

PUBLIC RECORD



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

**Anti-Dumping
Commission**

CUSTOMS ACT 1901 - PART XVB

CONSIDERATION REPORT NO. 459

**CONSIDERATION OF AN APPLICATION FOR
A REVIEW OF ANTI-DUMPING MEASURES**

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

SHENGZHOU CHUNYI ELECTRICAL APPLIANCES CO. LTD.

DECEMBER 2017

TABLE OF CONTENTS

1 SUMMARY AND RECOMMENDATION 4

1.1 Recommendation..... 4

1.2 Legislative background 4

1.3 Findings and conclusions 4

2 BACKGROUND..... 5

2.1 Existing measures..... 5

2.2 The current review application 6

2.3 The goods subject to the measures 6

 2.3.1 Tariff classification of the goods 7

3 CONSIDERATION OF THE APPLICATION 8

3.1 Legislative background 8

3.2 Assessment of the application – compliance with section 269ZB..... 8

3.3 Variable factors..... 9

 3.3.1 Applicant’s claims..... 9

 3.3.2 Non-injurious price..... 10

3.4 Assessment of application– compliance with section 269ZC 10

3.5 Conclusions and Recommendations 11

PUBLIC RECORD

ABBREVIATIONS

Abbreviation	Full title
ABF	Australian Border Force
ACBPS the Act	Australian Customs and Border Protection Service <i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
the applicant	Milena Australia Pty Ltd
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
304 SS CRC	304 stainless steel cold rolled coil
CTM	cost to manufacture
DIBP	Department of Immigration and Border Protection
EPR	Electronic Public Record
the goods	“the goods” the subject of the application (deep drawn stainless steel sinks)
MEPS	MEPS (International) Ltd
the Parliamentary Secretary	the Assistant Minister for Industry, Innovation and Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science
then Parliamentary Secretary	the then Parliamentary Secretary to the then Minister for Industry and Science
REP 238	The Commissioner of the Anti-Dumping Commission’s Final Report No. 238
SCEA	Shengzhou Chunyi Electrical Appliances Co. Ltd.

1 SUMMARY AND RECOMMENDATION

This report provides the results of the Anti-Dumping Commission's (the Commission's) consideration of an application lodged by Milena Australia Pty Ltd (the applicant) for a review of the dumping duty and countervailing duty notices (the notices) applying to deep drawn stainless steel sinks¹ exported to Australia from the People's Republic of China (China) by Shengzhou Chunyi Electrical Appliances Co. Ltd. (SCEA).

The application is based on an alleged change in the variable factors; being the normal value and export price (a variable factors review). The applicant exclusively imports from SCEA and is seeking a review of the anti-dumping measures as they apply to SCEA. Exports from SCEA are currently subject to an effective rate of combined interim dumping duct and interim countervailing duty of 34.33%.

1.1 Recommendation

The Commission recommends that the Commissioner of the Anti-Dumping Commission (the Commissioner) not reject the application for the reasons outlined in Section 1.3 of this report.

1.2 Legislative background

Division 5 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 a review of anti-dumping measures.

Division 5 empowers the Commissioner to reject or not reject an application for review of anti-dumping measures. If the Commissioner does not reject the application, he is required to publish a notice indicating that it is proposed to review the measures covered by the application.

1.3 Findings and conclusions

Based on the findings outlined in this report the Commission is satisfied:

- the application complies with subsections 269ZB(1) and (2) of the Act; and
- that there appear to be reasonable grounds for asserting the variable factors relevant to the taking of anti-dumping measures have changed.

Accordingly the Commission recommends that the Commissioner not reject the application pursuant to subsection 269ZC(1), and publish a notice on the Commission's website indicating that it is proposed to review the measures covered by the application.

¹ Refer to the full description of the goods in Section 2.3 of this report.

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

2 BACKGROUND

2.1 Existing measures

On 26 March 2015 the then Parliamentary Secretary to the then Minister for Industry and Science (then Parliamentary Secretary) decided to accept the Commissioner's recommendations in the original investigation (REP 238) into the alleged dumping and subsidisation of deep drawn stainless steel sinks exported to Australia from China. Interested parties were advised of the outcome in Anti-Dumping Notice (ADN) No. 2015/41. On 16 October 2015, following review by the Anti-Dumping Review Panel (ADRP), the then Parliamentary Secretary gave public notice that she had affirmed her decision to impose anti-dumping measures.

On 16 May 2016, the Commissioner initiated a review of Anti-Dumping measures into deep drawn stainless steel sinks exported to Australia from China by SCEA following an application lodged by the applicant, an importer of deep drawn stainless steel sinks in Australia.

In that review, and as outlined in Report No. 352 (REP 352), it was found that:

- the ascertained export price has changed;
- the ascertained normal value has changed;
- the non-injurious price has changed;
- the amount of countervailable subsidy received has changed.

Particulars of the dumping and subsidy margins established for SCEA and the effective rate of duty are set out in the following table.

Exporter/country	Dumping Margin	Subsidy Margin	Effective rate of combined interim countervailing duty and interim dumping duty*	Duty Method
Shengzhou Chunyi Electrical Appliances Co. Ltd (China)	34.13%	20.03%	34.33%	For interim dumping duty: ad valorem duty method. For interim countervailing duty: proportion of the export price of the goods.

* The calculation of combined dumping and countervailing duties is not simply a matter of adding the dumping and subsidy margins together for any given exporter. Rather, the collective interim dumping duty and interim countervailing duty imposed in relation to the goods, is the sum of:

- the subsidy rate calculated for all countervailable programs, and
- the dumping rate calculated, less an amount for the subsidy rate applying to Program 1.

The findings and recommendations in REP 352 were provided to the Assistant Minister for Industry, Innovation and Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science (the Parliamentary Secretary), recommending that the notices have effect in relation to SCEA as if different variable factors had been ascertained. Interested parties were advised of this outcome in Anti-Dumping Notice No. 2016/107 on 21 November 2016.

PUBLIC RECORD

The applicant sought a review of the decision to the ADRP, and a review was initiated on 5 January, 2017. As a result of the review, the ADRP recommended the Parliamentary Secretary affirm the reviewable decision. The Parliamentary Secretary decided to affirm the reviewable decision.

2.2 The current review application

On 30 November 2017, an application was lodged by Milena Australia Pty Ltd requesting a review of the anti-dumping measures as they apply to the goods exported to Australia from China by SCEA. In its application, the applicant claims that certain variable factors relevant to the taking of the anti-dumping measures as they apply to the goods exported by SCEA have changed.

Evidence to support this position included:

- a letter from the exporter of the goods purchased by the applicant, SCEA indicating that it has not received subsidies for the goods subject to the measures, and pricing data showing a change in SCEA's prices between November 2014 and September 2017;
- importation data indicating that export prices have changed between 26 March 2016 and 25 September 2017;
- pricing data for 304 stainless steel cold rolled coil (304 SS CRC), the main raw material for the goods, published by MEPS (International) Ltd (MEPS), which indicates movements in the European, North American and Asian prices per tonne for the period July 2015 to December 2016; and
- pricing data for 304 SS CRC from an Australian stainless steel supplier indicating the price to be fair market value;

The review period is 1 October 2016 to 30 September 2017.

Pursuant to subsection 269ZC(1), the Commissioner must, within 20 days after receiving the application, examine the application and decide whether to reject the application.

The application for review of measures was received by the Commission on 30 November 2017. This is taken to be the date in which the application was lodged for the purpose of consideration. As such, the decision whether to reject the application must be made no later than **20 December 2017**.

If the Commissioner is not satisfied, having regard to the application and to any other information that the Commissioner considers relevant, of one or more matters referred to in subsection 269ZC(2), the Commissioner must reject the application.

2.3 The goods subject to the measures

The goods to which the current anti-dumping measures apply (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

PUBLIC RECORD

finish, gauge, or grade of stainless steel and whether or not including accessories.

2.3.1 Tariff classification of the goods

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

3 CONSIDERATION OF THE APPLICATION

3.1 Legislative background

Subsection 269ZB(1) requires that the application be in writing, be in a form approved by the Commissioner for the purposes of this section, contain such information as the form requires, be signed in the manner indicated by the form and be lodged in a manner approved by section 269SMS.

Without otherwise limiting the matters that can be required by the form to be included, subsection 269ZB(2) provides that the application must include:

- a description of the kind of goods to which the measures the subject of the application relate; and
- a description of the measures the subject of the application; and
- if the application is based on a change in variable factors, a statement of the opinion of the applicant concerning:
 - the variable factors relevant to the taking of the measures that have changed; and
 - the amount by which each such factor has changed; and
 - information that establishes that amount; and
- if the application is based on circumstances that in the applicant's view indicate that anti-dumping measures are no longer warranted, evidence (in accordance with the form) of the circumstances.

Subsection 269ZC(2) specifies the matters which the Commissioner must consider in making a decision whether to reject the application. These matters are:

- that the application complies with section 269ZB; and
- that there appear to be reasonable grounds for asserting either, or both, of the following:
 - that the variable factors relevant to the taking of anti-dumping measures have changed;
 - that the anti-dumping measures are no longer warranted.

3.2 Assessment of the application – compliance with section 269ZB

When considering the requirements of subsections 269ZB(1) and (2), the Commission notes that the application submitted on 30 November 2017:

- is in writing;
- contains such information as the form requires (including evidence in support of the amount by which normal value and export prices have changed since the variable factors were last ascertained and information on the causes of the change to normal values and export prices and whether these causes are likely to persist);
- is signed in the manner required by the form;
- was lodged in a manner approved under section 269SMS, being by email to the Commission's nominated email address (as nominated in the Commissioner's instrument made under subsection 269SMS(2));

PUBLIC RECORD

- provides a description of the kind of goods to which the measures the subject of the application relate;
- provides a description of the measures the subject of the application; and
- includes a statement of the opinion of the applicant concerning the variable factors relevant to the taking of the measures that have changed; the amount by which each factor has changed; and the information that establishes that amount.

The Commission is satisfied that the applicant has met the requirements of subsections 269ZB(1) and (2).

3.3 Variable factors

The applicant claims that the variable factors relating to the normal value, export price and amount of countervailable subsidy applicable to the goods exported to Australia from China by SCEA have changed.

If the application is based on a change in variable factors, subsection 269ZB(2)(c) requires that the applicant provide a statement of its opinion regarding:

- the variable factors relevant to the taking of the measures that have changed;
- the amount by which each such factor has changed; and
- information that establishes that amount.

The application included the identification of changes to the variable factors.

3.3.1 Applicant's claims

As required by the form *B602 – Application for a review of measures*, the applicant was required to provide the following information:

- the amount by which that factor is likely to have changed since anti-dumping measures were last imposed, and evidence in support; and
- in the applicant's opinion the cause of the change and whether these causes are likely to persist.

The application refers to pricing data from SCEA, importation data, pricing data from MEPS and an Australian stainless steel supplier as evidence of the changes to the variable factors. The application states the amounts by which the variable factors are likely to have changed since the previous review of measures.

The applicant also relied on its previous applications for duty assessments DA0086 and DA00111 as evidence of its opinion of variable factor changes over the period. This information has been verified for DA0086 and currently being verified for DA00111 and is considered by the Commission to be satisfactory evidence to support the applicant's claims.

The applicant indicated causes of the changes include the following:

- A change to SCEA's FOB export prices over during the period 26 March 2016 to 25 September 2017;

PUBLIC RECORD

- The US price per tonne of 304 SS CRC falling below the Asian price at the end of the December 2015 quarter and for the months of April and May 2016;

Evidence to establish the cause of the decreasing variable factors include the following:

- a letter from SCEA indicating that it has not received subsidies for the goods subject to the measures, and pricing data showing a change in SCEA's prices between November 2014 and September 2017;
- importation data indicating that export prices have changed since the measures were imposed;
- pricing data for the main raw material, 304 SS CRC, published by MEPS, which indicates movements in the European, North American and Asian prices per tonne for the period July 2015 to December 2016; and
- pricing data for 304 SS CRC from an Australian stainless steel supplier indicating the price to be fair market value;

Therefore, the Commission is satisfied that, in respect of the variable factors, the application complies with subsection 269ZB(2)(c).

3.3.2 Non-injurious price

The ascertained non-injurious price in the previous review of measures was determined based on the Australian industry's weighted average cost to make and sell during the review period. The application did not claim a change in this variable factor.

3.4 Assessment of application– compliance with section 269ZC

In determining whether to reject an application under section 269ZC, a further matter that is required to be considered by the Commissioner is whether there appear to be reasonable grounds for asserting that the variable factors relevant to the taking of anti-dumping measures have changed.

The Commission considers that on the basis of the information available there appears to be reasonable grounds for asserting that SCEA's:

- export prices have changed since last ascertained; and
- normal values have changed due to the changes to the 304 SS CRC benchmark prices, which formed the basis of normal values established in the previous review.

Accordingly, there appear to be reasonable grounds for asserting under subparagraph 269ZC(2)(b)(i) that the variable factors relevant to the taking of anti-dumping measures have changed.

Based on this assessment, the Commission recommends that the Commissioner not reject the application pursuant to subsection 269ZC(1) of the Act as it is satisfied of the matters referred to in subsection 269ZC(2).

3.5 Conclusions and Recommendations

The Commission has considered the application made by the applicant in accordance with sections 269ZB and 269ZC of the Act. The Commission is satisfied, on the basis of the information provided in the application that:

- the application complies with section 269ZB; and
- there appear to be reasonable grounds for asserting that the variable factors relevant to the taking of the measures have changed (in respect of the variable factors of normal value, export price and amount of countervailable subsidy applicable to SCEA).

The Commission recommends that the Commissioner:

- not reject the application and initiate a review into the current anti-dumping measures in so far as they relate to exports of the goods to Australia from China by SCEA; and
- set the review period to be 1 October 2016 to 30 September 2017.