

RESPONSE TO INQUIRY INTO EXEMPTION FROM DUTY UNDER THE CUSTOMS TARIFF (ANTI-DUMPING) ACT 1975

Anti-Dumping Commission 23 NOV 2016

1 Introduction

The Anti-Dumping Commission (the Commission) requests your response to its inquiry into an exemption from anti-dumping and countervailing measures under the *Customs Tariff (Anti-Dumping) Act 1975* (the Dumping Duty Act).

Sections 8(7) and 10(8) of the Dumping Duty Act allow the Minister to exercise a discretion to exempt goods from measures, where he or she is satisfied that like or directly competitive goods are not offered for sale in Australia to all purchasers on equal terms under like conditions having regard to the custom and usage of trade.

The Commission has initiated an exemption from anti-dumping and countervailing measures in respect of deep drawn stainless steel sinks for the goods described at section 5 of this form ('the exemption goods').

You have been identified from the Commission's investigation in respect of deep drawn stainless steel sinks as the sole Australian producer of the goods.

The Commission seeks your assistance in this exemption inquiry by responding to the questions in this form. The Commission will use the information you provide in its assessment as to whether an exemption from dumping and countervailing duties may be recommended to the Assistant Minister for Industry, Innovation and Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science (Parliamentary Secretary),¹ as the relevant delegate of the Minister.

2 Measures on deep drawn stainless steel sinks

In 2015, the Commission completed investigations into the alleged dumping and subsidisation of deep drawn stainless steel sinks exported to Australia from the People's Republic of China.

The then Parliamentary Secretary accepted the Commission's recommendations that:

- deep drawn stainless steel sinks from China had been dumped and subsidised; and
- dumping and subsidisation had caused material injury to the Australian industry.

Dumping and countervailing duty notices were published notifying of these decisions on 26 March 2015.

Anti-Dumping Notice (ADN) No. 2015/41 contains details of the measures, including a description of the goods subject to the measures.

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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. On 19 July 2016, the Prime Minister appointed the Parliamentary Secretary to the Minister for Industry, Innovation and Science as the Assistant Minister for Industry, Innovation and Science.

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The reasons for the then Parliamentary Secretary's decision in this case are contained in the Commission's Final Report No. 238 (REP 238).

3 Exemption from Measures

As a result of information provided in the Anti-Dumping Commission's (the Commission's) current review of the anti-dumping measures (Case 352), the Commission identified that like or directly competitive goods to the imported goods (the exemption goods) may not be available in Australia.

After making inquiries of the Australian industry producing deep drawn stainless steel sinks and other interested parties, the Anti-Dumping Commissioner will recommend to the Parliamentary Secretary whether the exemption goods should be exempted from the anti-dumping measures.

4 Exemption Provisions

The Dumping Duty Act allows the Minister to exercise his or her discretion to exempt goods from dumping and/or countervailing duties in the following circumstances.

Subsection 8(7)

The Minister may, by notice in writing, exempt goods from interim dumping duty and dumping duty if he or she is satisfied:

- (a) that like or directly competitive goods are not offered for sale in Australia to all purchasers on equal terms under like conditions having regard to the custom and usage of trade.

Subsection 10(8)

The Minister may, by notice in writing, exempt goods from interim countervailing duty or countervailing duty if he or she is satisfied:

- (a) that like or directly competitive goods are not offered for sale in Australia to all purchasers on equal terms under like conditions having regard to the custom and usage of trade.

It is noted at the outset that these exemption provisions are subject to the discretion of the Minister and are not automatically granted where the criteria set out in the provision appear to be met.

5 The goods subject to the exemption inquiry

The goods the subject of the exemption inquiry (the exemption goods) are:

- lipped laundry tubs used in the production of laundry cabinets.

Two models of the exemption goods imported by Milena Australia Pty Ltd are included at Attachment A.

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

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The exemption inquiry will examine whether the exemption goods, or a subset of the exemption goods, satisfy the conditions of paragraphs 8(7)(a) and 10(8)(a) of the Dumping Duty Act.

6 Instructions on completing this 'Response to the Exemption Inquiry'

The Commission's deep drawn stainless steel sinks investigation, completed in March 2015, identified your company as the sole Australian producer of deep drawn stainless steel sinks.

Consequently, the Commission has forwarded you this 'response to exemption inquiry' (the response) to provide you with the opportunity to participate in the inquiry.

The Commission will use the information provided by your company to determine:

- whether like or directly competitive goods are offered for sale in Australia, and
- whether offers for sale of the goods are available to all purchasers on equal terms under like conditions having regard to custom and usage of trade.

Due date for response

You are requested to complete your response and return it to the Commission by 25 November 2016.

Responses may be lodged either by mail or by email to the following:

Director Operations 2
Anti-Dumping Commission
GPO Box 1632
Melbourne VIC 3001
AUSTRALIA

Email: operations2@adcommission.gov.au
Fax: +61 3 8539 2499

Verification of the information that you supply

The Commission may seek to verify some or all of the information supplied in the response. The Commission may request evidence to support the claims such as quotations and offers of sale.

An onsite visit by the Commission may be required in some cases. A report will be prepared of visits conducted and a non-confidential version will be placed on the public record.

There is no legislative timeframe for completion of an exemption inquiry, however a recommendation to the Parliamentary Secretary will be made as soon as practicable after obtaining all the relevant information.

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Confidential and non-confidential submissions

You are required to lodge a non-confidential version of your response suitable for placement on the public record by the due date.

Please ensure that each page of information you provide is clearly marked either "FOR OFFICIAL USE ONLY" or "PUBLIC RECORD".

All information provided to the Commission in confidence will be treated accordingly. The non-confidential version of your submission will be placed on the public record.

Outline of information required by the Response

Part A	Company contact information
Part B	Identical goods
Part C	Like or directly competitive goods
Part D	Capability to produce like or directly competitive goods
Part E	Additional comments
Part F	Your declaration

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Response to Exemption Inquiry

PART A - Company Information

A.1 Please provide the following company contact information;

Name:	John Woodcock
Position in company:	General Manager of Operations
Address:	51 Naweena Road, Regency Park, SA 5010 PO Box 2141, Regency Park SA5942
Telephone:	0400175010
Facsimile number:	08 83486495
E-mail address of contact person:	j.woodcock@oliverisinks.com.au

PART B – Response to Exemption Inquiry

B.1

Does your company oppose or not consent to the request for an exemption?
Tasman Sinkware opposes the request for an exemption

NOTE: If your company does not oppose the request for an exemption, you do not need to complete the questionnaire. Please indicate that you do not oppose the request, sign and return the form as soon as possible.

PART C - Identical Goods

Please answer these questions in relation to each of the two models described at Attachment A.

C.1

Does your company produce, in Australia, goods that are identical in all respects to the relevant goods described in section 5 of this 'Response to Exemption Form'?
If no, go to Part D - Like or directly competitive goods.
Tasman Sinkware does not currently produce identical goods

C.2

Please provide evidence that you have produced and sold in Australia, in the last 12 months, goods that are identical in all respects to the exemption goods.

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Evidence can be in the form of production reports and sales invoices. To the extent that production reports or sales invoices do not refer to the goods in the same detail as set out in the description of the goods (section 5), please provide additional information that indicates that identical goods have been produced or sold. The evidence should be attached to this form to ensure that it can be linked to this specific response. Please also include any available product literature respecting the identical goods you have produced and sold.

C.3

Provide evidence of the terms and conditions of sale of these identical goods. Are these products available to all purchasers on equal terms under like conditions? If so, provide evidence and explain why you consider that these products are available to all purchasers on equal terms under like conditions.

Evidence can be in the form of sales invoices, sales contracts, sales reports or advertisements and brochures.

PART D - Like or Directly Competitive Goods

Please answer these questions in relation to each of the two models described at Attachment A.

D.1

If your company does not produce identical goods, does it produce and sell in Australia goods that are like or directly competitive to the exemption goods?

Tasman Sinkware produces and sells goods in Australia that are like and directly competitive to the exemption goods.

In determining whether the goods are like or directly competitive, the Commission will consider whether the goods have characteristics closely resembling each other and are substitutable.

The Commission may also consider;

- whether physical characteristics of the goods are similar (including size, weight, bowl shape, type, content, appearance, grade, standards, age, strength and purity);
- whether the goods are commercially alike, this may include consideration of the following;
 - whether the goods directly compete in the same market sector;
 - the extent to which participants in the supply chain are willing to switch between the goods and the exemption goods;
 - how the price of the goods and exemption goods influences consumption;
 - whether the goods share similar distribution channels; and
 - whether the goods are similarly packaged.
- functional likeness – whether the goods are suitable with regard to end use, this may include an assessment of;
 - the extent to which the goods are functionally substitutable;

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- the extent to which the goods are capable of performing the same or similar function;
 - whether the goods have the same or similar quality standards; and
 - consumer behavior in relation to the goods and exemption goods.
- production likeness, this may include an assessment of;
 - the extent to which the goods are constructed of the same or similar materials;
 - the manufacturing process of the goods; and
 - whether any patented processes or inputs are involved in the production of the goods.

D.2

If you answered yes to question D.1, please provide a description of the goods produced by your company that you consider to be like or directly competitive to the exemption goods. Your description of the goods your company produces should refer to all aspects of the goods as set out in the description of the goods in section 5.

Characteristics	Description
Laundry Tub	45 ltr deep draw stainless steel laundry tub
Laundry Tub	70 ltr deep draw stainless steel laundry tub
See Attachment B for full product description	

Please provide evidence that the goods you consider like or directly competitive to the exemption goods have recently been produced or sold in Australia by your company. Evidence can be in the form of production reports and sales invoices. To the extent that production reports or sales invoices do not refer to the goods described in the above table, please provide additional information that indicates that the goods have been produced or sold. The evidence should be attached to this form to ensure that it can be linked to this specific response. Please also include any available product literature concerning the like or directly competitive goods you produced and sold.

D.3

Provide evidence of the terms and conditions of sale of these like or directly competitive products. Are these products available to all purchasers on equal terms under like conditions? If so, provide evidence and explain why you consider that these products are available to all purchasers on equal terms under like conditions.

These products are available to all purchasers on equal terms under like conditions.

Please see link to our website www.oliveri.com.au
Brochure is included in our submission

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PART E – Capability to Produce Identical or Like or Directly Products

Please answer these questions in relation to each of the two models described at Attachment A.

E.1

If your company has not produced and sold in Australia products that are identical to, or like or directly competitive to the exemption goods, is your company capable of producing such goods?

To produce identical product Tasman Sinkware would need to invest in additional tooling.

E.2

If you answered yes to question E.1, indicate whether the product that you can produce is identical to, or like or directly competitive to the exemption goods.

E.3

If you are capable of producing identical, like or directly competitive goods, explain why you have not produced such goods.

Provide evidence of your production capability, including evidence of the production and sale of similar products, certification of the identical, like or directly competitive goods and at what cost they could be produced, as well as any plans for the imminent production of the goods or orders for the goods and any relevant information.

E.4

If you are capable of producing identical, like or directly competitive goods, provide reasonable evidence of likely terms and conditions of sale for these goods.

PART F – Additional Comments

F.1


Provide any additional comments including any other information that will assist Commission in reaching a recommendation to the Parliamentary Secretary regarding this exemption inquiry.

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PART G - Declaration

I hereby declare that Tasman Sinkware has completed the attached response to exemption inquiry and, having made due inquiry, certify that the information contained in this submission is complete and correct to the best of my knowledge and belief.

Name : JOHN WOODCOCK

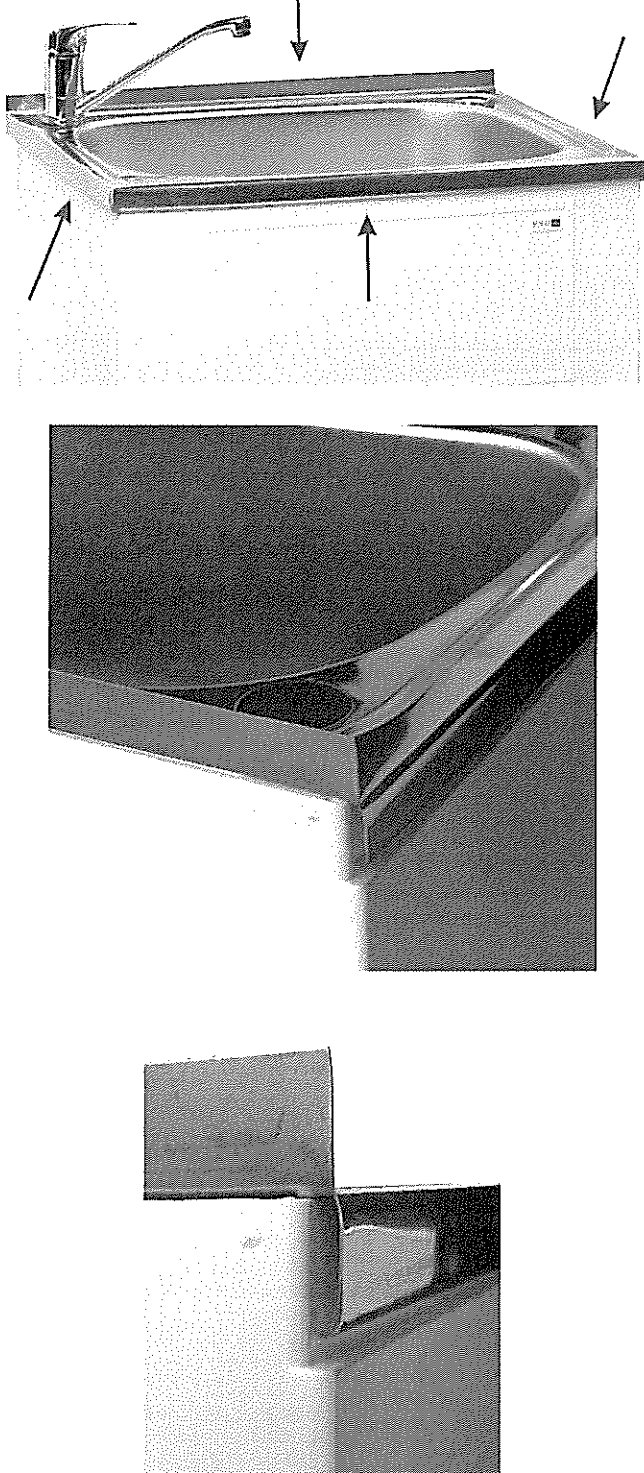
Signature : 

Position in Company : GM - OPERATIONS

Date : 21/11/16



Attachment A

Examples of exemption goods
Lipped laundry tubs imported by Milena Australia Pty Ltd

Feature	Picture
<p>Rear edge is folded up to create tiling-flange.</p> <p>Front and side edges are folded down to fit over cabinet.</p> <ul style="list-style-type: none">• Is a component and will only fit onto pre-made cabinet made specifically as a matching set.	 <p>The 'Picture' column contains three images illustrating the features of the lipped laundry tub. The top image is a top-down view of the tub with a faucet on the left. Arrows point to the rear edge (labeled 'tiling-flange'), the side edge, and the front edge. The middle image is a side view of the tub, showing its depth and the folded-down front and side edges. The bottom image is a close-up of the rear flange, showing its thickness and how it is folded up.</p>

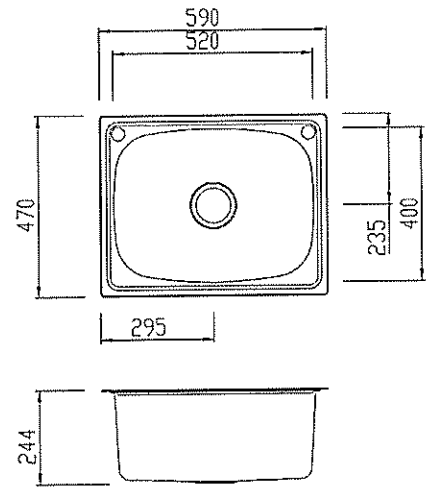
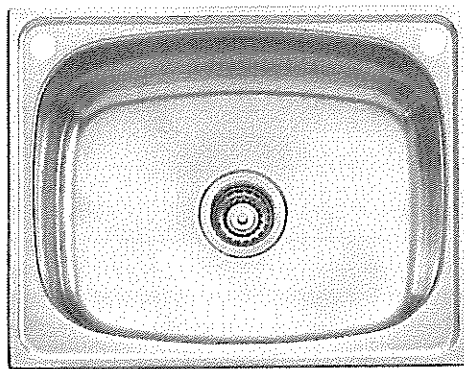
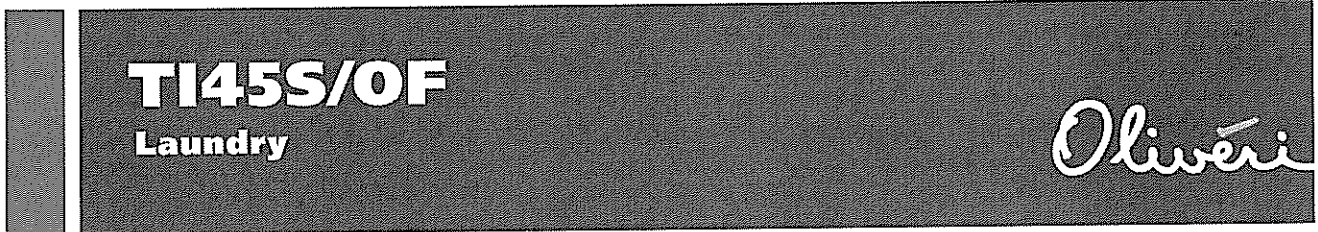
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Examples of exemption goods
Lipped laundry tubs imported by Milena Australia Pty Ltd

Model	Bowl dimensions (mm)	Picture
CT-32 (SCEA - 11827) (32 litres)	295 x 480 x d: 265 Used on Milena Skinny-Mini (MTC-35MS)	
	545 x 385 x d: 265 Used on Milena Solo (STC-45MS) and Milena Contour (Contour-45SS)	

Attachment B

Examples of exemption goods
Laundry tubs produced by Tasman Sinkware Pty Ltd



Sink Size 590W x 470H

45L Tub Bowl

520W x 400H x 235D / 45L

Fixings	Adjustable clips and sealing foam supplied
Cut Out Template	x 450mm
Min Cabinet Size	600mm
Tap holes	2 x 34mm bypass holes
Waste fittings	1 x 90mm basket waste included
Overflow	Included
Carton Size	x 480 x 260mm
Weight	7.0kg
Warranty	Lifetime manufacturer's warranty (refer to oliverisinks.com)