACBPS) tariff branch has confirmed this is the correct classification.

The rate of Customs duty payable is 5%.

2.3 Consideration of the application

Under subsection 269TC(1) of the Act, the Commissioner must examine an application for publication of a dumping duty notice or a countervailing duty notice upon its receipt and, within 20 days of lodgement (or 20 days of lodgement of further information in support of the application), decide whether or not to reject the application.

This application was receipted by the Commission on 31 January 2014. However, additional information was provided by Tasman on 18 February 2014, making the date for the Commissioner’s decision in relation to the application no later than 11 March 2014.

Subsection 269TC(1) specifies that the Commissioner shall reject the application if he is not satisfied that:

- the application complies with subsection 269TB(4); or

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- there is, or is likely to be established, an Australian industry in respect of like goods; or
- there appear to be reasonable grounds for the publication of a dumping duty notice and a countervailing duty notice in respect of the goods the subject of the application.

The above matters are examined in the following sections of this report.

2.4 Previous investigations and current measures

There have been no previous investigations into deep drawn stainless steel sinks, and thus there are no current anti-dumping measures on the goods exported to Australia.

2.5 Other administrations

In May 2012 the Canadian Border Services Agency (CBSA) imposed final dumping and countervailing duties on deep drawn stainless steel sinks exported from China. The dumping margins found ranged from 4.4% to 103.1%. The subsidy margins found ranged from 0.1% to 60.8%.

In April 2013 the United States International Trade Commission (USITC) imposed final dumping and countervailing duties on deep drawn stainless steel sinks exported from China. The dumping margins found ranged from 27.1% to 76.5%. The subsidy margins found ranged from 4.8% to 12.3%.

3 DOES THE APPLICATION COMPLY WITH SUBSECTION 269TB(4)?

Subsection 269TB(4) requires that the application must:

- be in writing; and
- be in an approved form; and
- contain such information as the form requires; and
- be signed in the manner indicated by the form; and
- be supported by a sufficient part of the Australian industry.

3.1 Approved form

The application is in writing, is in an approved form (a B108 application form), contains such information as the form requires (as discussed in the following sections) and is signed in the manner indicated in the form.

Confidential and public record versions of the application were submitted.

The Commission considers that the public record version of the application contains sufficient detail to allow a reasonable understanding of the substance of the information within the confidential application.

3.2 Supported by Australian industry

An application is taken to be supported by a sufficient part of the Australian industry if the Commission is satisfied the persons who produce or manufacture like goods in Australia and who support the application:

- account for more than 50 percent of the total production or manufacture of like goods by that proportion of the Australian industry that has expressed either support for or opposition to, the application; and
- account for not less than 25 percent of the total production or manufacture of like goods in Australia.

Tasman advised that it is the sole Australian manufacturer of deep drawn stainless steel sinks, and therefore represents 100% of the Australian industry.

3.3 The Commission's assessment

Based on the information submitted by the applicant, the Commission considers that the application complies with subsection 269TB(4).

4 IS THERE AN AUSTRALIAN INDUSTRY IN RESPECT OF LIKE GOODS?

Subsection 269TC(1) requires that the Commissioner must reject an application for a dumping duty notice if, inter alia, he is not satisfied that there is, or is likely to be established, an Australian industry in respect of like goods.

4.1 Locally produced like goods

Subsection 269T(1) defines like goods as

goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration.

4.1.1 Applicant's claims

In its application, Tasman submits that locally produced deep drawn stainless steel sinks possess the same essential characteristics of the imported deep drawn stainless steel sinks as follows:

- similar physical dimensions – imported deep drawn stainless steel sinks in either single or multiple bowls are identical to locally made goods;
- similar manufacturing processes and standards (in accordance with relevant Australian standards);
- made from the same raw material;
- have the same tariff classifications;
- are price competitive with locally-produced goods; and
- can be substituted for locally produced goods in a variety of end-use applications.

4.1.2 The Commission's assessment

Based on the information provided in the application, the Commission is satisfied that the evidence supports the above claims made by Tasman in relation to like goods and is therefore satisfied that there is an Australian industry producing like goods to the goods the subject of the application.

4.2 Manufactured in Australia

Subsections 269T(2) and 269T(3) specify that, for goods to be regarded as being produced in Australia, they must be wholly or partly manufactured in Australia.

In order for the goods to be considered as partly manufactured in Australia, at least one substantial process in the manufacture of the goods must be carried out in Australia.

4.2.1 Applicant's manufacturing operations

The application advises that Tasman manufactures like goods at its Regency Park facility

near Adelaide.

Broadly, this involves the following:

- stainless steel that has been sheared into sheets and a protective plastic sheeting added are 'deep drawn' in a press to form the requisite sink bowls;
- drainer trays (if required) are pressed from steel sheet;
- the plastic protective sheet is stripped from the steel;
- if required, drainer trays and bowl sections are welded together and the weld is ground;
- the product is polished and washed, before wood backing, installation clips and a foam gasket are applied; and
- the finished product is packaged with accessories (chopping board, tap, strainer, etc.) as required.

Details of the production process are set out at pages 14 and 15 of the application.

The application advised that the stainless steel coils (the key raw material) are imported, as are accessories that may be included with the finished goods (these comprise a 'small component of the finished good value and are peripheral to the sale of the final sink'). All other processes are undertaken in Australia.

4.2.2 The Commission's assessment

Based on the description of the manufacturing process provided in the application, the Commission is satisfied there is at least one substantial process of manufacture is performed in Australia and, therefore, that the goods may be taken to have been produced in Australia.

4.3 Australian Market

Tasman submits that both imported deep drawn stainless steel sinks and like goods produced by the Australian industry are commonly used in residential and non-residential installations including in kitchens, bathrooms, utility and laundry rooms.

4.3.1 Marketing and distribution

The application states that Tasman is a wholesale manufacturer that does not sell directly to the public. Tasman sells directly to retailers who on-sell the goods to consumers, or to end users that use sinks in their specific applications.

From information contained in the application and other available information, the Commission understands that, broadly, the imported goods are either imported by:

- entities that sell the goods directly to end users; or
- entities that on-sell the goods to other businesses that then supply end users.

4.3.2 Market segmentation

The application submits that the Australian market for deep drawn stainless steel sinks is broken into market sectors based on the number of bowls and bowl capacity. Specifically, the following categories exist:

- single bowl;
- bowl + $\frac{1}{2}$ bowl;
- bowl + $\frac{3}{4}$ bowl;
- double bowls;
- double bowl + $\frac{1}{2}$ bowl; and
- triple bowl.

Within these sectors, the application states that there are market segments that are categorised relative to the price-points of the sinks. These are:

- entry-level;
- mid-range; and
- top-range.

For the purposes of this report, these segments will be referred to as product tiers. The features that differentiate these tiers are said by the applicant to include 'branding, style and design.'

Further to the above sectors and product tiers, Tasman's customers fall into the following categories:

- electrical retail;
- plumbing trade;
- retail trade; and
- cabinetry.

The application does not indicate that the above categories have price differentiations across the different types of sinks.

The applicant states that imported deep drawn stainless steel sinks are also sold to the above-named categories of customer.

4.3.3 Demand variability

The application submits that the Australian market's performance is closely linked to the overall performance of the new building, alterations and additions sectors.

In terms of seasonal fluctuations, the applicant submits that there is a discernible slow-down in the market in December and January, as the building and construction sector enters its annual lull over the Christmas/New Year period.

4.3.4 The way in which the imported and Australian product compete

The application states that Tasman's manufactured and imported Chinese deep drawn stainless steel sinks compete largely on price.

Tasman claims that like goods produced by the Australian industry compete directly with, and have the same end uses as, deep drawn stainless steel sinks imported from China. It is Tasman's view that the goods manufactured in Australia are substitutable with deep drawn stainless steel sinks produced in China for many different end use applications.

In terms of commercially significant substitutes, Tasman's application submits that fabricated stainless steel sinks and non-stainless steel alternatives (e.g. glass top or ceramic sinks) are substitutable for its deep drawn stainless steel sinks. The application advises that these alternatives are generally high-end designer products sold at a higher price than deep drawn sinks (and in lower volumes).

4.4 Market Size

4.4.1 Tasman's claims

Tasman advised that the Australian market for deep drawn stainless steel sinks is supplied by imports from China, Thailand and other countries (including some imports by Tasman itself), and local production by Tasman.

In its application, Tasman used import volume data (in units) sourced from the Australian Bureau of Statistics (ABS) and its own sales data to estimate the size of the Australian market for deep drawn stainless steel sinks for each financial year (FY, being the period July to June) during the period FY2009 – FY2013 inclusive.

4.4.2 The Commission's assessment

The Commission compared the import volumes in the application to the data in the ACBPS import database. The import data showed that total imports of deep drawn stainless steel sinks under the relevant tariff classification was very similar to the ABS data relied upon by Tasman. Some minor variations in the total figures between the two sets of data are observed, however both sets of data provide very similar results for market size and share.

The Commission considers the ABS data to be reasonably accurate. The sales data submitted by Tasman in relation to its own sales was also assessed (see below) and considered reasonably reliable.

Consequently, the Commission considers that the ABS and sales information submitted by Tasman is reliable, relevant and suitable for estimating the relative size of the Australian market for deep drawn stainless steel sinks.

Figure 1 below shows the size of the Australian market based on Tasman's submitted ABS import data and the applicant's own sales data.

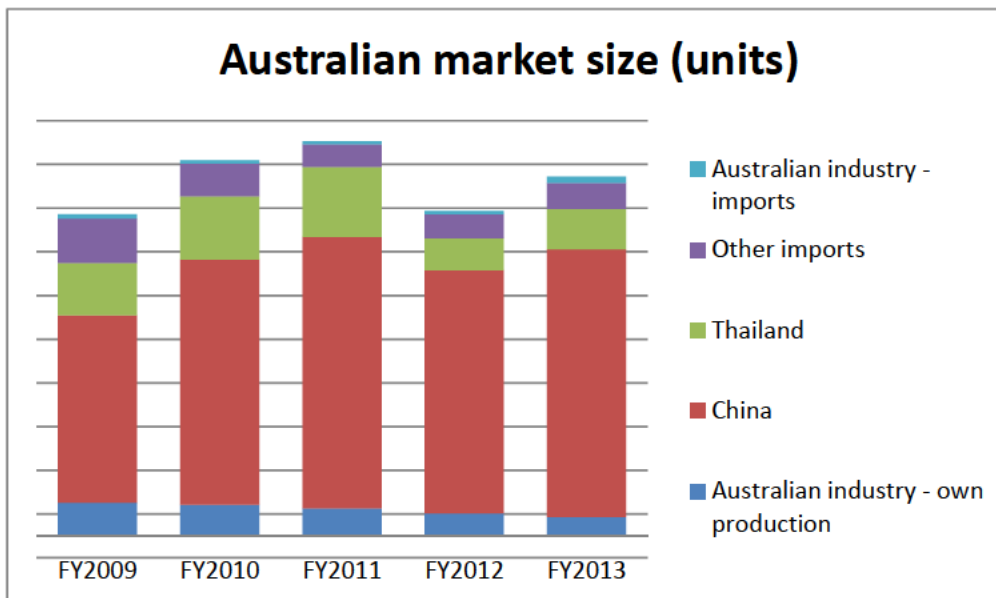


Figure 1 – Australian market size based on ABS import and Tasman sales data

The Commission's assessment of the Australian market size for deep drawn stainless steel sinks is at **Confidential Appendix 1**.

4.5 Australian industry information

4.5.1 General accounting/administration

Tasman is an Australian based company, based at Regency Park, South Australia. The company is 100% owned by Tasman Australia Pty Ltd, which is, through other companies, ultimately 100% owned by Fletcher Building (Australia) Pty Ltd (Fletcher Building).

Tasman's financial year is from 1 July to 30 June. The application advised that Tasman does not prepare company-level annual financial reports, as these are performed at the consolidated Fletcher Building group level.

Along with its application, Tasman supplied copies of its internal profit and loss statements for FY2011, FY2012 and FY2013, as well as management performance reports for 2009 to 2013.

4.5.2 Sales information

Tasman provided sales volume and value information in the application, including a summary of domestic and export sales volumes and revenues, as required in the relevant Confidential Appendices A2, A3, A5 and A6, for the period FY2009 to FY2013 inclusive (1 July 2008 to 30 June 2013), with Confidential Appendices A1 (Australian production) and A4 (detailed Australian sales data) provided for FY2013.

The Commission examined the detail in, and link between, relevant appendices, noting no major discrepancies.

For the purposes of this report, the Commission considers that Tasman's appendices are reliable for assessing the economic condition of the Australian industry in respect of deep drawn stainless steel sinks.

4.5.3 Cost information

Tasman completed a Confidential Appendix A6 cost to make and sell (CTMS) spreadsheet for domestic and export sales. The information provided in this appendix included sales volumes, manufacturing costs, selling (including distribution), general and administrative (SG&A) expenses for the period FY2009 – FY2013 inclusive.

The Commission examined the information provided, and the link between other appendices, and considers the information reliable for the purposes of preliminarily assessing the economic condition of the Australian industry in respect of deep drawn stainless steel sinks.

4.5.4 Other economic factors

Tasman completed Confidential Appendix A7 for the period FY2009 – FY2013 inclusive showing movements in assets, capital investment, revenue, return on investment, capacity, capacity utilisation, employment, closing stocks, cash flow measures and wages.

4.6 The Commission's assessment – Australian Industry

Based on the information in the application, the Commission is satisfied that there is an Australian industry producing like goods to the goods the subject of the application and that the information contained in the application is sufficient for the purposes of a preliminary analysis of the economic condition of the Australian industry in respect of deep drawn stainless steel sinks for the period 1 July 2008 to 30 June 2013.

5 REASONABLE GROUNDS – DUMPING

5.1 Findings

Having regard to the matters contained in the application, and to other information considered relevant, there appear to be reasonable grounds to support the claims that:

- deep drawn stainless steel sinks have been exported to Australia from China at dumped prices (refer Section 5.6);
- the volume of deep drawn stainless steel sinks that appear to have been dumped from China is greater than 3% of the total Australian import volume of the goods, and therefore is not negligible (refer Section 5.5); and
- the estimated dumping margin for China is greater than 2% and is therefore not negligible (refer Section 5.6).

5.2 Legislative framework

Article 5.2 of the World Trade Organisation (WTO) *Anti-Dumping Agreement* (AD Agreement) states that an application shall include evidence of dumping. The AD Agreement states that simple assertion, unsubstantiated by relevant evidence, cannot be considered sufficient to meet this requirement, but such information must be reasonably available to the applicant.

Subsection 269TC(1) of the Act requires that the Commissioner must reject an application for a dumping duty notice if, inter alia, the Commissioner is not satisfied that there appear to be reasonable grounds for the publication of a dumping duty notice.

Under section 269TG of the Act, one of the matters that the Minister must be satisfied of to publish a dumping duty notice is that the export price of goods that have been exported to Australia is less than the normal value of those goods. This issue is considered in the following sections.

5.3 Export Price

5.3.1 Tasman's claims

In its application, Tasman submitted indicative export prices for deep drawn stainless steel sinks from China which it states are pursuant to s.269TAB(1) of the Act, being actual prices paid by an Australian importer of the goods in an arm's length purchase by the importer from the exporter.

Tasman provided evidence of the volume and free on board (FOB) Australian dollar (AUD) value of several Australian purchases of deep drawn stainless steel sinks from multiple Chinese suppliers, supported by documentary evidence of these amounts.

These represented Australian imports of deep drawn stainless steel sinks over the period August 2012 to May 2013, and covered the following types of sinks:

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- single bowl sink and side drainer board;
- one-and-a-half bowl sink and side drainer board;
- one-and-three-quarter bowl sink and side drainer board; and
- double bowl sink and drainer board.

In Confidential Attachment B-2.1 of the application, Tasman used these invoiced volumes and values to calculate a weighted average FOB export price for each of the abovementioned types of deep drawn stainless steel sinks. In some cases, this involved a conversion of the sales value to AUD.

5.3.2 The Commission's assessment

The calculations and supporting evidence provided by Tasman were examined.

The Commission was able to trace the sales volume and value data in Confidential Attachment B-2.1 to the documentary evidence provided, which it considers to be strong evidence of actual invoiced values and volumes of deep drawn stainless steel sinks exported to Australia from China. The Commission further verified the applied exchange rates used within the calculations to documentary evidence supplied.

In addition, the weighted average calculations in Confidential Attachment B-2.1 were assessed and found to be correct.

As a method of assessing the reasonableness of Tasman's export prices, quarterly weighted average export prices from the ACBPS import database were calculated and compared to the calculations provided by Tasman. This ACBPS data does not routinely differentiate imported sinks by bowl number and size, and thus the calculated weighted averages are an aggregate of all types of deep drawn stainless steel sinks that were imported.

Noting the above data limitations, the Commission observed that the weighted average export prices from the ACBPS database were reasonably comparable to the export prices submitted by Tasman. It was observed that Tasman's submitted export price for single-bowl sinks is significantly below the ACBPS database weighted average, but this can be attributed to the likelihood that the ACBPS aggregate includes a proportion of multiple-bowl sinks as well as single bowls, which are known to be generally more expensive than single bowl sinks.

The Commission considers that the export prices submitted by Tasman are sufficiently reliable and relevant for the purposes of the application.

Tasman's calculations of export price, and the Commission's comparison of these with ACBPS data, form **Confidential Appendix 2**.

5.4 Normal Values

5.4.1 Tasman's claims

The application includes calculations of constructed normal values under s.269TAC(2)(c) of the Act, for each type of sink that export prices were supplied for (see above). Tasman did not submit normal values using any other method available under the Act.

In submitting why it considers that constructed normal values are appropriate for the purposes of the application, Tasman claims that Chinese domestic selling prices of deep drawn stainless steel sinks are:

- artificially low; and/or
- there are conditions in the market which render sales in that market not suitable for use in determining prices under subsection 269TAC(1) of the Act.

That is, in accordance with s.269TAC(2)(ii), there is a situation in the Chinese deep drawn stainless steel sinks market that renders domestic sales unsuitable for determining normal value under s.269TAC(1) (a 'market situation' exists), and constructed normal values should be used instead.

In performing its construction, Tasman submits that the costs incurred by exporters in purchasing cold-rolled stainless steel² (the raw material for the goods) are unreasonable, and should be replaced by a reasonable substitute price.

Market situation and raw material claims

The application submits that Government of China (GOC) involvement in the Chinese domestic steel market has 'materially distorted competitive conditions, in terms of input costs [for deep drawn stainless steel sinks]', and that a market situation has resulted, making domestic sales prices of deep drawn stainless steel sinks unsuitable as a basis for determining normal values under s.269TAC(1).

As part of this GOC involvement, Tasman alleges that the purchase of the major raw material input into deep drawn stainless steel sinks (cold-rolled stainless steel) from state-invested enterprises (SIEs) occurs at less than fair market value on the Chinese domestic market, and this is 'distorting competitive conditions and leading to artificially low prices or prices that are not substantially the same as they would be if they were determined in a competitive market'. This claim is related to Tasman's submission that the purchase of stainless steel from state-owned or state invested enterprises (SIEs) is a countervailable subsidy (discussed further in Chapter 6).

Tasman submits that SIEs are major suppliers of cold-rolled stainless steel to Chinese deep drawn stainless steel sink manufacturers. To support this, Tasman refers to the

² Although the application refers specifically to steel sheet throughout its discussion of normal values, the Commission is aware that cold-rolled stainless steel coils are also purchased by manufacturers of deep drawn stainless steel sinks before being sheared into sheet for the manufacturing process. These are collectively referred to as 'cold-rolled stainless steel' throughout this report.

findings of the Specialty Steel Industry of North America's 2007 report, *Chinese Government Subsidies to Stainless Steel Industry*,³ which states:

The Chinese stainless steel industry is largely state-owned. The Government of China owns a majority stake in numerous Chinese stainless steel producers, including two of the country's largest steel producers...⁴

In addition to the involvement of SIEs in the Chinese steel industry, the application highlights other areas of GOC involvement that it submits contribute to there being a market situation. In particular, the application refers to the findings of the CBSA's 2012 investigation into certain pup joints exported from China,⁵ which Tasman notes identified that a number of GOC policies and five-year plans were 'found to have influenced the Chinese steel industry'.

To demonstrate the GOC influence on domestic stainless steel input prices, the application includes a comparison of the \$US/Tonne ex-works (EXW) domestic Chinese, Japanese and Republic of Korea (Korea) sales prices of Grade 304, 2 mm cold-rolled stainless steel sheets (which the application advises is the raw material input used in the production of deep drawn stainless sinks) in each market. This was sourced from a stainless steel market tracking report, submitted as Confidential Attachment B-4.2.1(b) of the application.

The application submits that this comparison shows that Chinese prices are at a discount of up to 10% of the prices in the Japanese (the next cheapest) market (refer to Diagram B-3.1.1.1 of the application).

The application submits that the domestic selling prices of cold-rolled stainless steel in China are 'not appropriate for the purposes of determining the fair market value of these goods' and that a reasonable substitute cost for cold-rolled stainless steel should be used in constructing normal values.

In submitting what should be used as a substitute cost for domestic cold-rolled stainless steel, the application refers to the CBSA's investigation into certain stainless steel sinks exported from China,⁶ in which (in the context of determining subsidisation under a countervailable subsidy program)⁷ the CBSA determined that MEPS (International) Ltd (MEPS) prices were the 'most appropriate' for its purposes.

³ Non-confidential attachment C-1.1.2 of the application.

⁴ *Ibid*, at page 3.

⁵ CBSA Statement of Reasons concerning the making of final determinations with respect to the dumping and subsidizing of certain pup joints originating in or exported from the People's Republic of China, 4214-31/AD/1390, 4218-30/CV/127, 27 March 2012 (Non-Confidential Attachment C-1.1.3 of the application).

⁶ CBSA Statement of Reasons concerning the making of final determinations with respect to the dumping and subsidizing of certain stainless steel sinks originating in or exported from the People's Republic of China, 4214-32 AD/1392, 4218-31 CVD/129, 9 May 2012 (Non-Confidential Attachment C-1.1.1 of the application).

⁷ The CBSA's investigation into stainless steels sinks from China did not involve an assessment of domestic selling prices in China under Section 20 of the *Special Imports Measures Act (R.S.C., 1985, c. S-15)*, which determines (among other things) whether domestic prices are substantially determined by the government of the exporting country and there is sufficient reason to believe that they are not substantially the same as they would be if they were determined in a competitive market.

MEPS⁸ is a well-recognised independent supplier of steel market information that undertakes monitoring and analysis of numerous international steel markets, reporting on a wide range of steel price and consumption data collected across these markets.

The application supports MEPS 'monthly world composite' low transaction value weighted average as the 'most appropriate [benchmark] for establishing the fair market value of cold-rolled stainless steel in China'. Tasman's constructed normal value methodology (discussed below) adopts this approach.

Constructed normal value methodology

As Appendix B2 of its application, the application includes constructed normal values for each model of sinks that an export price was provided for, namely:

- single bowl sink and side drainer board;
- one-and-a-half half bowl sink and side drainer board;
- one-and-three-quarter bowl sink and side drainer board; and
- double bowl sink and drainer board.

Details of the construction are outlined below.

1) Stainless steel sheet unit (AUD/Kg) costs

Tasman submitted its bill of materials for each different type of deep drawn stainless steel sink that a constructed normal value was provided for.

This bill of materials included details as to the volume (in KG) of cold-rolled stainless steel in each type of sink, as well as the unit cost (AUD/Kg) of this raw material.

In line with its submission that domestic Chinese cold-rolled stainless steel costs are not reasonably competitive market costs, Tasman substituted the unit cost of cold-rolled stainless steel with a 'benchmark' average of MEPS Asian, European and North American (i.e. a 'world composite') 304 stainless steel coil price (converted to AUD from the reported currency using published rates from the Reserve Bank of Australia (RBA)).

This unit cost was then multiplied by the bill of materials volume (in kilograms) to arrive at a total cost of cold-rolled stainless steel for each type of sink.

2) Other material costs

Tasman submitted the unit cost and volume of all other materials required for each type of sink as per its bill of materials.

To reflect the cost of production of deep drawn stainless steel sinks in China, Tasman then reduced the cost of these other materials by 50%, based on 'a comparative analysis of costs' outlined in the Australian Hardware Journal's article *Manufacturing in China* –

⁸ <http://www.meps.co.uk/>

Costs Uncovered (attached as Non-Confidential Attachment B-4.2.4 of the application), which outlined that material costs in China are between 50% – 66% cheaper than Australian costs.

3) Variable and fixed overheads

Tasman submitted its unit (per sink) AUD value of variable and fixed overheads, as per its costs calculations in Appendix A-6.1 of the application (provided at an all product aggregate level).

To reflect costs in China, Tasman reduced variable and fixed overheads by 41.2% and 25% respectively, with reference to the above-named Australian Hardware Journal article, which identified these percentages as the reduction of these costs incurred by Chinese manufactures in comparison with Australian manufacturers.

4) Direct and variable labour

Tasman submitted the number of labour hours required to manufacture each type of sink, as per the company's bill of materials.

Tasman then included a cost for direct and variable labour by applying a calculated AUD/per hour labour cost that it submits reflected the cost of manufacturing labour in China to Tasman's labour hours.

The AUD/per hour rate was calculated by reference to the reported average annual wage of Chinese manufacturing workers⁹ and the reported average number of weekly hours worked by these employees.¹⁰

5) Depreciation

Tasman submitted its unit (per sink) depreciation rate as per its Appendix A-6.1 CTMS calculations. Tasman made no alterations to this amount, referring to the above-named Australian Hardware Journal article, which notes that Chinese and Australian depreciation costs are similar.

6) Selling, general and administrative expenses

To determine selling, general and administrative expenses (SG&A), Tasman included its own SG&A rate (as a proportion of cost to manufacture, verified to Tasman's Appendix A-6.1 CTMS calculations) and reduced this to be 21.3% of those costs, in line with the reported SG&A costs reduction noted in the above-named Australian Hardware Journal article.

⁹ Supported by Confidential Attachment B-4.2.2(a), an article forecasting Chinese manufacturing wages.

¹⁰ Supported by Confidential Attachment B-4.2.2(b), a June 2013 China wages article.

7) *Profit*

Tasman added an amount for profit, determined based on National Bureau of Statistics of China data for manufacturers of ferrous metals fabricated products (as detailed in Confidential Attachment B-4.2.1(a) to the application).

8) *FOB charges*

To arrive at an FOB normal value, Tasman included an amount for inland freight and export port handling charges, with reference to confidential evidence contained in Confidential Attachment B-3.1.5 of the application.

5.4.2 The Commission's assessment – normal value

Market situation and raw material value claims

The application in effect submits the following:

- due to the influence of SIEs and other GOC influence in the Chinese domestic market, there is a market situation that renders domestic sales prices of like goods unsuitable for determining normal values under s.269TAC(1);
- constructed normal values should be used as a result; and
- in constructing normal values and determining the cost of manufacture of deep drawn stainless steel sinks in line with Regulation 180 of the *Customs Regulations 1926* (the Regulations), the cost of stainless steel does not reasonably reflect a competitive market cost for that input and should be substituted with a competitive market cost¹¹; and
- a MEPS world composite price is the most appropriate price for substituting domestic cold-rolled stainless steel costs.

1) *Market situation claims*

The Commission observes that the application relies on the CBSA's investigation into pup joints exported from China in submitting the existence of a market situation in the deep drawn stainless steel market.

The Commission notes the findings and reasons in the CBSA investigation in relation to certain pup joints, in which the CBSA concludes:

The wide range and material nature of the GOC measures have resulted in significant influence on the Chinese steel industry including the OCTG sector, which includes pup joints. The conditions described in paragraph 20(1)(a) of SIMA exist in this sector. Domestic prices are substantially determined by the GOC, and

¹¹ This is not explicitly stated in the application, but the Commission considers this is the intention of Tasman's submissions from the context of the application and the approach to constructing normal values, noting that a finding of market situation does not automatically lead to constructed normal values being based on data other than the costs of exporters as recorded, but this may follow after an assessment of the reasonableness of those costs in line with Regulation 180.

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*there is sufficient reason to believe that the domestic prices of pup joints are not substantially the same as they would be in a competitive market.*¹²

It is observed that these findings relate to a product that, while made from steel raw materials, is not made from stainless steel, the main raw material of deep drawn stainless steel sinks.

The Commission further observes that the legislative basis for the decision in relation to pup joints is different to Australia's legislation in respect of the market situation provisions, as outlined below.

- Canada's anti-dumping legislation includes provisions relating to exports from countries with governments that may monopolise export trade and substantially determine domestic prices in the industry sector under review.

Applicants can allege that the conditions set out in Section 20 of Canada's *Special Import Measures Act* (R.S.C., 1985, c. S-15) (SIMA) exist.

If the allegation is reasonably supported, the CBSA will conduct an investigation into whether the conditions exist ("Section 20 inquiry"). In the case of a prescribed country such as China, a finding that Section 20 exists in relation to a particular industry requires that domestic prices are substantially determined by the government of that country and there is sufficient reason to believe that they are not substantially the same as they would be if they were determined in a competitive market.

- Unlike Canada, Australia treats China as a market economy and establishes normal values for exports from China in the same way it would for any other country.

While the systems differ, the substance of the CBSA findings are relevant to the Commission's consideration of whether the situation in the market of the country of export is such that prices in that market are not suitable for use in determining normal values. Under Australia's anti-dumping laws, such findings would be relevant to determining normal values in any exporting country.

The Commission notes that the CBSA investigation into pup joints did not examine a product that is considered relatively similar to deep drawn stainless steel sinks, noting that pup joints are pipe and tube connections made from carbon steel, while deep drawn stainless steel sinks are manufacture from cold-rolled stainless steel, a different type of steel (considered more specialised than carbon steel). However, the Commission observes that many of the CBSA's findings in relation to pup joints relate broadly to the Chinese steel industry as a whole. These include various industrial policies and the Five-Year Development Plan: Iron and Steel (2011-2015).

¹² CBSA Statement of Reasons concerning the making of final determinations with respect to the dumping and subsidizing of certain pup joints originating in or exported from the People's Republic of China, 4214-31/AD/1390, 4218-30/CV/127, 27 March 2012 at Page 18.

In addition, the Commission has undertaken several recent investigations into the existence of a market situation in relation to Chinese carbon steel and carbon steel-based products (including hollow structural sections, hot rolled plate steel, zinc coated steel and aluminium zinc coated steel). In each case, the Commission found there were significant GOC interventions in the domestic steel market that created a market situation in relation to those products. As with the CBSA's investigation into pup joints, many of the GOC measures identified are considered likely to apply to the Chinese steel industry as a whole.

Further, it is noted that the Commission's own investigations into Chinese carbon steel and carbon steel products have not only identified broad GOC influences in the Chinese steel market as a whole, but also specific examples of GOC influence over certain large Chinese companies that produce carbon steel (such as restructuring and eliminating 'outdated capacity'). Some of these known Chinese suppliers of carbon steel are also suppliers of cold-rolled stainless steel.¹³

The Commission therefore considers that it is reasonable to find that GOC influence that has previously been identified in the Chinese steel market in relation to carbon-based steel and steel products, and to the Chinese steel industry more broadly, could impact manufacturers of cold-rolled stainless steel, and possibly manufacturers of steel products such as deep drawn stainless steel sinks.

Based on an assessment of the information set out in the application, the CBSA's decision into certain pup joints, and the information gathered by the Commission in recent investigations into the Chinese steel sector, the Commission considers it appropriate to examine Tasman's market situation claims during the course of the investigation.

The Commission will seek the necessary information from exporters and the GOC in order to independently assess the claims.

The Commission notes that a finding of a market situation and the potential impact on the methodology under which normal value is determined may remove the obligation on the Parliamentary Secretary to consider application of the lesser duty rule – pursuant to s.8(5BAA)(a) of the *Customs Tariff (Anti-Dumping) Act 1975*. Accordingly, associated with its assessment of Tasman's market situation claims, the Commission will make recommendations to the Parliamentary Secretary as to the level of any duties to be applied.

2) Raw material value claims

In relation to the claims that, when constructing normal values, cold-rolled stainless steel costs should be replaced with a competitive market substitute price, the application relies on the CBSA finding made concerning certain pup joints to demonstrate overall GOC involvement in the Chinese steel sector to submit that the costs incurred by exporters in relation to cold-rolled stainless steel should be replaced with a competitive market cost in constructing normal values.

¹³ Such as Baosteel, www.baosteel.com

The application goes on to rely on CBSA's findings in relation to stainless steel sinks from China in submitting that a MEPS world monthly composite price should be used as this replacement.¹⁴ The reasonableness of using MEPS data itself is discussed later in Section 5.4.2.

As observed previously, the Commission considers that sufficient evidence has been provided, and previous findings of the Commission have been made, that warrants the investigation of Tasman's market situation claims based on GOC influence, which Tasman submits have impacted market prices of cold-rolled stainless steel. It is considered that these impacts are likely to be relevant in assessing whether these cold-rolled stainless steel costs should be substituted in constructing normal values, and the Commission will examine these claims during the course of the investigation.

The Commission will seek the necessary information from exporters and the GOC in order to independently assess the claims.

Despite the above, the Commission has also assessed the application for evidence of prima facie dumping, should it determine that any such costs replacement is not warranted for the purposes of Regulation 180 (see Section 5.6).

Assessment of the accuracy and reasonableness of the constructed normal value

The accuracy of the calculations in Tasman's constructed normal values has been examined and confirmed.

The reasonableness of Tasman's constructed normal value has been assessed below.

1) Use of Tasman's bill of materials volumes and labour hours

As noted above, the constructed normal values rely on Tasman's own bill of materials as the basis for the following elements:

- volume of cold-rolled stainless steel per sink;
- labour hours required per sink; and
- volume of other materials.

In general, the Commission considers it reasonable for Tasman to adopt its own bill of materials as a basis for the above volumes and labour hours (which are then multiplied by the unit cost of each, discussed below), as it is understood that the manufacturing process and raw materials used by the Australian industry in manufacturing deep drawn stainless steels sinks is reasonably comparable to those used by Chinese manufacturers of the goods and hence the volume of materials and labour hours used would be relatively similar between these manufacturers.

¹⁴ The investigation into stainless steel sinks investigation did not involve the same type of market assessment as the investigation into certain pup joints, though it did involve a finding that purchases of stainless steel coil by Chinese stainless steel sink exporters from Chinese SIEs is a countervailable subsidy due to it being provided at less than fair market value (see Chapter 6).

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2) Use of, and amendment to, Tasman's own unit costs of other materials, SG&A, fixed and variable overheads, and depreciation

As discussed above, Tasman's constructed normal values included its own costs of the following elements:

- other materials (other than cold-rolled stainless steel) on a per unit basis;
- SG&A (as a percentage of costs to make);
- fixed and variable overheads on a per unit basis; and
- depreciation on a per unit basis.

Of these, other material unit costs were supported by Tasman's own bill of materials, while SG&A, overheads and depreciation were sourced from Tasman's Confidential Appendix A-6.1 of the application (aggregate Australian CTMS calculations).

These costs were then reduced (excluding depreciation, which remained unchanged) in line with various percentages reported in the Australian Hardware Journal's article *Manufacturing in China – Costs Uncovered*, which specified the value of Chinese manufacturer's costs incurred for each of these elements, as a percentage of costs incurred by Australian manufacturers.

The application uses a reduction of 50% when amending costs of other materials when the provided article provides a range of reductions in cost between 50% – 66%. For the purposes of assessing the application, the Commission has assessed dumping margins using the larger 66% reduction, and notes that this still results in dumping (see Section 5.6).

a) Accuracy of costs used

The accuracy of the bill of material unit costs was verified to numerous source documents (predominantly invoices from suppliers of materials) supplied with the application. Unit overheads and depreciation costs were successfully traced to the Confidential Appendix A-6.1.

The Commission observed an error in the transposition of the SG&A percentage in the constructed normal value from the Appendix A-6.1, which resulted in SG&A being understated in the construction. As this error serves to lower the normal value and decrease the calculated dumping margins, the Commission has not corrected this error for the purposes of its assessment in this report.

Aside from the understated SG&A costs, the Commission is satisfied that the adopted costs accurately represent those costs incurred by Tasman.

b) Reasonableness of percentage reductions to other materials, overheads and SG&A

In terms of the percentage reductions applied to the reported unit costs, the Commission has observed the findings in the Australian Hardware Journal article, which highlights the cost advantages of Chinese manufacturing firms by comparison to Australian

manufacturers, using 'real world figures' that have been verified with a Chinese manufacturing firm.

The article relies on a profit and loss statement of a Chinese manufacturer (which the article states is verified) and Australian manufacturer's profit and loss statement to determine the percentage difference between the two entities for multiple cost components. However, it is not clear from the article what type of Chinese or Australian manufacturing businesses are examined, and whether they manufacture goods that are similar in their production requirements to deep drawn stainless steel sinks.

Nevertheless, the Commission considers that the submitted article provides information that is reasonably available to the applicant as an assessment of the difference in costs between Australian and Chinese manufacturers. The percentages provided seem reasonable and their application has the effect of substantially reducing the constructed normal value.

c) Reasonableness of depreciation costs

As noted above, Tasman included a unit (per sink) cost of depreciation in its normal value constructions, based on its own unit depreciation costs, verified to its Appendix A-6.1. This cost has not been altered because the Australian Hardware Journal article relied on by Tasman shows that depreciation costs in China and Australia are similar. This article shows this at a total depreciation cost (profit and loss statement) level for the same revenue amounts across Australian and Chinese manufacturers, and not divided to unit costs.

The Commission considers that, in relation to deep drawn stainless steel sinks, manufacturers in China are:

- likely to be using less modern machinery and equipment than Tasman; and
- likely to have larger production volumes than Tasman.

There is therefore some doubt about the reasonableness of adopting Tasman's unit (per sink) depreciation charge without alteration.

In addition, the reduction in a number of costs by Tasman in the constructed normal value and the fact that the unit cost of depreciation is not altered, results in depreciation being a significantly higher proportion (as a percentage) of total cost to make in the constructed normal value than the proportion actually incurred by Tasman as recorded in its Appendix A-6.1.

While the Commission is not in possession of information that would more accurately demonstrate unit depreciation costs incurred by Chinese deep drawn stainless steel sink manufacturers, it considers that, for the purposes of its assessment of the reasonableness of the application, the unit depreciation costs in the normal value calculations should be reduced to at least be the same proportion of cost to make as that incurred by Tasman, as submitted in its Appendix A-6.1.

With this alteration (and others, as discussed throughout this Section), the application demonstrates above-negligible dumping margins for each sink type. See Section 5.6 for further details.

3) Direct and variable labour unit costs

The calculations of Chinese manufacturing workers' labour rates (with reference to reported average annual wages and weekly hours worked) were examined and found to be accurate.

In assessing the reasonableness of these calculations, the Commission considers that the applicant has provided reasonable evidence to support the yearly average and weekly working hours that underlie this calculation and the submitted labour rate is therefore reasonable for the purposes of the application.

The Commission notes that a labour rate was also provided in the Australian Hardware Journal's article *Manufacturing in China – Costs Uncovered* article, which was substantially below the rate calculated by Tasman using the above-mentioned data. However, the Commission notes that the article uses less contemporary data than the calculation provided by Tasman.

Further, it is observed that total labour costs represent less than 5% of the total CTMS submitted in the constructed normal values and that even if the lower rates were applied, the application would still demonstrate dumping (see Section 5.6).

4) Profit

The rate of profit used is considered to be reasonable, being:

- sourced from a recent (2013) article released by the Chinese National Bureau of Statistics data (a GOC agency) reporting profit rates of businesses of various type and sectors; and
- consistent with rates of profit achieved by various exporters in relation to the Commission's previous investigations into Chinese steel and steel products.

5) Replacing cold-rolled stainless steel costs, and the use of MEPS data as a replacement

As discussed above, Tasman submitted the unit cost (AUD/Kg) of cold-rolled stainless steel coil raw materials in its normal value constructions as an average of the low transaction value reported Asian, European and North American (i.e. a 'world composite') 304 stainless steel coil price sourced from MEPS.

The Commission considers that the application has provided reasonable grounds to cause it to investigate the reasonableness of the costs of cold-rolled stainless steel incurred by exporters of deep drawn stainless steel sinks and the reasonableness of replacing these costs in determining exporters' cost to make the goods. However, the Commission has also assessed the application to determine whether dumping would be found in the circumstance that such a replacement of costs is found not to be warranted.

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To do so, the commission determined an average price of cold-rolled stainless steel in China for the period January – December 2013, using published (available via subscription) Chinese domestic 304 grade cold-rolled stainless steel prices from Steel Business Briefing (SBB). The SBB price was altered to remove 17% value-added tax, as this was included in the reported price. As these SBB prices are Foshan delivered prices (southern China), and the application indicates that the majority of Chinese exporters of the goods are based in southern China, no further alteration was made to take account of inland freight.

With this alteration (and others, as discussed throughout this Section), the application demonstrates above-negligible dumping margins for each sink type. See Section 5.6 for further details.

In terms of assessing the reasonableness of using MEPS data as a substitute cost, if one is required, the Commission observes the finding of the CBSA in its sinks investigation that:

In the absence of appropriate domestic benchmark prices of cold-rolled stainless steel sheet in China...the monthly world composite 304 stainless steel prices reported by MEPS (International) LTD, a publisher of steel market prices around the world, are most appropriate for purposes of establishing the fair market value of cold-rolled stainless steel sheet in China.¹⁵

While the Commission is aware of other known sources of cold-rolled stainless steel price data (such as SBB, as noted above), the use of MEPS data is considered reasonable for the purposes of the application, being a reputable source of steel pricing data and supported by the CBSA in the investigation into sinks. The suitability of MEPS data and other available data sources will be considered during the investigation.

To support the applied MEPS unit cost, Tasman submitted MEPS monthly pricing data for grade 304 cold-rolled stainless steel coil for the period September 2012 – September 2013, separately for the MEPS Asian, European and North American prices. Tasman then calculated an average unit price of these prices over the provided data period (converted to AUD delivered duty paid (DDP) prices with reference to the RBA exchange rates and evidence supplied of estimated ocean freight and importation/delivery costs¹⁶). The Commission is satisfied with the accuracy of these calculations.

6) Inclusion of FOB charges

Tasman added inland freight and export port charges to its construction, to arrive at an FOB export price. This is in addition to including SG&A costs, derived from Tasman's own SG&A costs in its Appendix A-6.1.

Tasman's SG&A costs already appear to include distribution charges, and the Commission considers that the inclusion of separate charges of this nature in the

¹⁵ *Supra*, note 6. Page 33.

¹⁶ Confidential Attachment B-4.2.3(e) of the application

construction may be a double-count. For the purposes of its assessment of the reasonableness of the application, the Commission has removed these charges from the normal value construction. It is noted that, with this amendment, the application would still demonstrate above negligible dumping (see Section 5.6).

5.5 Import Volumes

From the information available from the ACBPS import database, imports of deep drawn stainless steel sinks from China represent more than 3% of the total import volume of deep drawn stainless steel sinks in the 12 month period ending December 2013 and are therefore not in negligible volumes as defined in subsection 269TDA.

5.6 Dumping Margin

Dumping margins for deep drawn stainless steel sinks were calculated by Tasman and submitted in Confidential Attachment B-6 to the application.

These dumping margins are as follows:

Model	Single bowl sink and side drainer board	One-and-a-half half bowl sink and side drainer board	One-and-three-quarter bowl sink and side drainer board	Double bowl sink and drainer board
Dumping Margin	81%	66%	54%	29%

Figure 2 – Applicant's calculation of dumping margins

To further assist in assessing the reasonableness of the dumping claims in the application, the Commission has re-calculated the submitted normal values taking into account:

- a reduction of other material costs by 66% (instead of 50%);
- reduced unit depreciation costs to align with Tasman's depreciation as a percentage of cost to make;
- the removal of inland freight and FOB charges from the normal value, to avoid any double-count with SG&A;
- the labour rates as submitted in the Australian Hardware Journal's article *Manufacturing in China – Costs Uncovered*; and
- an average of the published SBB Chinese domestic 304 grade cold-rolled stainless steel (adjusted to remove VAT and converted to AUD (see Section 5.4.2)).

These calculations have resulted in the following dumping margins:

Model	Single bowl sink and side drainer board	One-and-a-half half bowl sink and side drainer board	One-and-three-quarter bowl sink and side drainer board	Double bowl sink and drainer board
Dumping Margin	29%	31%	25%	7%

Figure 3 – Commission's re-calculation of dumping margins for reasonableness assessment

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In each case, the Commission considers that the application has demonstrated dumping above margins that are not negligible.

The Commission's assessment of dumping forms **Confidential Appendix 3**.

6 REASONABLE GROUNDS – SUBSIDISATION

6.1 Findings

Having regard to the matters contained in the application, and to other information considered relevant, there appear to be reasonable grounds to support the claims that:

- countervailable subsidies have been received in respect of deep drawn stainless steel sinks exported to Australia from China (refer Section 6.5);
- the total volume of deep drawn stainless steel sinks exported to Australia from China over a reasonable examination period in respect of which a countervailable subsidy has been received is greater than 4% of the total Australian import volume, and is therefore not negligible (refer Section 6.6); and
- the total amount of the subsidy received in respect of deep drawn stainless steel sinks exported to Australia from China over a reasonable examination period is likely to be greater than 2% and is therefore not negligible (refer Section 6.7).

6.2 Legislative framework

S.269T of the Act defines a 'subsidy' as follows:

***"subsidy"**, in respect of goods exported to Australia, means:*

(a) a financial contribution:

(i) by a government of the country of export or country of origin of the goods; or

(ii) by a public body of that country or a public body of which that government is a member; or

(iii) by a private body entrusted or directed by that government or public body to carry out a governmental function;

that involves:

(iv) a direct transfer of funds from that government or body; or

(v) the acceptance of liabilities, whether actual or potential, by that government or body; or

(vi) the forgoing, or non-collection, of revenue (other than an allowable exemption or remission) due to that government or body; or

(vii) the provision by that government or body of goods or services otherwise than

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in the course of providing normal infrastructure; or

(viii) the purchase by that government or body of goods or services; or

(b) any form of income or price support as referred to in Article XVI of the General Agreement on Tariffs and Trade 1994 that is received from such a government or body;

if that financial contribution or income or price support confers a benefit (whether directly or indirectly) in relation to the goods exported to Australia.

This reflects Article 1.1 of the WTO *Agreement on Subsidies and Countervailing Measures* (SCM Agreement).

S.269TAAC of the Act provides that, in order for a subsidy to be countervailable, it must also be specific.

Article 11.2 of the SCM Agreement states that an application for an investigation into alleged subsidisation shall include evidence of subsidisation. It states that simple assertion, unsubstantiated by relevant evidence, cannot be considered sufficient to meet this requirement, but such information must be reasonably available to the applicant.

Subsection 269TC(1) of the Act requires that the Commissioner must reject an application for a countervailing duty notice if, inter alia, the Commissioner is not satisfied that there appear to be reasonable grounds for the publication of a countervailing duty notice.

Under section 269TJ of the Act, one of the matters that the Minister must be satisfied of to publish a countervailing duty notice is that a countervailable subsidy has been received in respect of the goods.

6.3 Consultation with the Government of China

In accordance with s.269TB(2C), the Commission invited the GOC for consultations during the pre-initiation phase. The purpose of the consultations was to provide an opportunity for the GOC to respond to the claims made within the application in relation to countervailable subsidies, including whether they exist and, if so, whether they are causing, or are likely to cause, material injury to an Australian industry.

To assist in determining whether it wished to undertake consultations and what it would like to consult on, the GOC was provided with a non-confidential version of the countervailing application.

The GOC advised the Commission that it did not wish to participate in consultations during the consideration phase, but that it may wish to do so if an investigation was initiated.

6.4 Subsidy programs alleged in the application

In its application, Tasman alleges that eight countervailable subsidy programs have been received by Chinese exporters of deep drawn stainless steel sinks that have exported the goods to Australia.

All of these alleged programs were investigated by the CBSA in its investigation into stainless steel sinks exported from China,¹⁷ and found to be countervailable subsidies received by cooperating Chinese exporters¹⁸ of those goods in that investigation.

These programs are identified as:

Number	Title
Program 1	Raw Materials Provided by the Government at Less than Fair Market Value
Program 2	Research & Development (R&D) Assistance Grant
Program 3	Grants for Export Activities
Program 4	Allowance to pay loan interest
Program 5	International Market Fund for Export Companies
Program 6	International Market Fund for Small and Medium-sized Export Companies
Program 7	Reduced tax rate for productive foreign-invested enterprises (FIEs) scheduled to operate for a period not less than 10 years
Program 8	Tax preference available to companies that operate at a small profit

Figure 4 – subsidy programs claimed in application

6.4.1 Program 1

The application submits that a major subsidy program received by Chinese exporters of the goods related to the provision of steel raw materials (in the form of cold-rolled stainless steel) by Chinese SIEs to deep drawn stainless steel sinks producers for what is considered less than fair market value.

The application submits that:

- SIEs are prevalent suppliers in the domestic Chinese cold-rolled stainless steel market;
- the CBSA's investigations into stainless steel sinks determined that cold-rolled stainless steel was supplied to cooperating Chinese exporters of the product under investigation by SIEs during the investigation period;
- some of the cooperating exporters in the CBSA's investigation are also exporters of deep drawn stainless steel sinks to Australia, and hence it is likely that exporters of the goods subject to the application have purchased cold-rolled stainless steel from SIEs in relation to the goods subject to Tasman's application;
- this cold-rolled stainless steel has been provided at less than fair market value conferring benefit on the exporters, making reference to:

¹⁷ As outlined in the CBSA's Statement of Reasons, *supra*, note 6.

¹⁸ Exporters that provided responses to the CBSA's information requests and cooperated with its investigations.

- the CBSA's findings to this effect (where MEPS data was used as a benchmark to determine the benefit of these purchases); and
- further submissions that the Chinese domestic steel market is influenced by GOC intervention and that the Chinese domestic price is lower than other Asian domestic prices (as submitted in relation to Tasman's market situation claims and discussed further at Section 5.4.1); and
- SIEs are 'public bodies' (for the purposes of s.269T), as was found by the CBSA in its investigation into stainless steel sinks with reference to earlier CBSA findings in relation to certain pup joints from China, which noted:
 - there are numerous GOC industrial policies that affect the Chinese steel sector, and manufactures of cold-rolled stainless steel;
 - SIEs are legally required to comply with these policies and hence are performing governmental functions; and
 - the GOC exercises meaningful control over SIEs through:
 - determining eligibility for directorship of these enterprises;
 - appointing and removing top executives of SIEs; and
 - the role of the State-owned Assets Supervision and Administration Commission of the State Council (SASAC), which has the power to 'take charge of the daily management' of supervisory panels of SIEs and draft laws and administrative regulations that impact SIEs.

6.4.2 Programs 2 to 8

In the case of programs 2 to 8, the application identifies:

- that exporters (of deep drawn stainless steel sinks) received this program in the 'investigation period';
- the granting authority of the program;
- the policy/legislation that the program was established under (if applicable);
- why the program constitutes a financial contribution;
- how the subsidy benefit should be calculated; and
- the GOC's WTO notification of the program (where applicable).

It is noted that the application does not explicitly mention or rely on the findings of the CBSA in its investigation into stainless steel sinks in submitting that these programs are countervailable in relation to exports of the goods from China. However it is considered that the application intends to rely on the CBSA's findings because the text of the application is similar to, and in some cases a replication of, the CBSA's Statement of Reasons in relation to its investigation into stainless steel sinks.

It is therefore considered the 'investigation period' referred to by the applicant in relation to receipt of each of these programs relates to the CBSA's investigation period in the sinks case (1 January 2010 to 31 August 2011).

6.5 The Commission's assessment

The application relies heavily on the findings of the CBSA's investigation into stainless steel sinks exported from China. In general, the Commission considers another administration's finding of receipt of a countervailable subsidy in relation to a product is

relevant information for determining that there are reasonable grounds to investigate the program in relation to the same or similar products exported to Australia.

The Commission has assessed the claims made in the application in relation to countervailable subsidy programs below.

6.5.1 Programs 2 to 8

During the investigation into stainless steel sinks, the CBSA:

- found that Programs 2 to 8 meet the requirements of a countervailable subsidy in line with the requirements of the SCM Agreement; and
- was satisfied that these programs had been received by one or more of the cooperating Chinese exporters of the goods subject to that investigation – a finding based on information gathered directly from those exporters.

The CBSA's finding was in relation to goods that are very similar to those that are the subject of the application. Certain exporters that CBSA found to be in receipt of these subsidies appear to have also exported deep drawn stainless steel sinks to Australia.¹⁹

In light of the above, the Commission considers that there are reasonable grounds to conclude that exporters of deep drawn stainless steel sinks may have received benefits under the programs and that investigation of these programs so far as they relate to the goods exported to Australia is warranted.

6.5.2 Program 1 - Raw Materials Provided by the Government at Less than Fair Market Value

The CBSA found that:

- this program was a countervailable subsidy in relation to exports of stainless steel sinks to Canada; and
- cooperating Chinese exporters of stainless steel sinks to Canada had received benefit under this subsidy program.

The CBSA determined that Chinese SIEs that supply cold-rolled stainless steel are 'public bodies' for the purposes of Article 1.1 of the SCM agreement, citing evidence of meaningful control by the GOC and the performance of governmental functions. This is in line with the recent findings of the WTO Appellate Body in *United States – Definitive Anti-Dumping and Countervailing Duties on Certain Products from China*, dispute (DS379),²⁰ in which the Appellate Body observed that a determination that an entity is a 'public body' may include (among other things) an assessment as to whether the entity is exercising governmental functions and/or that a government exercises meaningful control over the entity.

¹⁹ As indicated by a search of the ACBPS import database.

²⁰ Appellate Body Report, *United States – Definitive Anti-Dumping and Countervailing Duties on Certain Products from China*, WT/DS379/AB/R

In terms of determining benefit (i.e. supply for less than a fair market value), the Commission considers that Tasman has provided reasonable evidence in its application to demonstrate that:

- there is a degree of GOC influence in the Chinese domestic steel market;
- this influence may have impacted the domestic prices of cold-rolled stainless steel such that they no longer reasonably represent competitive market costs; and
- cold-rolled stainless steel prices in China are lower than the domestic prices in other Asian countries.

Refer to Section 5.4.2 for further discussion of these points.

There are common exporters between the CBSA's investigation and the ACBPS' listing of exporters of the goods to Australia and the goods subject to the CBSA's investigation are very similar to the goods subject to the application. This provides reasonable evidence of receipt of this program by exporters of the goods subject to the application.

In light of the above, the Commission considers that there are reasonable grounds to conclude that exporters of deep drawn stainless steel sinks may have received benefits under this subsidy and that its investigation is warranted.

6.6 Import Volumes

From the information available from the ACBPS import database, imports of deep drawn stainless steel sinks from China represent more than 4% of the total import volume of deep drawn stainless steel sinks in the 12 month period ending December 2013 and are therefore not in negligible volumes as defined in s.269TDA.

6.7 Amount of subsidisation

In its investigation into stainless steel sinks from China, the CBSA found a subsidisation range across exporters of 0.1% to 60.8%. Within this range, the CBSA identified that two cooperating exporters received subsidisation at a below-negligible level, but all remaining exporters received subsidisation above this level.

The Commission is satisfied following preliminary analysis of:

- the CBSA's findings of the amount of benefit received under countervailable subsidies investigated during its investigation into stainless steel sinks from China;
- the proportion of the total cost of production of deep drawn stainless steel sinks constituted by cold-rolled stainless steel as set out in the constructed normal value; and
- the export prices of deep drawn stainless steel sinks during the twelve months ended December 2013, taken from the ACBPS import database,

that the benefit received by Chinese exporters under the programs found to warrant investigation is likely to result in subsidy margins, at least in relation to some exporters, that are above negligible levels.

6.8 Conclusion – Subsidisation in China

The Commission is satisfied that the benefits received by Chinese exporters of deep drawn stainless steel sinks under the programs alleged in the application are likely to result in subsidy margins that are above negligible levels.

Based on an analysis of the evidence supplied in the application that is reasonably available to the applicant, the Commission considers that there are reasonable grounds for the publication of a countervailing duty notice in relation to the following subsidy programs. Note that the numbering used reflects the numbering proposed to be used in the investigation:

Program Number	Program Name	Program Type
Program 1	Raw Materials Provided by the Government at Less than Fair Market Value	Provision of goods
Program 2	Research & Development (R&D) Assistance Grant	Grant
Program 3	Grants for Export Activities	Grant
Program 4	Allowance to pay loan interest	Grant
Program 5	International Market Fund for Export Companies	Grant
Program 6	International Market Fund for Small and Medium-sized Export Companies	Grant
Program 7	Reduced tax rate for productive FIEs scheduled to operate for a period not less than 10 years	Income Tax
Program 8	Tax preference available to companies that operate at a small profit	Income Tax

Figure 5 – subsidy programs to be investigated

Consequently, the Commission considers that an investigation should be initiated into these programs to determine whether they constitute a countervailable subsidy in respect of the goods exported to Australia.

It is noted that the initiation of an investigation into the above-listed programs does not preclude the Commission from examining additional subsidy programs should further information be provided or otherwise come to light within a reasonable time period following initiation of the investigation.

The Commission notes that a determination that a countervailable subsidy has been received may, depending on the Commission's findings as to whether there has been compliance by the GOC with Article 25 of the SCM Agreement, remove the obligation on the Parliamentary Secretary to consider application of the lesser duty rule – pursuant to s.10(3CA)(a) of the *Customs Tariff (Anti-Dumping) Act 1975*. Accordingly, associated with

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its assessment of the alleged subsidisation of the goods, the Commission will make recommendations to the Parliamentary Secretary as to the level of any duties to be applied.

7 REASONABLE GROUNDS – ECONOMIC CONDITION OF THE AUSTRALIAN INDUSTRY

7.1 Findings

Having regard to the information contained in the application, and to other information considered relevant, the Commission is satisfied that Tasman appears to have experienced injury in terms of:

- lost sales volume;
- loss of market share;
- reduced capital investment;
- reduced research and development expenditure; and
- reduced return on investment.

Due to the limitations of available data, the Commission is unable to accurately determine whether the Australian industry has suffered injury in the form of price depression or suppression.

The Commission also observes that Tasman appears to have suffered injury in the form of reduced profit and profitability at the aggregate (all product) level but an assessment at the model level is not possible due to data limitations.

7.2 Legislative framework

Subsection 269TC(1) requires that the Commissioner must reject an application for a dumping duty notice or a countervailing duty notice if, inter alia, he is not satisfied that there appear to be reasonable grounds for the publication of a dumping duty notice or a countervailing duty notice respectively.

Under sections 269TG and 269TJ, one of the matters that the Minister must be satisfied of to publish a dumping duty notice or a countervailing duty notice is that, because of dumping of the goods or their receipt of countervailable subsidies, material injury has been or is being caused or is threatened to the Australian industry producing like goods.

7.3 Approach to injury analysis and data limitations

7.3.1 General approach and data provided

The injury analysis detailed in this section is based on information submitted by Tasman in its application, including:

- Tasman's submitted costs and sales data;
- ABS import data, and
- data obtained from the ACBPS' imports database where relevant.

The data submitted by Tasman was provided on a financial year basis for the period 1 July 2008 – 30 June 2013.

Sales data

In relation to sales data, Tasman submitted actual sales value and volumes (in units) for each type of sink by bowl type, that is:

- single bowl;
- bowl + $\frac{1}{2}$ bowl;
- bowl + $\frac{3}{4}$ bowl;
- double bowls;
- double bowl + $\frac{1}{2}$ bowl; and
- triple bowl.

Tasman also submitted aggregate sales revenue and volume data for these sinks combined. The data did not further differentiate sinks into product tiers (i.e. entry, mid or top range products).

Cost data

Tasman supplied aggregate (all products) total CTMS like goods, as well as CTMS by product (number of bowls).

During the screening of the application, Tasman explained the following:

- 1) it does not record production volumes, and hence unit costs have been determined by reference to sales volumes; and
- 2) the company does not record costs by product type (either number of bowls or product tier) and only records costs at an aggregate (all product level).

Consequently, Tasman explained that the product-level cost data provided in the application does not accurately reflect the cost to make each sink by type but rather the aggregate cost to make all sinks has been divided by sales volume to derive the product cost.

7.3.2 Data limitations – Commission’s assessment

In undertaking its assessment of Tasman’s claimed injury factors (see below), the Commission considers that there are limitations with the cost and sales data provided by Tasman in its application that place restrictions on the conclusions that can reasonably be drawn in relation to certain injury factors for the purposes of this report.

Specifically, the Commission considers these limitations impact its assessment of price depression and price suppression. This is discussed throughout the remainder of this Chapter.

7.4 The applicant’s injury claims

Tasman alleges that the Australian industry has suffered material injury caused by deep drawn stainless steel sinks exported to Australia from China at dumped and subsidised prices. The applicant claims the industry had been injured through:

- lost sales volumes;
- reduced market share;
- price depression;
- price suppression;
- loss of profits and profitability;
- reduced return on investment;
- reduced capacity utilisation; and
- reduced employment numbers and wages.

7.5 Commencement of injury

Tasman alleges that material injury caused by dumped and subsidised imports of deep drawn stainless steel sinks from China commenced in the 2010 financial year when Chinese imports increased in volume by 30.8% from the previous year and the market share of dumped and subsidised exports grew by 12% over the same period. In this same period the market share held by the Australian industry declined by 20%.

7.6 Volume effects

Tasman claims that it has suffered material injury in relation to loss of sales volume and market share.

7.6.1 Sales Volume

The following graph depicts Tasman's total sales volume of deep drawn stainless steel sinks on the Australian market.

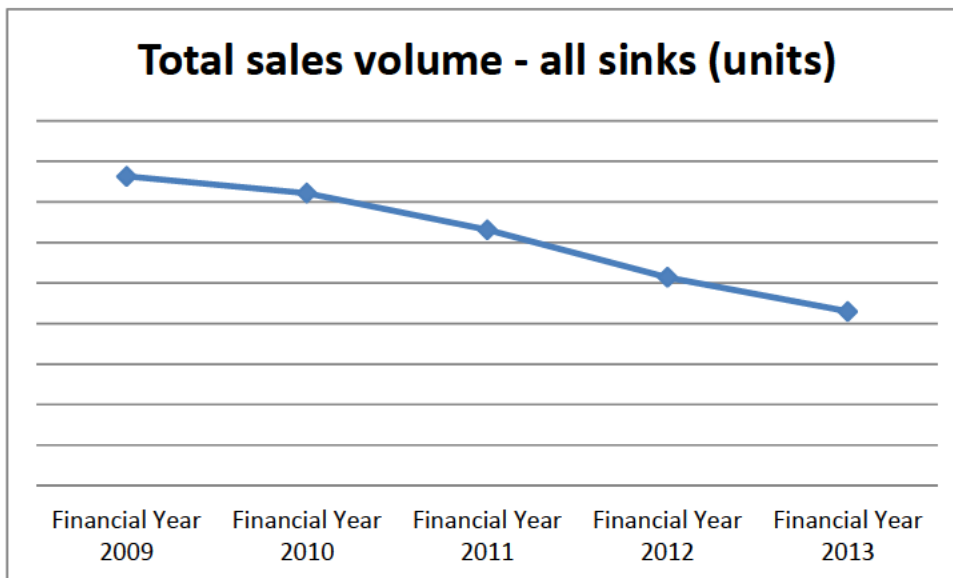


Figure 6 – Applicant's deep drawn stainless steel sinks domestic sales volume (all products)

Figure 6 indicates that Tasman's overall (all sinks) domestic sales volume has steadily decreased year-on-year since FY2009.

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The below table provides an index of changes in Tasman's sales volume by product (sink type) on the Australian market.

	FY2009	FY2010	FY2011	FY2012	FY2013
Single Bowl	100	91	79	63	53
Double Bowl	100	108	104	95	82
Triple Bowl	100	33	N/A	33	N/A
Bowl + 1/2 Bowl	100	91	83	70	62
Bowl + 3/4 Bowl	100	91	73	53	41
Double Bowl + 1/2 Bowl	100	76	68	59	26

Figure 7 – Index of changes in applicant's deep drawn stainless steel sinks domestic sales volume (by sink type)

Figure 7 demonstrates that:

- for single, one-and-a-half, one-and-three-quarter, and two-and-one-half bowl sinks, Tasman's sales volumes have decreased year-on-year since FY2009;
- Tasman experienced an increase in sales volumes for double bowl sinks in FY2010 from the previous year, followed by a year-on-year decline; and
- sales of triple bowl sinks have been somewhat erratic over the period. The data provided with the application shows that overall sales of triple bowl sinks make up a small proportion of Tasman's overall sales of deep drawn stainless steel sinks.

The market size trends depicted in Figure 1 (see Section 4.4) show that the overall size of the Australian market increased year-on-year from FY2009 to FY2011, before declining in FY2011 to levels similar to those seen in FY2009, then increased in volume in FY2013.

7.6.2 Market Share

The following graph depicts changes in market share of sales on the domestic market between Tasman and imports based on information provided in the application (ABS data and Tasman's own sales data).

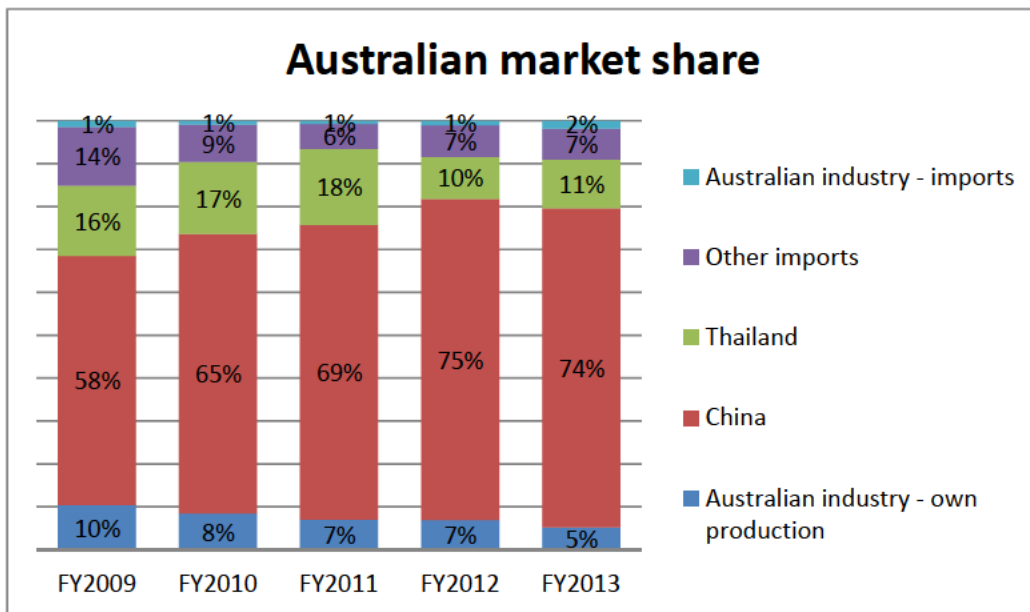


Figure 8 – Australian market share based on ABS import and Tasman sales data

Figure 8 shows that the Australian industry's share of the Australian market halved over the period FY2009 to FY2013 (from 10% to 5%). Imports from Thailand, the only significant source of imported deep drawn stainless steel sinks in the Australian market besides China, also decreased during the period.

During the same period Chinese exports to Australia increased their market share by 16%, which is more than the combined market share lost by Thailand and the Australian industry over the period.

7.6.3 Conclusion – volume effects

Based on this analysis, there appears to be reasonable grounds to support the claim that the Australian industry has lost sales volume and market share during the period FY2009 to FY2013.

7.7 Price effects

The application claims that the Australian industry has suffered material injury in the form of price depression and suppression.

Price depression occurs when a company, for some reason, lowers its prices. Price suppression occurs when price increases, which otherwise would have occurred, have been prevented. An indicator of price suppression may be the margin between revenues and costs.

7.7.1 Price depression

At A-8.2 of its application, Tasman submitted an index of unit price variations by sink type (number of bowls) which Tasman submits provides evidence of price depression in relation to certain products.

This index showed numerous price fluctuations over the period FY2009 to FY2013, with four types of sink ending the examined period at a unit price lower than in FY2009, one type of sink above the FY2009 unit price and all sinks in aggregate ending slightly above the FY2009 price.

As discussed in Section 7.3, the sales data provided by Tasman does not differentiate the type of sink (by number of bowls) further into product tiers (entry, mid or top range). As discussed in Section 4.3.2, the application advises that there is price differentiation across these product tiers.

The Commission considers that it may be necessary to consider these product tiers when determining price depression, as an examination of unit prices at the sink type by bowl level may not accurately account for potential changes in product mix across these tiers and price fluctuations of one tier compared to another. As an example, the Australian industry's sales of double bowl sinks at the entry-level may have experienced price depression (noting that it is understood that Chinese sinks are commonly considered to be at the entry-level product tier), but the unit price of double bowl top-range sinks may have increased, resulting in an increase in unit price at the double-bowl sink aggregate level.

At this stage the Commission cannot accurately assess whether Tasman has experienced price depression over the period FY2009 to FY2013. Further consideration is warranted to determine whether an assessment of price depression only to the model level is reasonable.

7.7.2 Price suppression

In section A-9 of its application, Tasman submitted a comparison of its aggregate (all sinks) unit cost to make with its aggregate unit sales revenue over the period FY2009 – FY2013, concluding that a narrowing of these two figures over the period demonstrated that the industry had experienced price suppression.

This comparison is not able to be accurately performed at the product (by bowl number) level or at the product tier level because costs are not able to be provided that accurately reflect the cost to make at the product level, let alone at the product tier level (if considered appropriate).

7.7.3 Conclusion – price effects

The Commission is unable to conclude that Tasman has, or has not, experienced price depression and/or suppression. This will need to be further analysed during the course of the investigation.

7.8 Profit and profitability effects

The following graph depicts movements in Tasman's aggregate (all sinks) profit and profitability over the period FY2009 – FY2013.

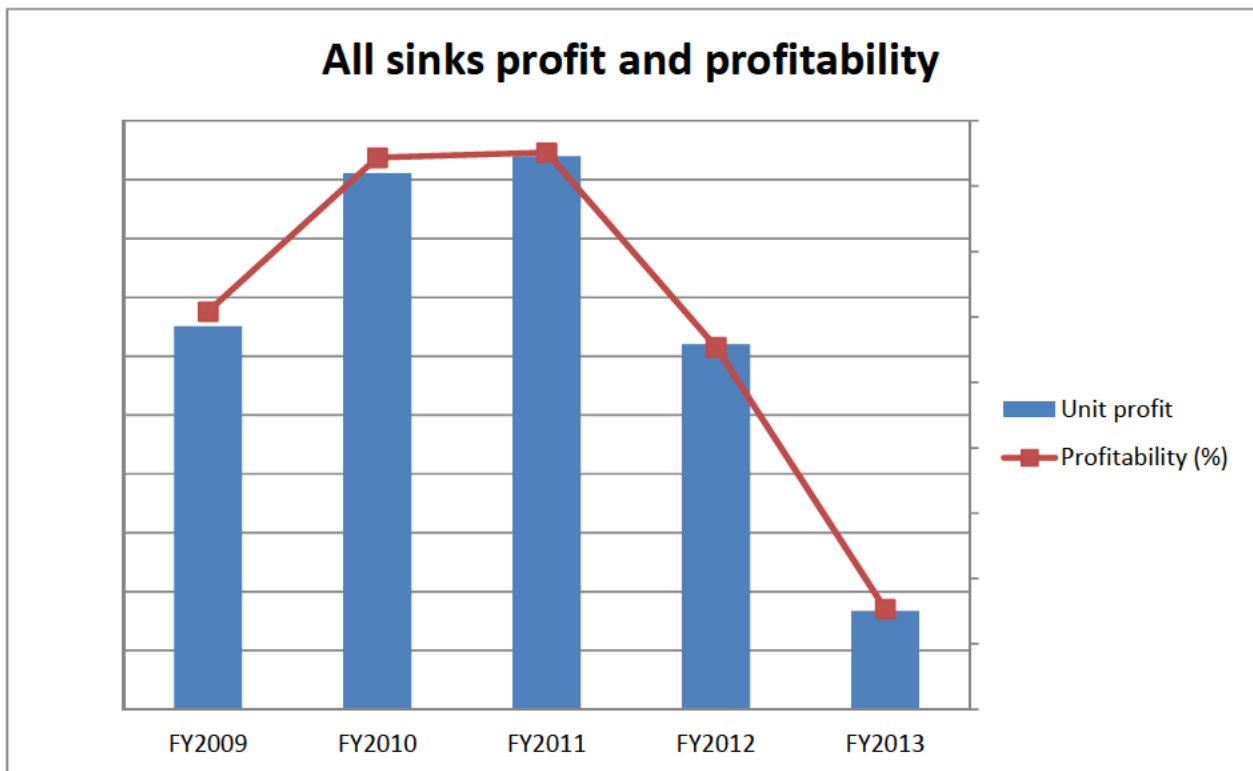


Figure 9 –All sinks profit and profitability

Figure 9 demonstrates a marked decrease in aggregate (all sinks) profit and profitability over the period FY2011 – FY2013.

As noted in Section 7.3.1, Tasman was unable to provide costs data to the model (sink bowl) level, and hence analysis of profitability at the model level cannot be assessed using the available data.

7.8.1 Conclusion – profit and profitability effects

The data limitations discussed above in relation to an analysis of price depression and suppression also have some impact on the analysis of profit and profitability. The data in the application, however, provides a reasonable indication at the aggregate level that Tasman has experienced a loss of profit and profitability over the examined period.

7.9 Other economic factors

Tasman completed Confidential Appendix A7 (other injury factors) for deep drawn stainless steel sinks for the period FY2009 – FY2013. In relation to deep drawn stainless steel sinks (aggregate), data provided in Confidential Appendix A7 showed reduced:

- capacity utilisation;
- employment numbers and wages; and
- capital investment

over the period.

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The data also demonstrated reduced return on investment for Tasman (as a whole company, not split into deep drawn stainless steel sinks and other production) over the period.

Tasman's claims in relation to other injury factors will be further examined during the course of the investigation.

The Commission's assessment of the economic condition of the Australian deep drawn stainless steel sinks industry is at **Confidential Appendix 3**.

8 REASONABLE GROUNDS – CAUSATION FACTORS

8.1 Findings

Having regard to the matters contained in the application, the Commission is satisfied that the goods under consideration exported to Australia from China at allegedly dumped and subsidised prices appear to have caused material injury to the Australian industry.

8.2 Tasman's claims

Tasman submits that dumped and subsidised imports of deep drawn stainless steel sinks from China have caused material injury to the Australian industry.

In examining the impact of Chinese deep drawn stainless steel sinks on Tasman's selling price, Tasman notes that the ABS data provided with its application shows that the average unit export prices of deep drawn stainless steel sinks from China have decreased by an average of 12% over the period FY2009 – FY2013, hitting their lowest point in FY2011. Tasman submits that, throughout this period, the allegedly dumped and subsidised Chinese imports consistently undercut Tasman's sales prices, and caused price depression and suppression.

To demonstrate price undercutting, at Section A-9.2 of the application, Tasman charted comparisons of unit aggregate (all models) ABS import pricing to the Australian industry's unit sales prices of:

- all sinks (aggregate);
- single bowl sinks; and
- double bowl sinks

over the period FY2009 – FY2013.

In doing so, Tasman altered FOB-level ABS export prices to 'retail' level prices, using:

- an estimation of marine insurance (using industry standard rate);
- actual ocean freight and importation costs incurred in the importation of sinks; and
- the publically-reported profit margin and SG&A costs of a known importer and retailer of deep drawn stainless steel sinks.

In each case, this comparison demonstrated consistent and significant price undercutting by the imported Chinese sinks.

In making observations in relation to the above comparison at the all sinks (aggregate) level, Tasman noted that a 'minor' increase in prices is observed over the period but attributed the fact that prices did not decline more to a shift in product mix from the industry's lower-value entry-level sinks. The application goes on to make observations of the decline in volume of single-bowl sinks (said to be entry-level).

In addition to the above, the application highlights a decrease in the margin between Tasman's unit CTMS all products (aggregate) and the aggregate unit selling price,

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particularly from FY2012 onwards (which the application submits is evidence of price suppression).

Tasman submits that price depression and suppression are the result of the Australian industry responding to the pricing pressures exerted by Chinese deep drawn stainless steel sinks.

The application submits various examples in support of its claims of price injury being caused by Chinese imports. These include:

- evidence of a current product brochure of a retail/end-user level sink supplier showing the advertised price of alleged Chinese-manufactured sinks at a price 42% lower than its claimed Australian equivalent;
- a comparison of deduced into-store prices of Chinese sinks (deduced from recent advertised retail brochure prices to a level more comparable to the Australian industry's level of trade) with the Australian industry's equivalent (bowl type) sinks unit prices for FY2013;
- evidence of imported sinks being offered for sale in a package (with other components) at the retail level, and the Australian industry's competing offer (higher than the import offer), which the industry states was later replaced by a more competitive package from Tasman using imported Chinese sinks; and
- email evidence of market intelligence of alleged Chinese sink price offers to Tasman's customers, which undercut Tasman's average ex-works prices for allegedly equivalent sinks.

In supporting its claims that these injurious goods are of Chinese origin, Tasman refers to correlations between the names of sink brands and Chinese manufacturers of deep drawn stainless steel sinks, as well as verbal evidence gathered from the market over a period of time.

In terms of volume and market share, Tasman submits that, over the period FY2009 to FY2013, there are direct correlations between:

- an increase in import volumes of Chinese goods and a decrease in sales volumes by the Australian industry; and
- the increase in the Australian market share of Chinese deep drawn stainless sinks, and a decline in market share of the Australian industry

submitting that the growth in volume and market share of Chinese imports has been at the expense of the Australian industry's volume and market share, as well as the volume and market share of other sources of imports.

To support its claims of loss of Australian-made volume and market share to Chinese deep drawn stainless steel sinks, the application submits various examples of the substitution of Australian-made sinks for allegedly Chinese goods. Specifically, Tasman highlights:

- the loss of display space and eventual 'deranging' of a range of Australian industry sinks in favour of sinks believed to be of Chinese origin in the range of one supplier

to the trade and commercial market (resulting in a loss in sales quantity of that product);

- the sourcing of alleged Chinese sinks (confirmed by verbal conversations with the customer) by a large retail customer for sale at a price lower than the Australian-made equivalent by that retailer, resulting in declining sales volumes, and the Australian industry's response to import Chinese sinks to offer to this customer at a competitive price to the other imported sinks; and
- the declining sales volume and replacement of the Australian industry's entry-level 'Lakeland' brand and replacement in the Australian industry's product offering with Chinese imports ('Elan' and 'Genesis' brands) to compete with other Chinese imports.

8.3 Factors other than dumping

In its application, Tasman noted the following other factors that may have caused injury to the Australian industry:

- appreciation of the Australian dollar, which has appreciated by 18% against the US dollar over the period 2 January 2008 – 31 December 2013 (using exchange rates sourced from the RBA); and
- overall contraction in the Australian deep drawn stainless steel sinks market size over the period FY2009 – FY2013.

In relation to exchange rates, Tasman accepts that the stronger Australian dollar has made imports more affordable, but that this has served to amplify the affordability arising from dumped import prices. Tasman also highlights that if the Australian dollar were a significant impacting factor, it would expect to see increased market share from other import sources, but only China has seen increased volume and market share since FY2009.

In relation to market size, Tasman acknowledges that the Australian market reached a size peak in FY2011, followed by a decline in FY2012 and a recovery in FY2013 (though not to FY2011) levels. However, Tasman notes that during the FY2012 recovery it did not gain volume or market share, while Chinese imports did. Tasman further observes that the Australian market size grew by 12% overall from FY2009 to FY2013, while its sales volume and market share fell and Chinese volume and market share grew.

8.4 The Commission's assessment

The claims and evidence submitted by Tasman in relation to price undercutting, suppression and depression have been assessed.

Noting the possible impact of pricing 'tiers' in the Australian market (entry-level, mid and top-range goods) the Commission considers that it is difficult to assess the veracity of several pieces of evidence submitted by Tasman that Chinese goods have caused price injury without fully assessing the reasonableness of only comparing products on a bowl number-to-bowl number basis. For example it is not clear whether it is reasonable to compare advertised Chinese sinks in provided brochures with specific advertised Australian-made sinks, or the Australian industry's average selling price of sinks with the same bowl number, or whether product tiers should also be considered.

The price undercutting analysis in the application, which uses aggregate ABS data (amended to arrive at a 'retail' price) to compare with Tasman's all-product aggregate, single-bowl and double-bowl sinks unit prices, may be impacted by product tiers as well as the product mix of imports. This is because the ABS data does not identify the mix of products imported by model (bowl type), let alone market tier (if such a comparison is necessary). However even on the most conservative basis of assuming that all Chinese imports are of single-bowl sinks (logically the lowest price) the ABS data (adjusted to retail level) still shows that the Chinese price consistently undercut the Australian industry's price for a single bowl sink. It is reasonable to consider therefore that the undercutting may be even more pronounced in the higher priced models.

In addition, the applicant's undercutting analysis has been performed by comparing the ABS data adjusted to a retail selling price with its sales to customers at the distributor level. The extend of undercutting might therefore be understated to the extent of level of trade differences.

In relation to volume and market share injury, the Commission observes the correlation highlighted by Tasman of an increase in the volume and market share of Chinese deep drawn stainless steel sinks and a decrease in Tasman's and other imports volume and market share (in equivalent amounts to the volume and share increases experienced by Chinese imports).

In addition, the Commission observes that the size of the dumping margins demonstrated by the application is significant.

The Commission considers that:

- the size of the dumping indicated by the application, and the assessment that the application reasonably demonstrates above-negligible subsidisation;
- the magnitude of observed shifts in volume and market share over the period FY2009 – FY2013; and
- the preliminary assessment of price pressure demonstrated through the undercutting analysis,

reasonably support a conclusion that dumping has caused material injury to the Australian industry.

The impact of factors other than dumping that may have caused material injury to the Australian industry will be assessed throughout the investigation.

9 CONCLUSION

The Commission has examined the application and is satisfied that:

- the application complies with subsection 269TB(4); and
- there is an Australian industry in respect of like goods; and
- there appear to be reasonable grounds for the publication of dumping duty and countervailing duty notices in respect of the goods the subject of the application.

Accordingly, Commissioner has not rejected the application for the publication of a dumping duty and countervailing duty notice under subsection 269TB(1).

For the purposes of the investigation:

- the investigation period to determine whether dumping and subsidisation has occurred will be from **1 January 2013** to **31 December 2013**; and
- the Commission will examine the Australian market and the economic condition of the industry from **1 January 2009** for the purposes of injury analysis.

The Commission will also examine whether the trade in the dumped or subsidised goods provides a basis for any dumping and countervailing notice to apply retrospectively, pursuant to section 269TN of the Act.

10 APPENDICES AND ATTACHMENTS

Attachment 1	Commissioner's public notice
Confidential Appendix 1	Market size assessment
Confidential Appendix 2	Assessment of export price
Confidential Appendix 3	Assessment of economic condition of the industry
Confidential Appendix 4	Assessment of normal value and dumping margin