



Australian Government
Department of Industry,
Innovation and Science

PUBLIC RECORD

**Anti-Dumping
Commission**

CUSTOMS ACT 1901 - PART XVB

TERMINATION REPORT

REPORT NO. 324

**ACCELERATED REVIEW OF THE DUMPING DUTY NOTICE AND
COUNTERVAILING DUTY NOTICE APPLYING TO**

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

QUEENSWOOD KITCHEN & BATHROOM INDUSTRIAL CO., LTD.

FEBRUARY 2016

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ABBREVIATIONS

ADN	Anti-Dumping Notice
the Act	<i>Customs Act 1901</i>
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 and which are the subject of the application
the Minister	the Minister for Industry, Innovation and Science
Queenswood	Queenswood Kitchen and Bathroom Industrial Co. Ltd
the Parliamentary Secretary	the Assistant Minister for Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science
Review period	1 October 2014 to 30 September 2015
Tasman	Tasman Sinkware Pty Ltd.

1 SUMMARY AND RECOMMENDATION

This *Accelerated Review No. 324* is in response to an application by Queenswood Kitchen & Bathroom Industrial Co., Ltd. (Queenswood) for an accelerated review of the dumping duty and countervailing duty notices applying to certain deep drawn stainless steel sinks exported to Australia from the People's Republic of China (China) in so far as the notices affect Queenswood.

1.1 Recommendation

The Anti-Dumping Commission (the Commission) recommends that the Commissioner of the Anti-Dumping Commission (the Commissioner) be satisfied that Queenswood is refusing to co-operate with an aspect of the accelerated review. Therefore, the Commission recommends that, in accordance with subsection 269ZE(3)(a) of the *Customs Act 1901* (the Act)¹ the Commissioner terminate the accelerated review.

1.2 Legislative background

Division 6 of Part XVB of the Act 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(3) provides that the Commissioner may terminate an accelerated review if during the course of a review, he becomes satisfied that:

- the exporter is refusing to co-operate with any aspect of the review; or
- the exporter is related to an exporter whose exports were examined in relation to the application for publication of that notice.

1.3 Findings and conclusions

The Commission sent an exporter questionnaire to Queenswood requesting information necessary to perform the accelerated review. The Commission actively sought a response from Queenswood with repeated contact attempts. The Commission was eventually advised by the Australian importer assisting Queenswood with its application that Queenswood would not be submitting a response. Accordingly Queenswood has failed to provide the Commission with necessary information relevant to its application for an accelerated review.

The failure to respond to the Commission's repeated requests to Queenswood to provide the Commission with the information necessary to complete an accelerated review amounts to a refusal to cooperate with an aspect of the accelerated review. The Commission recommends that the Commissioner terminate the accelerated review in accordance with subsection 269ZE(3)(a) of the Act.

¹ 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 subject to anti-dumping measures, in the form of dumping duty and countervailing duty notices, 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 (the original 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. (Tasman).

In that investigation, as outlined in *Anti-Dumping Commission Report No. 238*, it was determined that all goods were dumped and all goods except those exported by two of the cooperating exporters were subsidised.

Accordingly, the Commissioner recommended that the then Parliamentary Secretary to the Minister for Industry and Science² (Parliamentary Secretary) impose anti-dumping measures in the form of interim dumping duty (IDD) and interim

² 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.

countervailing duty (ICD) on the goods exported from China. The then Parliamentary Secretary accepted these recommendations and on 26 March 2015 a dumping duty notice and a countervailing duty notice³ were published in respect of certain deep drawn stainless steel sinks exported to Australia from China.

Queenswood's exports of deep drawn stainless steel sinks to Australia are subject to the 'uncooperative and all other exporters' rate of duty, which is an effective rate of combined IDD and ICD of 52.6%.

2.3 Accelerated review process

Subsection 269ZE(1) provides that a 'new exporter' can apply for an accelerated review of a notice, in so far as it affects that exporter, 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' as follows:

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.

Pursuant to subsections 269ZG(1) and (2), the Commissioner must, no later than 100 days after an accelerated review application is lodged, provide the Parliamentary Secretary 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.

Pursuant to subsection 269ZE(3), the Commissioner may terminate an accelerated review if satisfied that the exporter is refusing to co-operate with any aspect of the review or the exporter is related to an exporter whose exports were examined in relation to the application for publication of that notice.

2.4 The current review

On 7 December 2015, Queenswood lodged an application⁴ 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 Queenswood.

³ Anti-Dumping Notice (ADN) No. 2015/41

⁴ The application letter is contained on the public record.

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The Commissioner considered the application made by Queenswood as required by sections 269ZE and 269ZF of the Act.

The Commissioner concluded that:

- the circumstances in which an accelerated review can be sought under subsection 269ZE(1) were satisfied;
- there was no reason to reject the application under subsection 269ZE(2) of the Act; and
- the application satisfied the requirements of subsection 269ZF.

As the circumstances in which an accelerated review can be sought were satisfied, the Commissioner did not reject the application and commenced the accelerated review. *Consideration Report No. 324* provides further details in relation to the Commission's consideration of the application and the decision of the Commissioner. The report is available on the Commission's website at www.adcommission.gov.au.

The commencement of the accelerated review was publicly notified in ADN No. 2015/155, which was published on 23 December 2015.

This ADN advised that the Commissioner's recommendation to the Parliamentary Secretary will be made in a report on or before 16 March 2016. The ADN is available on the Commission's website at www.adcommission.gov.au.

3 GROUNDS FOR TERMINATION

Queenswood was sent an exporter questionnaire seeking information necessary to the accelerated review on 11 December 2015, with a due date of 16 January 2016 to submit its response to the Commission.

The Commission advised Queenswood at the time it forwarded the questionnaire that if Queenswood did not complete the questionnaire and provide the necessary information in order to complete the accelerated review, the Commissioner may determine that Queenswood did not cooperate with an aspect of the accelerated review and the Commissioner may terminate the accelerated review under subsection 269ZE(3).

The Commission did not receive a response from Queenswood and attempted to contact Queenswood to provide assistance with either completing the questionnaire or to discuss the provision of alternate information, including a revised due date. Queenswood did not return contact with the Commission to resolve the matter.

After this point, the Australian importer who assisted Queenswood with its application for accelerated review advised the Commission that Queenswood would not be providing information to the Commission and that Queenswood understood that the accelerated review may be terminated.

The Commission considers that the failure to provide a response to the exporter questionnaire amounts to a refusal to cooperate with an aspect of the accelerated review. Without this information, the Commissioner is unable to ascertain whether the dumping duty notice or countervailing duty notice should be altered so as to apply to the applicant as if different variable factors had been fixed. The Commissioner is therefore satisfied that there are grounds to terminate the accelerated review in accordance with subsection 269ZE(3)(a).

4 EFFECT OF THE TERMINATION

As a result of this termination, Queenswood's exports of deep drawn stainless steel sinks will remain subject to the 'uncooperative and all other exporters' dumping duty and countervailing duty rates in accordance with the dumping duty and countervailing duty notices published on 26 March 2015.⁵

Dumping and countervailing securities were imposed from 7 December 2015 on exports by Queenswood while the accelerated review proceeded. The taking of securities was backdated to the date of Queenswood's application.

In accordance with section 269ZH, exports of deep drawn stainless steel sinks by Queenswood that were imported and entered for home consumption in Australia between 7 December 2015 and the date that the review is terminated were subject to securities. Termination of the accelerated review means that those securities will now be converted to IDD and ICD at the rate applicable to 'uncooperative and all other exporters' of deep drawn stainless steel sinks from China. Future exports of deep drawn stainless steel sinks by Queenswood will also be subject to this rate of duty.

This termination does not affect Queenswood's right to apply for another accelerated review in accordance with sections 269ZE and 269ZF.

⁵ ADN 2015/41.

5 RECOMMENDATION

The Commission recommends that the Commissioner be satisfied that Queenswood is refusing to cooperate with any aspect of this accelerated review, and therefore, in accordance with subsection 269ZE(3)(a), terminate the accelerated review and sign the instrument at **Confidential Attachment 1**.

6 ATTACHMENTS

Confidential Attachment 1

Subsection 269ZE(3)(a) instrument