

IN THE AUSTRALIAN ANTI-DUMPING COMMISSION

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

The Goods

TASMAN SINKWARE PTY LTD

Australian industry

**ZHONGSHAN JIABAOLU KITCHEN AND BATHROOM PRODUCTS CO LTD,
FLOWTECH CO LTD and ZHONGSHAN FLOWTECH CO LTD**

The Exporters

**RESPONSE OF THE AUSTRALIAN INDUSTRY TO THE EXPORTERS' SUBMISSION NO. 096
TO THE STATEMENT OF ESSENTIAL FACTS NO. 238**

Date of Document: 19 January 2015

Lodged on behalf of: The Australian industry

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This submission is made on behalf of the Australian industry producing certain deep drawn stainless steel sinks in Australia, specifically the applicant to *Dumping and Countervailing Investigation ADC 238*, Tasman Sinkware Pty Ltd.

The Australian Industry makes this submission in response to the Exporters' submission no. 096 to the Statement of Essential Facts No. 238 (**SEF**). References to paragraphs follow the paragraph numbering in the Exporter Submission.

7. PRICE UNDERTAKING

ZHONGSHAN JIABAOLU KITCHEN AND BATHROOM PRODUCTS CO LTD (the Exporter) is seeking to negotiate a price undertaking with the Commission, the Australian industry objects to the implementation of price undertaking on the following basis.

- The Exporter is subject to an exclusive supply agreement with a sole Australian customer. The Exporter has promoted this relationship in their submission to the SEF as being beneficial to support monitoring by the Australian Customs and Border Protection Service (**Customs & BP**). The Australian industry believes that the exclusivity of this trading relationship, together with the absence of any other arms length transactions against which the terms of sale may be compared or tested, makes the Exporter particularly susceptible to circumvention behaviours. This risk outweighs the benefits proposed by the Exporter and their assertions that this would not be the case. Indeed, the Commission would be acting consistently between interested parties to refuse to recommend the acceptance of this price undertaking, as these were the circumstances that precluded the Commission from recommending the price undertakings sought by Komodo, Xintian and the affiliated Guangzhou Komodo Kitchen Technology Co Ltd (refer SEF at [12.3]).
- The Exporter states that the limited portfolio of models would reduce any monitoring burden. The Australian industry submits that while this may be the case at the point of entering into a price undertaking that this situation may change into the future when the Exporter may elect to expand its product range. Therefore, the monitoring burden would not be reduced as Customs & BP would still need to apply the same level of monitoring and diligence to ensure product range integrity had been maintained over time.
- The Exporter noted the termination of the subsidy investigation in relation to their exports. Under a price undertaking this does not negate the ability to partake in or apply for subsidy programs at any future date so to apply this as justification for a price undertaking may again be relevant at the time of application but not apply during the term of the undertaking being applied.
- As noted in the SEF (at [12.3]), the Commission has observed the cyclical nature of the pricing of stainless steel. While the Exporter notes their review mechanism in place to account for these movements such a fluctuation in price undertaking would require a constant review mechanism to validate both a non-injurious price and the Exporter's proposed undertaking price. Such a mechanism is not viable on an ongoing basis due to the fluctuating nature of the market driven pricing for the key raw material in stainless steel. It is also noted by the Commission in the SEF (at [12.3]) that duty rates applied as a percentage have been deliberately selected to circumvent these movements in the key variable of stainless steel pricing – this is a view supported by the Australian industry.

DATED 19 January 2015

SIGNED:

Tasman Sinkware Pty Ltd.....
for the Australian industry