



ISSUES PAPER 2014/03

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

GOODS AND LIKE GOODS

November 2014

1 PURPOSE

Issues papers afford interested parties the opportunity to comment on significant issues relating to the investigation so that the Anti-Dumping Commission (the Commission) may consider those views before publishing the statement of essential facts. The purpose of this paper is to outline the background, and the Commission's proposed position, in relation to the goods and like goods subject to this investigation and any anti-dumping measures that may be imposed.

In formulating its statement of essential facts, the Commission will take into account interested parties' submissions obtained in the course of the investigation to date, and those made in response to this paper that are received no later than **2 December 2014**. Interested parties should attach relevant evidence to support the views expressed in their submissions, where possible. Non-confidential versions of submissions must also be provided.

Submissions can be provided:

by email to operations2@adcommission.gov.au

by mail to
Director Operations 2
Anti-Dumping Commission
Customs House
5 Constitution Avenue
CANBERRA CITY ACT 2601

or by fax to 02 6275 6990

2 BACKGROUND TO INVESTIGATION

Refer to www.adcommission.gov.au/cases/ADC238.asp

3 GOODS AND LIKE GOODS SUBMISSIONS

3.1 Goods description

In its application, Tasman Sinkware Pty Ltd (Tasman) described the goods subject to this investigation as:

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.

Tasman provided further information to clarify the types of goods covered by this definition:

For the purposes of the definition of the goods, 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 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, 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.

3.2 Background to requests for product exemptions

The Commission has received submissions from interested parties throughout the investigation relating to certain imported products that they claim should not be subject to any anti-dumping measures imposed as part of the Commission's investigation, because either:

- the imported products do not fit the goods description outlined at Section 3.1 above; or
- the Australian industry does not produce goods that are like or directly competitive to the imported products.

The products subject to these requests are detailed at in this paper.

3.2.1 Goods not subject to the goods description

If, at the end of a dumping and/or countervailing investigation, the Parliamentary Secretary issues a dumping duty notice under Section 269TG or a countervailing duty notice under Section 269TJ, this notice(s) is issued in respect of a defined range of imported products, defined by the description of the goods subject to the application (the goods) as described at Section 3.1 of this paper.

Where imported products are considered to not meet the parameters of the goods description, they are not subject to the dumping duty notice or countervailing duty notice, and hence not subject to any associated anti-dumping measures.

A determination as to whether imported products are covered by the goods description is one that must be made by examining the characteristics of the imported product and the parameters of the goods description and assessing whether these parameters are satisfied.

3.2.2 Exemption from measures

As outlined above, in the event that anti-dumping measures are imposed on deep drawn stainless steel sinks exported from China, all imports that conform to the goods description will be subject to the dumping duty and/or countervailing duty notice. However, there is provision for the Parliamentary Secretary to exempt particular goods that fall within the goods description in certain circumstances.

The Parliamentary Secretary has discretion to exempt goods subject to anti-dumping measures from that duty under the *Customs Tariff (Anti-Dumping) Act 1975* (Dumping Duty Act). Sections 8(7) and 10(8) of the Dumping Duty Act provide the grounds under which an exemption can be given. Subsection 8(7) deals with exemptions from dumping duties and subsection 10(8) deals with exemptions from countervailing duties.

There are five grounds on which exemptions from anti-dumping measures may be granted under the Dumping Duty Act. One of these grounds is a finding 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 (Sections 8(7)(a) and 10(8)(a)).

Although the Commission has indicated in this paper whether, on the information currently before it, it is likely or unlikely to recommend to the Parliamentary Secretary that an exemption be granted (see below), the decision to grant an exemption is discretionary and lies with the Parliamentary Secretary.

Applications for exemption are generally made after the imposition of measures; however in this case the Commission is examining certain claims during the course of the investigation. If a recommendation is made to the Parliamentary Secretary at the conclusion of the investigation to impose anti-dumping measures, the Commission is aiming to also recommend to the Parliamentary Secretary at the same time whether any goods should be exempt.

In the event that the Commission has stated in this paper that it is unlikely to recommend that the Parliamentary Secretary grant an exemption, or that it recommends that the Parliamentary Secretary does *not* grant an exemption for a particular subset of the goods, this does not prevent an interested party from submitting a later exemption request. Similarly, where the Commission has indicated in this report that, based on the information before it, it is likely to recommend to the Parliamentary Secretary that an exemption be granted, this may not be the final view of the Commission and does not provide any indication of the Parliamentary Secretary's decision.

3.3 Individually-imported lipped laundry tubs

3.3.1 Submissions received

The Commission has received various submissions from interested parties¹ relating to 'lipped' laundry tubs, which are deep drawn stainless steel laundry tubs characterised by having a 'lip' that allows the tub to be installed on top of a laundry cabinet to make a free-standing laundry unit.

In some cases, these lipped laundry tubs are imported individually and not in conjunction with a laundry cabinet, and in other cases, they are imported with a laundry cabinet (either assembled or unassembled). In the case of lipped laundry tubs being imported individually, the Commission understands these tubs are installed on laundry cabinets that are either made in Australia, or imported from a different origin country or supplier.

The Commission considers that different issues arise depending on whether lipped laundry tubs are imported individually, or alongside the free-standing cabinet, and has examined the issue of free standing laundry cabinets that include a lipped laundry tub separately in this paper at Section 3.4. This section focuses wholly on lipped laundry tubs imported individually.

In the case of these lipped laundry tubs, the Commission has received submissions that claim that these products are not the goods subject to the investigation (and hence should not be subject to any subsequent measures) and that, if these products are considered to be subject to the goods description, that they should be exempted from measures in any case.

The Commission has received submissions from interested parties that:

- these lipped tubs are only able to be used for assembly into free-standing laundry units and may not be installed into bench tops due to the existence of the lip;
- Tasman does not make lipped tubs but rather makes laundry tubs that are designed to be mounted into a bench top;
- Tasman-manufactured laundry tubs cannot be installed on top of a free-standing laundry cabinet to make a laundry unit in the way that lipped tubs can; and

¹ Refer to submissions from Milena Australia dated 4 September 2014, and Everhard Industries dated 26 September 2014.

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- therefore, like or directly competitive goods to lipped laundry tubs are not manufactured in Australia and hence lipped laundry tubs should be exempted from any anti-dumping measures that may result from this investigation.

Tasman has rejected suggestions that imported lipped laundry tubs should be excluded from the investigation because they are not like to the laundry tubs produced by Tasman². Tasman submitted that it does produce like goods to lipped laundry tubs in the form of its own range of 'laundry tub bowls', which are designed to be mounted in fixed bench tops (as opposed to on top of free-standing laundry cabinets).

Tasman submitted that importers that argued that the Australian industry's laundry tubs are not 'like' to the imported lipped tubs and hence lipped tubs should be exempted were attempting to "create sub-categories around the [goods] and force an examination of a sub-industry for the domestic production of that sub-category of goods... in breach of WTO jurisprudence..."

Tasman cited the WTO Disputes Settlement Body panel decisions in relation to *European Communities — Anti-Dumping Measure on Farmed Salmon from Norway* and *European Communities — Definitive Anti-Dumping Measures on Certain Iron or Steel Fasteners from China* as examples of WTO rulings that established precedents which prohibited the sub-categorisation of products within the goods description, for the purposes of exempting sub-categories or products from anti-dumping measures.

Tasman further argued that to be consistent with WTO practice and the definition of like goods included in Part XVB of the *Customs Act 1901*, the Commission in considering this issue should focus on determining whether lipped tubs fit within the goods description rather than comparing this sub-category of products with Tasman's sinks.

Tasman also opposed the argument that lipped tubs should be exempt from any measures because these goods are not produced by the Australian industry. Tasman submitted that while it did not produce goods that fit the specific sub-category of lipped tubs, it did produce laundry tubs that were made through similar manufacturing processes, had similar physical likeness, and are commercially alike (and hence directly competitive with) individually-imported "lipped" laundry tubs.

In addition, Tasman's submission states that it is 'entirely possible for the lipped bowl to be installed with existing cabinetry', indicating that lipped laundry tubs can be installed into fixed bench tops in the same way as Tasman-produced sinks can, making them directly substitutable.

There is no suggestion in Tasman's submissions that its current production of laundry tub bowls can be installed atop free-standing laundry cabinets to make laundry units in the same way as lipped tubs are. However, Tasman further suggested in a submission regarding free-standing laundry units³ (refer to section 3.4 below) that it is 'capable' of producing sinks that are used for assembly with laundry tubs (interpreted by the Commission as Tasman being capable of producing the lipped tub component of a laundry unit).

In addition, one importer (GWA Group Ltd (GWA)) made submissions in relation to free standing laundry units that are imported as 'kits' which include 'lipped' tubs (summarised at

² Tasman's *Response of the Australian Industry to the Submissions of the Importer (Everhard Industries Pty Ltd)*, dated 30 October 2014.

³ Tasman's *Response of the Australian Industry to the Submissions of the Importer (Shriro)*, dated 22 September 2014

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Section 3.4.1 below). The Commission considers that as 'lipped' tubs are included in these laundry units, GWA's submission is relevant to the Commission's consideration in relation to this matter.

3.3.2 Commission's assessment

The Commission considers that individually-imported lipped laundry tubs are covered by the goods description, being deep drawn stainless steel sinks of a certain capacity (up to 70L).

The Commission therefore considers that, in the absence of a Parliamentary Secretary exemption, these products are subject to the investigation, and any anti-dumping measures that may result.

Consequently, the Commission needs to consider whether it may be appropriate to exempt these products from dumping and countervailing duties under Sections 8(7)(a) and 10(8)(a) of the Dumping Duty Act.

The Commission is of the view that it requires more detailed information from interested parties before making a determination as to whether lipped tubs should be exempt from any duties that may be imposed as part of this investigation. The Commission specifically requires detailed information to inform its decision on whether the Australian industry produces goods that are 'like or directly competitive' to imported lipped tubs.

In particular, the Commission considers it would benefit from information relating to:

- whether laundry tub bowls produced by Tasman are directly substitutable for imported lipped tubs by being physically able to be installed on top of laundry cabinets to make free-standing laundry units (and whether any modifications are required to the tubs produced by Tasman to allow for this installation);
- whether imported lipped laundry tubs are directly substitutable for laundry tubs bowls produced by Tasman by being physically able to be installed into a fixed bench top (and whether any modifications are required for this installation);
- if modifications are required to allow for the above substitutability, the extent and viability of these (including commercial considerations);
- in what circumstances the above substitution may occur; and
- whether, when considered as a whole, installed lipped laundry tubs atop of cabinets (i.e. free-standing laundry units) compete with completed installed laundry tub bowls installed in fixed bench tops, and the factors of competition between them.

3.4 Free-standing laundry units that include a lipped laundry tub

3.4.1 Submissions received by the Commission

The Commission has received submissions from various interested parties⁴ that relate to the importation of what has been described as 'free standing laundry units'. The free standing laundry units comprise of:

⁴ Refer to submissions Seima Australia Pty Ltd submission dated 27 August 2014, and Shriro Australia Pty Ltd dated 9 September and 17 October 2014.

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- a free-standing laundry cabinet, often including a door;
- a deep drawn stainless steel laundry tub that is characterised by having a ‘lip’ that allows the tub to be installed on top of the cabinet; and
- additional items that accompany the free standing unit such as water hoses, washing machine hose tap connections, cabinet feet, etc.

The laundry tub component of these imports has been produced through a deep drawing process (i.e. they are not ‘fabricated’ sinks, specifically excluded from the investigation).

These stand-alone laundry units can either be imported ‘flat-packed’ for assembly in Australia, or as a fully assembled unit, ready for sale and installation. In either case, these items are purchased by Australian importers as one ‘unit’, and invoiced as such from the supplier⁵, although those purchased as a flat-pack can be considered to be a laundry unit ‘kit’.

In relation to both of these products (flat packed and fully assembled free standing laundry units), various importing parties have submitted that:

- the imported free standing laundry units are not covered by the scope of the investigation as they cannot be considered to be a ‘deep drawn stainless steel sink’ in line with the description of the goods (see section 3.3); or
- if these goods are included in the goods description, they should nonetheless be exempted from any anti-dumping measures, due to the fact that Tasman does not manufacture or sell similar free-standing laundry units and no products in Tasman’s product range are like or directly competitive to these imported goods.

In response, Tasman submitted⁶ that it considers that these goods should be subject to the investigation and any subsequent anti-dumping measures. Tasman contends that these products are covered by the goods description, which it highlights targets deep drawn stainless steel sinks within a certain size range, whether or not including accessories. Tasman submits that the laundry cabinet and related parts that accompany the lipped laundry tub that sits atop this cabinet are considered ‘accessories’. Tasman claims that these products were specifically considered in formulating the goods description in its application.

Tasman reiterated these views in a later submission and also argued – similarly to the arguments put forward against exemptions for “lipped” tubs – that laundry cabinets were a sub-category of the goods and to exclude these items from the investigation or anti-dumping measures on that basis would be inconsistent with WTO jurisprudence and Australian legislation⁷.

Tasman further submitted that, having determined that these free standing laundry units do fall inside the goods description, they should not be exempted from measures as they are substitutable (and hence directly competitive) with the Australian industry’s range of laundry tubs, including the TI45, TI45S and TI70 products manufactured by Tasman⁸.

In addition, Tasman submits that, in considering this matter, attention should be paid to the fact that the free standing laundry units ‘perform the function of a sink’ in the same way as Australian-manufactured laundry tubs. Tasman submitted that the inclusion of the cabinet and related items do not change the tub component of the laundry units from having the nature of the “seamless stainless steel bowls” covered by the goods description, and that

⁵ The Commission has verified evidence from importing parties that this is the case.

⁶ Tasman’s submission dated 22 September 2014.

⁷ Tasman’s *Response of the Australian Industry to the Submissions of the Importer (Everhard Industries Pty Ltd)*, dated 30 October 2014.

⁸ Tasman’s submissions dated 22 September and 30 October 2014.

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these products have the same end use as the laundry tubs manufactured by Tasman - the “collecting and draining a controlled volume of water in a manner consistent with plumbing standards”.

Tasman also submitted that importing entities could substitute the imported tubs contained in the free standing laundry units (presumably only those that are provided unassembled) with those laundry tubs currently manufactured by Tasman, or with items Tasman is capable of manufacturing.

In support of the Australian industry, GWA submitted that it considers that free standing laundry units exported from China should be considered “the goods” because these items serve the same functional purpose as laundry sinks designed to be mounted into a bench top, and thus if anti-dumping measures were applied end users would likely shift their buying preferences towards bench-mounted sinks⁹. GWA further states that these products are ‘commercially like’ to laundry tubs produced by Tasman as they directly compete in the market, noting that purchasers ‘may be swayed by a significant shift in the price differential between the ‘drop in tub’ and a tub and cabinet’.

These claims were directly disputed by one importer, who argued that its imported laundry units were not functionally like to those produced by Tasman¹⁰. The importer argued that there was no evidence to show that the “primary function” of imported laundry units was to act as a sink¹¹, as the addition of cabinets and a variety of other accessories enabled these units to be used for storage, washing and other functions. The importer also rejected Tasman’s claims that cabinets and other key items required to form laundry units were simply “accessories” to the lipped laundry tub, suggesting these items were “integral elements” of laundry units as they are necessary for the delivery of the units’ storage and washing functions.

3.4.2 Commission’s assessment

The Commission has examined the essential characteristics of imported free standing laundry units and considers that these products do not fall inside the parameters of the goods description, and hence are not subject to this investigation or any anti-dumping measures that may result from the investigation.

This precludes the Commission from having to consider whether the requirements for an exemption under the Dumping Duty Act are satisfied in the case of free standing laundry units, as it does not consider that anti-dumping measures are applicable in any case.

In making this preliminary determination, the Commission has considered the fact that these imported products contain a significant number of additional elements other than a deep drawn stainless steel bowl and ‘accessories’, and they no longer are considered to essentially be a deep drawn stainless steel sink and accessories, but rather are free-standing laundry units that include a deep drawn stainless steel sink, but is not in itself such a sink.

The Commission has also considered GWA’s submission regarding the potential shift in market preference towards importation of laundry units and away from individual sinks, which may result from excluding these items from any anti-dumping measures. The Commission is only mandated to recommend whether measures should be imposed on items that fit the goods description and the Commission has assessed these items do not fit the goods description. It is possible, whenever anti-dumping measures are imposed, that buyers will

⁹ GWA submission dated 3 September 2014.

¹⁰ Shriro Australia submission dated 14 October 2014.

¹¹ The importer defined sink functionality in accordance with the definition provided by Tasman (“collecting and draining a controlled volume of water in a manner consistent with plumbing standards”) in its submission dated 22 September 2014.

switch from importation of semi-finished goods (e.g. sinks) to finished goods (e.g. laundry units) however this is not a consideration at issue for the Commissioner in making a recommendation to the Parliamentary Secretary. GWA's submission is however relevant to the Commission's consideration of whether lipped tubs themselves should be exempt from measures (as discussed in Section 3.3.2).

In determining the above, information gathered from interested parties has shown that, despite Tasman's claims that the term 'accessories' in the goods description is intended to include such items as a laundry cabinet and related items, the term 'accessories' in fact has a widely accepted definition in the industry to mean accessories that are related to food preparation and water supply (e.g. taps) associated with the sink. In some cases the Commission has observed interested parties labelling basket wastes (plugs) and drainage pipes that are routinely provided with the sink as 'accessories', though these are not widely accepted as being 'true' accessories but are merely included in the group of items supplied to customers that are not physically attached to the sink at the time of sale.

'True' accessories include chopping boards, taps, colanders, bowl protectors, utility trays and drainer baskets. These 'accessories' are considered to be covered by the genuine sense of the term 'accessory', being 'a thing which can be added to something else in order to make it more useful, versatile, or attractive'¹². This is distinct from items that are added to another item to make them usable (i.e. without these they would be of no or restricted use), as opposed to making the product more useful as defined above.

In light of the above, the Commission does not consider that a laundry cabinet, which is required to be present to make the lipped tub that sits atop the cabinet functional is an 'accessory' but rather an essential element to enable the product to be functional. In the case of lipped laundry tubs that sit atop laundry cabinets, these products are of no (or very limited) use without these cabinets. The cabinet is the essential item that converts these products from simply a deep drawn stainless steel sink into a laundry unit. The cabinet is more a necessity than an 'accessory'.

In order for imported products to be considered to fall in this category of 'free standing laundry units', the products must, at the time of importation, contain all the components to be considered to be a 'laundry unit' in and of themselves. In the case of products imported fully assembled, this requirement is easily satisfied.

In cases where the cabinet is imported without an accompanying lipped laundry tub, or the lipped laundry tub is imported without an accompanying cabinet for assembly onto a locally-made cabinet, the lipped tub is considered to fall within the parameters of 'individually-imported lipped laundry tubs'.

3.5 Cleaner's sinks and hand wash basins

3.5.1 Submissions received by the Commission

The Commission received submissions by two importers¹³ that deep drawn hand wash basins and cleaner's sinks should be exempted from this investigation, or in fact are not 'the goods' subject to the investigation. These importers suggested that these sinks differ from those produced by Tasman in terms of:

- production differences, with the imported products including a deep drawn bowl but also including welded, bent and hand polished components;

¹² As defined by the Oxford English Dictionary (<http://www.oxforddictionaries.com/>)

¹³ Refer to submissions by Tom Stoddart Pty Ltd dated 5 May 2014, and International Research and Marketing dated 10 September 2014.

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- physical characteristics, by having a “lipped” edge and a fascia / rear splashback, potentially being wall-mounted (with associated brackets being included with the sink) or free-standing (as opposed to installed in bench tops);
- end use, being used in industrial settings such as at medical facilities, commercial kitchens or workshops to clean hands while Tasman’s products are primarily for domestic use in food preparation and laundry applications; and
- commercial distribution, with distribution being through a network of food service equipment distributors and certain specialised plumbing chains while Tasman’s products are sold via domestic customers or to domestic builders.

Despite the Commission requesting Tasman address these claims in a letter to Tasman of 21 August 2014, Tasman has not officially responded to the Commission’s request or the matters raised by interested parties in relation to these imported products.

In a letter dated 29 October 2014, one importer that had previously lodged a submission in relation to hand wash basins and cleaner’s sinks (outlined above), clarified that it was its intention to seek a Tariff Concession Order (TCO) in relation to these imported products and pursue an exemption based on this TCO,¹⁴ rather than an exemption on ‘any broader description or basis’.¹⁵

The Commission is not aware of any such TCO having been granted, and is yet to receive any application by this importer for a TCO-based exemption.

Despite this importer’s clarification of its intention to seek a TCO-based exemption rather than an exemption under Sections 8(7)(a) and 10(8)(a) of the Dumping Duty Act based on the absence of like or directly competitive goods being manufactured in Australia, the Commission considers that it is not precluded from examining the applicability of an exemption under Sections (8)(7)(a) or 10(8)(a) in the absence of this importer’s specific request for such an exemption.

The Commission considers that it is not limited to examining the applicability of any exemption-related section of the Dumping Duty Act to cases where an interested party has specifically applied for or requested this to be considered (though this process may be commenced after the making of a formal application for exemption).

In any case, the Commission notes that another importer has requested that the goods be exempted from measures based on like or directly competitive goods considerations.

3.5.2 Commission’s assessment

The Commission has examined the characteristics of imported stainless steel cleaner’s sinks and hand wash basins and considers that these products are captured by the description of the goods, being deep drawn stainless steel sinks of a certain capacity (regardless of them including additional components).

The Commission therefore considers that, in the absence of a Parliamentary Secretary exemption, these products are subject to the investigation, and any anti-dumping measures that may result.

¹⁴ In accordance with Sections 8(7)(b) and 10(8)(aa) of the Dumping Duty Act.

¹⁵ Submission by Tom Stoddart Pty Ltd.

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Consequently, the applicability of Sections 8(7)(a) and 10(8)(a) of the Dumping Duty Act has been considered in relation to cleaner's sinks and hand wash basins.

The Commission is of the view that it requires more detailed information from interested parties before making a determination as to whether cleaner's sinks and wash basins should be exempt from any duties that may be imposed as part of this investigation. The Commission specifically requires detailed information to inform its decision on whether the Australian industry produces goods that are 'like or directly competitive' to imported cleaner's sinks and wash basins.

The Commission thus requests interested parties submit detailed information in relation to:

- whether there are any functions that are specific to cleaner's sinks and wash basins that are not able to be performed by the sinks produced by the Australian industry, and whether the sinks produced by Tasman can be directly substitutable for these products with or without any product modifications (and if modifications are needed, what sort of financial or operational implications may result);
- whether there are common physical characteristics that may be used to identify cleaner's sinks and/or wash basins, the types of accessories that tend to be sold alongside these sinks (addressing any physical characteristics that are required in the sink to accommodate these accessories); and
- what are the commercial similarities/differences (if any) between cleaner's sinks and hand wash basins and sinks produced by the Australian industry (including distribution channels).

3.6 Tight corner radius sinks

3.6.1 Submissions received by the Commission

The Commission received submissions by interested parties¹⁶ that highlight the importation of what have been referred to as 'tight corner radius sinks'. The Commission has also received a formal request for an exemption under Sections 8(7)(a) and 10(8)(a) of the Dumping Duty Act in relation to tight corner radius sinks.¹⁷

These sinks are produced through a deep drawing manufacturing process but differ from 'traditional' deep drawn stainless steel sinks in that they undertake an additional annealing and second-drawing process that other deep drawn stainless steel sinks do not undergo. The result is a deep drawn stainless steel sink with squarer corners than traditional deep drawn stainless steel sinks, similar to fabricated sinks (excluded from the investigation).

There has been no suggestion that these products should not be considered 'the goods', as they are clearly deep drawn stainless steel sinks. However, interested parties have submitted that these goods should be subject to an exemption from any anti-dumping measures that may result from the investigation as Tasman does not produce like or directly competitive goods to these products.

¹⁶ Refer to submissions from: Abey Australia Pty Ltd dated 30 April 2014; International Research and Marketing dated 26 August 2014; Seima Pty Ltd submission dated 27 August 2014; and Komodo Hong Kong Limited and Guangzhou Komodo Kitchen Technology Co., Ltd, dated 12 September 2014.

¹⁷ Abey Australia Pty Ltd, *Application for exemption from duties*, 13 October 2014.

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Specifically, interested parties have asserted:

- tight corner radius sinks differ from those produced by Tasman in terms of physical characteristics (squarer corners and a resulting increase in water capacity for a similar physically-sized sink);
- these sinks are manufactured through a different production process when compared to those produced by Tasman (specialised moulds and annealing machinery are required to produce these sinks through a two-stage process, with specialised labour overseeing the production process);
- the cost of producing tight corner radius sinks is significantly higher than standard deep drawn stainless steel sinks;
- Tasman does not have the ability to produce tight corner radius sinks;
- even if dumping and/or countervailing duties are applied, Tasman is unlikely to invest in the high cost of extending its manufacturing capability to these types of sinks;
- tight corner radius sinks have a more modern style than traditional deep drawn stainless steel sinks, and this is the consumer preference in recent times;
- these products are more 'like' to fabricated sinks than traditional deep drawn stainless steel sinks in both appearance and practical use (squarer corners and greater capacity);
- these products sit in a different tier in the market to traditional deep drawn stainless steel sinks, with their price being significantly higher than similar characteristic deep drawn stainless steel sinks; and
- tight corner radius sinks do not compete with traditional deep drawn stainless steel sinks, as evidenced by the fact that Tasman itself imports a range of tight corner radius sinks.¹⁸

Tasman has submitted its opposition to the suggestion that tight corner radius deep drawn sinks be excluded from the investigation, because the sinks produced by Tasman closely resemble tight corner radius sinks in terms of end use and (for the most part) manufacturing processes.

3.6.2 Commission's assessment

The Commission has assessed whether Sections 8(7)(a) and 10(8)(a) of the Dumping Duty Act apply to tight corner radius sinks, specifically, whether Tasman produces like or directly competitive goods to tight corner radius sinks.

The Commission considers that Tasman's 'traditional' deep drawn stainless steel sinks are like to imported tight corner radius sinks. Although there are claimed differences in physical, commercial and production likeness between Tasman's products and the imported tight corner radius sinks, there is:

- clear physical likeness, with each being a sink of a deep drawn bowl made from stainless steel, though there may be stylistic differences;
- significant functional likeness between the two (both being used in similar applications, for the same purpose of holding and draining water);
- substantial production likeness, being made from the same materials using a deep drawing process (with additional steps for tight corner radius sinks); and

¹⁸ However, the Commission's examination of Tasman's range and its observations with the company at their premises indicate this is not the case. Although Tasman imports some sinks with a tighter corner radius than its manufactured sinks, these are fabricated sinks that are specifically excluded from the investigation and are a different category of sink than the deep drawn 'tight corner radius' sinks being considered in this paper.

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- commercial likeness, with the goods being sold to similar users for similar purposes, through similar distribution channels. The Commission understands that these sinks are frequently imported by the same entities that import traditional deep drawn stainless steel sinks, and distributed and sold in the same way to common customers of Tasman.

The Commission therefore considers that, in the absence of a Parliamentary Secretary exemption, these products are subject to the investigation, and any anti-dumping measures that may result.

Having assessed that Tasman produces like goods to tight corner radius sinks, the question of whether the goods produced by Tasman are directly competitive to these products has been assessed.

As outlined above, the Commission notes that there is commercial likeness between the imported tight corner radius sinks and Tasman's 'traditional' deep drawn products, with tight corner radius sinks being sold as part of the product range offered by importers that includes traditional deep drawn stainless steel sinks, to similar and common customers of Tasman. However, the Commission does not consider that 'commercial likeness' necessarily directly translates to products being 'directly competitive'.

The Commission understands that, in the stainless steel sink market in Australia there exists a product 'continuum', whereby the full range of stainless steel sinks available to purchase ranges considerably from bottom-tier, inexpensive sinks that are of the standard deep drawn variety, through to top-tier, high-priced sinks that are fully fabricated (not the goods). Between these two extremes, there exists a large variety of sinks, with what can be described as a 'spectrum' consisting of deep drawn and fabricated products, with the deep drawn products including tight corner radius sinks.

The Commission understands that tight corner radius deep drawn stainless steel sinks fit in the continuum between traditional deep drawn stainless steel sinks and fabricated sinks, being:

- more expensive than traditional deep drawn sinks but cheaper than fabricated sinks; and
- more modern in design than deep drawn sinks but less 'square' (and hence less modern) than fabricated sinks.

Tasman's product offering is itself a spectrum of deep drawn stainless steel sinks (domestically produced and imported) and fabricated (imported), but does not include tight corner radius sinks.

The Commission's discussions with Tasman during the verification visit indicated that Tasman considers that its product range offers models that fit into each level of the abovementioned product continuum (i.e. the company did not highlight a 'gap' between its top-level deep drawn stainless steel sinks and its fabricated sinks). This is contrary to the opinions submitted by other interested parties that seem to consider these tight corner radius sinks fit in a separate market category that doesn't compete with Tasman's production.

The Commission's investigations with Tasman and importers of the goods has shown that various factors are present in the mind of the end user when determining what stainless steel sink they should purchase, including:

- price;
- design;

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- functionality;
- available space for the installation of the product; and
- quality.

The Commission understands that considerations such as the above will influence the end user in making decisions not only amongst deep drawn stainless steel sinks themselves, but also between deep drawn stainless steel sinks and fabricated sinks. End users may directly compare these two types of sinks when making their purchasing decision. For example, an end user might be deciding between a top-level deep drawn stainless steel sink and a lower-level fabricated sink, and may be swayed to opt for the deep drawn stainless steel sink though they prefer the design of the fabricated sink, based on it being a lower price than the fabricated sink.

In light of the above, the Commission considers that there is likely to also be 'overlap' between traditional deep drawn stainless steel sinks and tight corner radius sinks. The Commission therefore considers it likely that Tasman's Australian-manufactured deep drawn stainless steel sinks do directly compete with imported tight corner radius sinks, and hence the provisions for an exemption from anti-dumping measures under Sections 8(7)(a) and 10(8)(a) of the Dumping Duty Act are not satisfied.