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

**Anti-Dumping
Commission**

CUSTOMS ACT 1901 - PART XVB

CONSIDERATION REPORT NO. 324

**APPLICATION FOR AN ACCELERATED REVIEW
OF THE DUMPING AND COUNTERVAILING DUTY NOTICES
APPLYING TO**

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

**QUEENSWOOD KITCHEN
& BATHROOM INDUSTRIAL CO. LTD.**

DECEMBER 2015

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ABBREVIATIONS

Abbreviation	Full title
ABF	Australian Border Force
the Act	<i>Customs Act 1901</i>
the applicant	Queenswood Kitchen & Bathroom Industrial Co. Ltd.
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
the goods	the goods to which the anti-dumping and countervailing measures apply
the Parliamentary Secretary	The Assistant Minister for Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science
REP 238	Anti-Dumping Commission Report No. 238
Review period	1 October 2014 to 30 September 2015
Queenswood	Queenswood Kitchen & Bathroom Industrial Co. Ltd.

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1 SUMMARY AND RECOMMENDATIONS

This report provides the results of the Anti-Dumping Commission's (the Commission's) consideration of an application from Queenswood Kitchen & Bathroom Industrial Co. Ltd. (the applicant or Queenswood) for an accelerated review of the dumping duty and countervailing duty notices applying to deep drawn stainless steel sinks¹ exported to Australia from the People's Republic of China (China) in so far as the notices affect the applicant.

1.1 Recommendations

The Commission recommends that the Commissioner of the Anti-Dumping Commission (the Commissioner) not reject the application.

1.2 Legislative background

Division 6 of Part XVB of the *Customs Act 1901* (the Act)² sets out, among other things, the procedures to be followed by the Commissioner in dealing with an application for an accelerated review of a dumping duty or countervailing duty notice by certain exporters of goods covered by the notice.

Subsection 269ZE(2) provides that the Commissioner may reject the application for an accelerated review of a dumping duty or countervailing duty notice if satisfied that the conditions set out in this subsection have been met.

1.3 Findings and conclusions

Queenswood's application for an accelerated review of the dumping duty and countervailing duty notices applying to deep drawn stainless steel sinks exported to Australia from China has been examined and the Commission finds that:

- the circumstances in which an accelerated review can be sought under subsection 269ZE(1) have been satisfied;
- the conditions for rejection under subsection 269ZE(2) have not been met; and
- the application satisfies the requirements of section 269ZF.

Accordingly, the Commission concludes that the applicant is eligible to apply for and has lodged a valid application for an accelerated review under the Act, and recommends that the Commissioner not reject the application.

¹ Refer to the full description of the goods in Section 2.1 of this report.

² A reference to a division, section or subsection in this report is a reference to a provision of the *Customs Act 1901*, unless otherwise specified.

2 BACKGROUND

2.1 Goods under review

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.

The goods are currently classified to the following tariff subheadings of Schedule 3 to the *Customs Tariff Act 1995*:

- 7324.10.00 (statistical code 52);

Exemptions

The following subsets of deep drawn stainless steel sinks have been granted an exemption and are not subject to the imposed dumping duties and countervailing duties:

- Cleaner's sinks that are comprised of a deep drawn stainless steel bowl and stainless steel splashback or upturned rear edge that is designed for fixture against a wall; and
- Hand wash basins that are comprised of:
 - A deep drawn stainless steel bowl with a rounded or concave basin bottom (i.e. not flat bottomed); and
 - A stainless steel splash back or upturned rear edge that is designed for fixture against a wall.

2.2 Existing measures

On 18 March 2014, an investigation into the dumping and subsidisation of deep drawn stainless steel sinks exported to Australia from China was initiated following an application lodged by Tasman Sinkware Pty Ltd (the original investigation).

In the original investigation, as outlined in *Anti-Dumping Commission Report No. 238* (REP 238), it was found that:

- deep drawn stainless steel sinks exported from China to Australia were:
 - dumped with margins ranging from 5.0 per cent to 49.5 per cent; and
 - with the exception of two exporters, Primy Corporation Limited and Zhongshan Jiabaolu Kitchen and Bathroom Products Co. Ltd., subsidised with margins ranging from 3.3 per cent to 6.4 per cent;

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- the dumped and subsidised exports caused material injury to the Australian industry producing like goods; and
- continued dumping and subsidisation may cause further material injury to the Australian industry.

Accordingly, the Commissioner recommended that the then Parliamentary Secretary to the Minister for Industry and Science (the then Parliamentary Secretary) impose anti-dumping measures in the form of interim dumping duty and interim countervailing duty on the goods exported from China, with the exception of those exporters noted above. The then Parliamentary Secretary accepted these recommendations and on 26 March 2015 published a dumping duty notice and a countervailing duty notice applying to deep drawn stainless steel sinks exported to Australia from China (with the exception of those exporters noted above).

2.3 Consideration of the application for an accelerated review (Division 6 of Part XVB of the Act)

On 7 December 2015, Queenswood Bathroom & Kitchen Industrial Co. Ltd. lodged an application for an accelerated review of the dumping duty and countervailing duty notices applying to deep drawn stainless steel sinks exported to Australia from China in so far as the notices affect the applicant (refer **Attachment 1**).

If the Commissioner does not reject the application, the date of lodgement (7 December 2015) is the date on which the 100 day accelerated review timeframe commences.³

The assessment of this application is discussed in sections 3 and 4 of this report.

2.3.1 Review process

Pursuant to subsections 269ZG(1) and (2), the Commissioner must, no later than 100 days after an accelerated review application is lodged, provide the Assistant Minister for Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science (Parliamentary Secretary)⁴ with a report recommending:

- a) that the dumping duty notice or countervailing duty notice the subject of the application remain unaltered; or
- b) that the dumping duty notice or countervailing duty notice the subject of the application be altered so as to apply to the applicant as if different variable factors had been fixed;

and set out the Commissioner's reasons for so recommending.

In relation to this application, this report must be made no later than 16 March 2016.

³ Subsection 269ZG(2).

⁴ The Minister for Industry, Innovation and Science has delegated responsibility with respect to anti-dumping matters to the Parliamentary Secretary, and accordingly, the Parliamentary Secretary is the relevant decision maker.

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2.3.2 Public record

There is no legislative requirement for the Commissioner to maintain a public file for this accelerated review. However, in the interests of ensuring the process is conducted in an open and transparent manner, a public file will be maintained.

This consideration report, along with a non-confidential version of the application and response to the exporter questionnaire, will be published on the Electronic Public Record at <http://www.adcommission.gov.au>.

2.3.3 Key dates

Application lodged	7 December 2015
Response to exporter questionnaire due	16 January 2016
Final report to Parliamentary Secretary due	16 March 2016

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3 APPLICATION FOR AN ACCELERATED REVIEW – COMPLIANCE WITH SECTION 269ZF

3.1 Legislative background

Section 269ZF requires that an application for an accelerated review must:

- be in writing (subsection 269ZF(1));
- contain a description of the goods to which the dumping duty or countervailing duty notice relates (subsection 269ZF(1)(a));
- contain a statement of the basis on which the exporter considers that the particular notice is inappropriate in so far as the exporter is concerned (subsection 269ZF(1)(b)); and
- be lodged in a manner approved under section 269SMS and the application is taken to be lodged in accordance with subsection 269ZF(2).

3.2 Assessment of the application – compliance with section 269ZF

The application received from the applicant was in writing, is taken to have been lodged in accordance with subsection 269ZF(2) and contains a description of the goods to which the dumping duty and countervailing duty notices relate (subsection 269ZF(1)(a)).

The application was lodged in a manner approved in the Commissioner's instrument under section 269SMS (the Instrument), being by email to the Commission's nominated email address as provided in the Instrument. The application was therefore lodged in a manner approved under subsection 269SMS(2).

In accordance with the requirements of subsection 269ZF(1)(b), the application also contains a statement from the applicant that outlines the reasons why the company considers the current dumping duty and countervailing duty notices are inappropriate in so far as the notices affect the applicant. This was because the applicant did not export deep drawn stainless steel sinks to Australia during the relevant period set out in the definition of a 'new exporter' in subsection 269T(1) (further discussed in section 4.2.1 of this report).

The Commission therefore recommends that the Commissioner be satisfied that the application complies with subsection 269SMS and subsection 269ZF(1) and was taken to have been lodged on 7 December 2015 in accordance with subsection 269ZF(2).

4 CIRCUMSTANCES IN WHICH AN ACCELERATED REVIEW MAY BE SOUGHT – COMPLIANCE WITH SECTION 269ZE

4.1 Background

Section 269ZE sets out the circumstances in which an accelerated review may be sought.

The conclusions in this section are made on the basis of currently available information. If, during the accelerated review, evidence becomes available that satisfies the Commissioner that the requirements of subsection 269ZE(3) are met, the Commissioner may terminate the review.

4.2 Status as a new exporter

Subsection 269ZE(1) provides that only a “new exporter” can apply for an accelerated review if a dumping duty or countervailing duty notice has been published in respect of goods exported from a particular country of export or in respect of goods exported by new exporters from a particular country of export, provided a declaration has not already been made in respect of that exporter under subsection 269ZG(3)(b).

Subsection 269T(1) defines a ‘new exporter’, in relation to goods the subject of an application for a dumping duty notice or a countervailing duty notice. A new exporter:

in relation to goods the subject of an application for a dumping duty notice or a countervailing duty notice or like goods, means an exporter who did not export such goods to Australia at any time during the investigation period in relation to the application.

Subsection 269T(1) also defines ‘application’ in relation to a dumping duty notice or a countervailing duty notice as meaning an application for the publication of such a notice in relation to the original investigation.

4.2.1 Evidence of exports during the new exporter period

To meet the definition of a new exporter, the period during which the applicant must not have exported deep drawn stainless steel sinks to Australia (the new exporter period) is from 1 January 2013 to 31 December 2013; which is the investigation period for the original investigation (REP 238).

A search of the Australian Border Force (ABF) import database by the Commission did not reveal any exports of deep drawn stainless steel sinks (classified to tariff subheadings 7324.10.00 of Schedule 3 to the *Customs Tariff Act 1995*) by the applicant during the period 1 January 2013 to 31 December 2013.

4.2.2 Declaration under subsection 269ZG(3)(b)

Pursuant to subsection 269ZE(1) of the Act, a new exporter cannot apply for an accelerated review if they had previously applied for an accelerated review that resulted in a declaration being made in respect of that exporter under subsection 269ZG(3)(b).

The applicant has not previously applied for an accelerated review and as such the Parliamentary Secretary has not previously made a declaration under subsection 269ZG(3)(b) in respect of the applicant.

4.3 Cooperation in regards to the application for a dumping duty notice and countervailing duty notice

Subsection 269ZE(2)(a) provides that, if the Commissioner is satisfied that, because an exporter refused to cooperate in relation to the application for a dumping duty notice or a countervailing duty notice, and the exportations of that exporter were not investigated, the Commissioner may reject the application.

Noting the above finding that there is no evidence of exports by the applicant during the new exporter period, the Commission notes that the applicant's cooperation would not have been sought during the original investigation as it would not have been identified as an exporter.

The Commission therefore recommends that the Commissioner consider that there are no grounds for rejection in terms of subsection 269ZE(2)(a).

4.3.1 Relationship with exporters

Subsection 269ZE(2)(b) provides that, if the Commissioner is satisfied that an exporter is related to an exporter whose exports were examined in relation to an application for the publication of a dumping duty or a countervailing duty notice, the Commissioner may reject the application.

To determine if the applicant is related to an exporter whose exports were examined in relation to the original investigation in accordance with subsection 269ZE(2)(b), the Commission reviewed the list of exporters from the original investigation. The ABF import database was also examined for any relevant company information.

The Commission did not find any information to indicate that the applicant is related to any of the exporters considered in the original investigation.

Given the information available, the Commission recommends to the Commissioner that there are no grounds for rejection in terms of subsection 269ZE(2)(b).

4.4 Findings under section 269ZE

In accordance with section 269ZE, on review of the application and all information currently available, the following findings have been made about whether circumstances exist in which the applicant may seek an accelerated review:

- the applicant did not export deep drawn stainless steel sinks during the new exporter period and has not previously applied for an accelerated review. Therefore, the applicant meets the definition of a new exporter and satisfies the requirements for requesting an accelerated review under subsection 269ZE(1);
- the applicant did not refuse to cooperate in relation to the application for a dumping duty and a countervailing duty notice, and therefore the application should not be rejected under subsection 269ZE(2)(a); and
- the applicant does not appear to be related to any exporters whose exports were examined in the original investigation, and therefore the application should not be rejected under subsection 269ZE(2)(b).

5 CONCLUSION AND RECOMMENDATIONS

The Commission has considered the application made by the applicant in accordance with sections 269ZE, 269ZF and the definition of a new exporter provided in subsection 269T(1) of the Act.

The Commission concludes, on the basis of currently available information, that:

- the circumstances in which an accelerated review can be sought under subsection 269ZE(1) have been satisfied;
- the conditions for rejection under subsection 269ZE(2) have not been met; and
- the application satisfies the requirements of section 269ZF.

Accordingly, the Commission recommends that the Commissioner not reject the application for an accelerated review of the dumping duty and countervailing duty notices applying to deep drawn stainless steel sinks exported to Australia from China, in so far as the notices affect the applicant.

Should the Commissioner decide not to reject this application for an accelerated review, the Commission recommends that the review period for the accelerated review be from 1 October 2014 to 30 September 2015.

6 SECURITIES AND INTERIM DUMPING AND COUNTERVAILING DUTY

When an application for an accelerated review of a dumping duty and/or countervailing duty notice is lodged, subsection 269ZH(a) provides that no interim duty can be collected in respect of the consignments of goods, to which the application relates, entered for home consumption after the application is lodged and until the completion of the review.

Pursuant to subsection 269ZH(b), the Commonwealth may, however, on the importation of goods to which the application relates, require and take securities under section 42 in respect of interim dumping duty and interim countervailing duty that may be payable.

Should the Commissioner not reject the application, and an accelerated review is conducted, the Commonwealth may require and take securities under section 42 in respect of interim dumping duty and interim countervailing duty that may be payable.

A table outlining the variable factors relevant to calculating the amount of securities is provided at **Confidential Attachment 2**.

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7 ATTACHMENTS

Attachment 1	Queenswood Kitchen & Bathroom Industrial Co. Ltd. – application
Confidential Attachment 2	Table outlining variable factors for calculation of securities

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Attachment 1: Queenswood Kitchen & Bathroom Industrial Co. Ltd – application for an Accelerated Review

QUEENSWOOD KITCHEN AND BATHROOM INDUSTRIAL CO., LTD

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TO: ANTI-DUMPING COMMISSION

FROM: QUEENSWOOD KITCHEN AND BATHROOM INDUSTRIAL CO., LTD

DATE: DEC.04, 2015

SUBJECT: DEEP DRAWN STAINLESS STEEL SINKS – DUMPING

We, QUEENSWOOD KITCHEN AND BATHROOM INDUSTRIAL CO., LTD hereby to state that the deep drawn stainless steel sinks sold to [REDACTED] in AUSTRALIA are at fair market price and in line with competitors.

We believe it's unfair for our buyer [REDACTED] in AUSTRALIA to be charged at the highest rate of Dumping/Countervailing duty.

The below are the detail information of the products we sold to [REDACTED] please review the information and reconsider the duty rate. We sincerely hope that you approve to add QUEENSWOOD to the DCR and apply the reduced dumping rates.

Sincerely yours

Wenfeng Xu
General Manager
Queenswood Kitchen and Bathroom Industrial Co., Ltd