



CUSTOMS ACT 1901 - PART XVB

**TERMINATION OF PART OF AN
INVESTIGATION
NO.238**

**ALLEGED DUMPING AND SUBSIDISATION OF DEEP
DRAWN STAINLESS STEEL SINKS**

**EXPORTED FROM THE PEOPLE'S REPUBLIC OF
CHINA**

19 February 2014

TER 238 Deep drawn stainless steel sinks – China

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ABBREVIATIONS

ACBPS	Australian Customs and Border Protection Service
the Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
the Commission	Anti-Dumping Commission
the Commissioner	Commissioner, Anti-Dumping Commission
the companies	Zhongshan Jiabaolu Kitchen & Bathroom Products Co., Ltd and Primy Corporation Limited
GOC	Government of China
the goods	the goods the subject of the application (also referred to as the goods under consideration or GUC)
Jiabaolu	Zhongshan Jiabaolu Kitchen & Bathroom Products Co., Ltd
the Minister	the Minister for Industry and Science
PAD	Preliminary Affirmative Determination
Parliamentary Secretary	Parliamentary Secretary to the Minister for Industry and Science
Primy	Primy Corporation Limited
SEF	Statement of Essential Facts
Tasman	Tasman Sinkware Pty Ltd
Zhuhai Grand	Zhuhai Grand Kitchenware Co., Ltd

1 SUMMARY AND RECOMMENDATIONS

1.1 Introduction

Investigation 238 is in response to an application lodged by Tasman Sinkware Pty Ltd (Tasman) in relation to the allegation that dumped and subsidised deep drawn stainless steel sinks (the goods) exported to Australia from the People's Republic of China (China) have caused material injury to the Australian industry producing like goods. A full description of the goods the subject of the application is set out in chapter 3 of this report.

This termination report sets out the facts and findings on which the Commissioner of the Anti-Dumping Commission (Commissioner) based his decisions to terminate part of the investigation.

The subsidy investigations in relation to all other exporters from China will continue.

1.2 Findings

As a result of the Anti-Dumping Commission's (the Commission's) investigations the Commissioner is satisfied that the countervailable subsidisation margin in relation to exports by Zhongshan Jiabaolu Kitchen & Bathroom Products Co. Ltd (Jiabaolu) and Primy Corporation Limited (Primy) is negligible.

On 19 February 2015, in accordance with s. 269TDA(2) of the *Customs Act 1901*¹ (the Act) the Commissioner decided to terminate the subsidy investigation so far as it related to Jiabaolu and Primy on the basis of finding that subsidy margins were negligible.

A notice regarding the terminations was published in *The Australian* newspaper on 19 February 2015. Anti-Dumping Notice (ADN) 2015/16 also relates to the termination.

1.3 Application of law to facts

1.3.1 Authority to make decision

Division 2 of Part XVB of the Act sets out, among other matters, the procedures to be followed and the matters to be considered by the Commissioner in conducting investigations in relation to the goods covered by an application for the publication of a dumping and/or countervailing duty notice.

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.

1.3.2 Application and initiation

On 31 January 2014, Tasman lodged an application requesting that the Parliamentary Secretary publish a dumping duty notice and countervailing duty notice in respect of deep drawn stainless steel sinks exported to Australia from China.

The Commissioner decided not to reject the application, and notice of the initiation of this investigation was published on 18 March 2014.²

1.3.3 Preliminary Affirmative Determination

On 13 August 2014, the Commissioner, after having regard to the application and submissions, was satisfied that there were sufficient grounds for the publication of a dumping duty notice in respect of deep drawn stainless steel sinks exported to Australia from China, and made a preliminary affirmative determination (PAD)³ to that effect. The PAD did not make preliminary findings in relation to the request for the publication of a countervailing duty notice.

1.3.4 Statement of essential facts

On 23 December 2014, the Anti-Dumping Commission (the Commission) placed its *Statement of Essential Facts No 238* (SEF 238) on the Public Record, on which the Commissioner proposed to base his recommendations to the Parliamentary Secretary concerning the requested publication of a dumping duty notice and a countervailing duty notice in this investigation.

1.3.5 Report 238

Within 155 days after the initiation of an investigation, or such longer period as the Parliamentary Secretary allows⁴, the Commissioner must give the Parliamentary Secretary a final report in respect of the goods the subject of the application (this report).

Following extensions granted by the Parliamentary Secretary to the due date for the Statement of Essential Facts to be placed on the Public Record, the final report in relation to the subsidy investigation was due to the Parliamentary Secretary on or by 19 February 2015.

The final report was provided to the Parliamentary Secretary on that date.

² Section 269TC(4)

³ Section 269TD

⁴ If the date by which the SEF must be placed on the Public Record is extended, this extends the date by which the final report is due to the Parliamentary Secretary by a corresponding period – Section 269TC(4)(bf).

2 BACKGROUND

2.1 Initiation

On 31 January 2014, Tasman lodged an application under Section 269TB of the Act for the publication of a dumping and countervailing duty notice in respect of certain deep drawn stainless steel sinks (the goods) exported to Australia from China.

After examining the application, the Commissioner was satisfied that:

- there is an Australian industry in respect of like goods; and
- there appears to be reasonable grounds for the publication of a dumping duty notice and a countervailing duty notice in respect of goods the subject of the application, or for the publication of such notices upon the importation into Australia of such goods.⁵

The Commissioner decided not to reject the application, and on 18 March 2014 initiated an investigation into the goods. This included an investigation into the following eight potential countervailable subsidy programs alleged by Tasman in its application:

Number	Title	Category
Program 1	Raw Materials Provided by the Government at Less than Fair Market Value	Raw materials
Program 2	Research & Development (R&D) Assistance Grant	Grant
Program 3	Grants for Export Activities	Grant
Program 4	Allowance to pay loan interest	Grant
Program 5	International Market Fund for Export Companies	Grant
Program 6	International Market Fund for Small and Medium-sized Export Companies	Grant
Program 7	Reduced tax rate for productive foreign-invested enterprises (FIEs) scheduled to operate for a period not less than 10 years	Taxation
Program 8	Tax preference available to companies that operate at a small profit	Taxation

Table 1 – subsidy programs initially investigated

On the day of initiation of the investigation, the Commission published a notice in *The Australian* notifying of the initiation of this investigation, and released ADN 2014/20 (accessible at www.adcommission.gov.au) which contains further details on the investigation.

The investigation period, used to determine whether dumping and subsidisation has occurred, is from 1 January to 31 December 2013. The Commission is examining the Australian market and the economic condition of the industry from 1 January 2009 for the purposes of injury analysis.

⁵ Subsection 269TC(1)

2.2 Preliminary Affirmative Determination and securities

On 13 August 2014, the Commissioner was satisfied that there were sufficient grounds for the publication of a dumping duty notice in respect of certain deep drawn stainless steel sinks exported to Australia from China, and made a preliminary affirmative determination (PAD)⁶ to that effect.

The reasons for the Commissioner's decision to issue a PAD are contained in *Preliminary Affirmative Determination Report 238* (PAD 238), available on the Commissions public record.

When making his PAD, the Commissioner decided to require and take securities⁷ in respect of any interim dumping duty that may become payable in respect of the goods from China that were entered into home consumption on or after 13 August 2014.

Following the imposition of securities on 13 August 2014, the Commission's further investigations resulted in revisions to the dumping margins calculated for all exporters of the goods from China, at various stages of the investigation.

Following these revised assessments, the Commissioner decided that it was necessary to vary the rate of securities to ensure securities collected were at the most appropriate level as determined at that stage of the investigation.

The level of securities taken was thus adjusted on:

- 24 October 2014; and
- 23 December 2014.

No PAD has been made in relation to the allegations of countervailable subsidisation.

2.3 Statement of essential facts

On 23 December 2014, the Commission placed its *Statement of Essential Facts No 238* (SEF 238) for the investigation on the Public Record.

SEF 238 outlined the facts the Commissioner proposed to use as a basis for his recommendations to the Parliamentary Secretary to the Minister for Industry and Science (the Parliamentary Secretary) concerning the publication of a dumping duty notice and a countervailing duty notice in this investigation.

SEF 238 lists the 24 subsidy programs examined as part of this investigation, and should be read in conjunction with this report.

SEF 238 found that:

⁶ section 269TD

⁷ Section 42

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- deep drawn stainless steel sinks exported to Australia from China by Zhuhai Grand Kitchenware Co Ltd (Zhuhai Grand), 'residual' exporters and 'non-cooperative' exporter had been in receipt of countervailable subsidies of two per cent or more; and
- deep drawn stainless steel sinks exported to Australia from China by two exporters – Jiabaolu and Primy – had been in receipt of countervailable subsidies, but the subsidy margin was not more than two per cent.

In light of the above, SEF 238 proposed that the Commission would terminate the countervailing investigation into Jiabaolu and Primy.

For more detailed information regarding the Commission's countervailing findings in relation to Jiabaolu and Primy, and all other exporters, refer to SEF 238 accessible via the Commission's public record (<http://www.adcommission.gov.au>).

Interested parties were invited to lodge responses to SEF 238 by no later than 12 January 2015.

2.4 Report 238

Within 155 days after the initiation of an investigation, or such longer period as the Minister allows,⁸ the Commissioner must give the Minister a final report in respect of the goods the subject of the application.

The report is due to be provided to the Minister on or by 19 February 2015.

The report will include the Commission's findings in relation to the countervailing investigation for all Chinese exporters of the goods, including Primy and Jiabaolu.

2.5 Relevant Legislation

Subsection 269TDA(2) of the Act provides:

If:

*(a) application is made for a countervailing duty notice; and
(b) in an investigation, for the purposes of the application, of an exporter to Australia of goods the subject of the application, the Commissioner is satisfied that:*

- (i) no countervailable subsidy has been received in respect of any of those goods; or*
- (ii) a countervailable subsidy has been received in respect of some or all of those goods but it never, at any time after the start of the*

⁸ If the date by which the SEF must be placed on the Public Record is extended, this extends the date by which the final report is due to the Minister by a corresponding period – s269TC(4)(bf).

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investigation period, exceeded the negligible level of countervailable subsidy under subsection (16);

the Commissioner must terminate the investigation so far as it relates to the exporter.

2.5.1 Matters considered in this report

In making the decision to terminate part of the investigation, the Commissioner has had regard to:

- the application;
- any submissions concerning publication of the notice to which the delegate of the Commissioner has had regard for the purpose of formulating SEF 238;
- SEF 238 itself;
- any submission in response to SEF 238 received by the Commission within 20 days after the day that statement was placed on the Public Record; and
- any other matters considered relevant.⁹

⁹ Section 269TEA(3)

3 THE GOODS UNDER CONSIDERATION

The goods the subject of the application (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 finish, gauge, or grade of stainless steel and whether or not including accessories.

Additional product information

The application contains the following further information in relation to the goods the subject of the application.

For the purposes of this definition, 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 have 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.

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

The rate of Customs duty payable is 5 per cent.

4 SUBSIDY INVESTIGATION IN RESPECT OF JIABAOLU'S AND PRIMY'S EXPORTS TO AUSTRALIA

4.1 Findings

Having regard to all relevant information, the Commission considers that:

- during the investigation period Jiabaolu and Primy received financial contributions under countervailable subsidy programs in respect of deep drawn sinks exported to Australia; but
- the overall subsidy margin attributable to the goods exported by Jiabaolu and Primy is considered to be negligible, as it is less than 2 per cent.¹⁰

4.2 Relevant legislation

Section 269T of the Act defines a 'subsidy' as follows:

"subsidy", in respect of goods exported to Australia, means:

(a) a financial contribution:

(i) by a government of the country of export or country of origin of the goods; or

(ii) by a public body of that country or a public body of which that government is a member; or

(iii) by a private body entrusted or directed by that government or public body to carry out a governmental function;

that involves:

(iv) a direct transfer of funds from that government or body; or

(v) the acceptance of liabilities, whether actual or potential, by that government or body; or

(vi) the forgoing, or non-collection, of revenue (other than an allowable exemption or remission) due to that government or body; or

(vii) the provision by that government or body of goods or services otherwise than in the course of providing normal infrastructure; or

(viii) the purchase by that government or body of goods or services; or

¹⁰ Subsection 269TDA(16).

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(b) any form of income or price support as referred to in Article XVI of the General Agreement on Tariffs and Trade 1994 that is received from such a government or body;

if that financial contribution or income or price support confers a benefit (whether directly or indirectly) in relation to the goods exported to Australia.

This reflects Article 1.1 of the *WTO Agreement on Subsidies and Countervailing Measures*.

Section 269TAAC defines a countervailable subsidy as follows:

(1) For the purposes of this Part, a subsidy is a countervailable subsidy if it is specific.

(2) Without limiting the generality of the circumstances in which a subsidy is specific, a subsidy is specific:

- (a) if, subject to subsection (3), access to the subsidy is explicitly limited to particular enterprises; or*
- (b) if, subject to subsection (3), access is limited to particular enterprises carrying on business within a designated geographical region that is within the jurisdiction of the subsidising authority; or*
- (c) if the subsidy is contingent, in fact or in law, and whether solely or as one of several conditions, on export performance; or*
- (d) if the subsidy is contingent, whether solely or as one of several conditions, on the use of domestically produced or manufactured goods in preference to imported goods.*

(3) Subject to subsection (4), a subsidy is not specific if access to the subsidy:

- (a) is established by objective criteria or conditions set out in primary or subordinate legislation or other official documents that are capable of verification; and*
- (b) those criteria or conditions do not favour particular enterprises over others and are economic in nature; and*
- (c) those criteria or conditions are strictly adhered to in the administration of the subsidy.*

(4) Despite the fact that access to a subsidy is established by objective criteria, the Minister may, having regard to:

- (a) the fact that the subsidy program benefits a limited number of particular enterprises; or*
- (b) the fact that the subsidy program predominantly benefits particular enterprises; or*
- (c) the fact that particular enterprises have access to disproportionately large amounts of the subsidy; or*
- (d) the manner in which a discretion to grant access to the subsidy has been exercised;*

determine that the subsidy is specific.

Sections 269TACC and TACD of the Act directs how it is to be determined whether benefits have been conferred by a subsidy and the amount of this benefit.

4.3 Background

4.3.1 Volume of exporters

Prior to initiation of this investigation, a search of the Australian Customs and Border Protection Service (ACBPS) import database identified approximately 230 Chinese suppliers of the goods during the investigation period.

4.3.2 Exporter questionnaires

On or shortly after the date of initiation, the Commission contacted each identified supplier of the goods and invited them to complete an *Exporter Questionnaire*, which requested necessary information to determine whether the goods from China were exported at dumped and/or subsidised prices.

The *Exporter Questionnaire* sought information regarding the exporters' commercial operations and the goods exported to Australia, as well as information regarding the exporters' foreign and domestic sales, relevant costing information, receipt of subsidies and information relevant to the assessment of whether a market situation exists in the Chinese deep drawn stainless steel sinks market.

After notifying suppliers of the opportunity to cooperate with the investigation through completion of the *Exporter Questionnaire*, the Commission received 17 responses to that questionnaire.

Jiabaolu and Primy both submitted completed responses to the *Exporter Questionnaire* to the Commission, which contained the information required by that questionnaire.

4.3.3 Government Questionnaire

At the time of initiating the investigation, the Commission contacted the Government of China (GOC) to notify them of the investigation.

As the investigation involved considerations of:

- the existence of a market situation in the Chinese deep drawn stainless steel sinks market (relevant to the dumping investigation); and
- receipt of countervailable subsidies by Chinese exporters of the goods

the Commission forwarded the GOC a *Government Questionnaire* with questions relevant to assessing these matters.

A response to the *Government Questionnaire* was received from the GOC on 19 May 2014.

However, this response was limited and incomplete. In particular, Section B (which asked the GOC for information pertinent to addressing allegations of market situation) was not addressed fully by the GOC. The GOC did provide a more detailed, though not complete,¹¹ response to Part C of the *Government Questionnaire*, which asked questions of the GOC directly related to the receipt of countervailable subsidies by Chinese exporters of the goods.

4.3.4 Categorisation of exporters - sampling

As provided by Section 269TACAA, following receipt of the 17 completed *Exporter Questionnaires*, the Commissioner determined that it was appropriate to limit the number of exporters individually examined as part of the investigation to a sample of three cooperative exporters, as it was considered not practicable to examine the exports of all responding exporters.

The percentage of the export volume to Australia represented by these three exporters is around 40%.

Jiabaolu and Primy were amongst the three exporters selected by the commission.

Detailed information about the exporter sampling process used for this investigation is included in the investigation's *Sampling Report* on the Commission's Public Record.

4.3.5 Exporter verification and identification of new programs

Following initial assessments of Jiabaolu and Primy's responses to the *Exporter Questionnaire*, the Commission undertook verification visits to Jiabaolu and Primy in July 2014, to verify the data these exporters submitted in their *Exporter Questionnaire*, and to identify and verify any other information relevant to this investigation. These verifications involved:

- gathering and verifying information to verify receipt and benefit under any of the eight subsidy programs that investigations were initiated into following the allegations made in Tasman's application (which were specifically addressed in the *Exporter Questionnaire*); and
- examining each company's management and financial accounts to determine whether any other subsidies were received by each exporter.

Verification Visit Reports for each of the exporters are available on the Public Record.

Primy's *Verification Visit Report* found that the company:

¹¹ Failing to provide certain information and data requested in the *Government Questionnaire*.

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- did not receive any benefits under the eight subsidy programs that the Commission had initiated investigations in to; but
- had received benefits under seven other subsidy programs during the investigation period.

Jiabaolu's *Verification Visit Report* found that the company:

- did not receive any benefits under the eight subsidy programs that the Commission had initiated investigations in to; but
- had received benefits under four additional programs during the investigation period.

In addition to these additional programs declared by Primy and Jiabaolu, the Commission gathered information from the selected exporters that suggested that a further seven programs may have been available to Chinese exporters of the goods during the investigation period.

4.3.6 Supplementary Government Questionnaire

Following an assessment of this new information, the Commission considered that the information available established reasonable grounds for the publication of a countervailing duty notice for these programs. The Commission therefore considered that it should commence investigations into these new programs.

To assess these programs further, the Commission sent the GOC the *Supplementary Government Questionnaire* and an addendum (adding a program omitted from the *Supplementary Government Questionnaire* inadvertently) to ask for information and documentation in relation to these new potential programs.

The GOC provided a response to the *Supplementary Government Questionnaire* on 19 September 2014. In its response, the GOC objected to the Commission's "initiation" of investigations into the 16 alleged new subsidy programs, stating the GOC's belief that, in initiating these investigations, the Commission has violated the *Agreement on Subsidies and Countervailing Measures*.

The *Supplementary Government Questionnaire* was accompanied by a submission from the GOC (dated 19 September 2014) that further elucidated the GOC's points on this matter.

The Commission does not consider that its actions in investigating 16 new subsidy programs during the investigation were either inconsistent with the *Agreement on Subsidies and Countervailing Measures* or in breach of the requirements of that agreement and the Act itself.

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Section 269TC(10) of the Act allows for the Commissioner to investigate alleged subsidy programs in the manner undertaken by the Commission. Detailed assessment of this is contained in SEF 238 at Section 7.3.

The new programs included in the *Supplementary Government Questionnaire*, and added to the Commission's subsidy investigation are as follows:

Number	Title	Category
Program 9	Award to top ten tax payer	Grant
Program 10	Assistance to take part in overseas trade fairs	Grant
Program 11	Grant for management certification	Grant
Program 12	Grant for certification of product patents	Grant
Program 13	Grant for inventions, utility models and designs	Grant
Program 14	Grant for international marketing	Grant
Program 15	Subsidy to electronic commerce	Grant
Program 16	Grant for overseas advertising and trademark registration	Grant
Program 17	Grant for overseas marketing or study	Grant
Program 18	Gaolan Port Subsidy	Grant
Program 19	Information development subsidy	Grant
Program 20	Foreign Trade Exhibition Activity Fund	Grant
Program 21	Zhuhai Technology Reform & Renovation Fund	Grant
Program 22	Zhuhai Support the Strong Enterprise Interests Subsidy	Grant
Program 23	Zhuhai Research & Development Assistance Fund	Grant
Program 24	Preferential Tax Policies for High and New Technology Enterprises	Income Tax

Table 2 – new programs identified with selected exporters

4.3.7 SEF 238 findings

SEF 238 found that:

- 23 of the 24 investigated subsidy programs are countervailable subsidies in respect of deep drawn stainless steel sinks exported from China;
- Program 7 - Reduced tax rate for productive foreign-invested enterprises (FIEs) scheduled to operate for a period not less than 10 years, was found to not be a countervailable subsidy program in respect of the goods (not being in operation during the investigation period); and
- during the investigation period, all three selected exporters had received financial contributions under a number of these countervailable subsidy programs that conferred benefits to the goods exported by those companies.

After taking a sampling approach to calculating dumping and subsidy margins, the Commission used these positive findings to also find in SEF 238 that all residual and uncooperative (and all other) exporters of the goods received benefits under countervailable subsidies during the investigation period.

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For both Jiabaolu and Primy, the overall attributable subsidy margin for exports of the goods was found in SEF 238 to be negligible, as it was calculated to be less than 2 per cent.¹²

SEF 238 proposed that the Commission would terminate the investigation into the alleged subsidisation of exports of the goods to Australia from China by Jiabaolu and Primy, in accordance with Section 269TDA(2).

4.3.8 Submissions in response to SEF 238

Interested parties were invited to lodge responses to SEF 238 by no later than 12 January 2015.

The Commission did not receive any submissions in response to its proposal to terminate the countervailing investigation, so far as it relates to exports Jiabaolu and Primy.

The Commission received a submission in response to SEF238 that related to the calculation of benefit under Program 1, and whether that program represents a countervailable subsidy. However, the Commission has found that this program was not received by Primy or Jiabaolu, and hence this submission is irrelevant to the considerations relating to those exporters.

4.4 Final subsidy findings

Following SEF 238 and the lapsing of the period of time for submission in response to SEF 238 to be made, the Commission has made its final findings in relation to the subsidy investigation into exports of the goods by Jiabaolu and Primy. The details of these findings are outlined below.

4.4.1 Programs received

Jiabaolu submitted in its exporter questionnaire that it received benefits under the following programs:

Number	Title
Program 9	Award to top ten tax payer
Program 10	Assistance to take part in overseas trade fairs
Program 12	Grant for certification of product patents
Program 15	Subsidy to electronic commerce

Table 3 – programs received by Jiabaolu

This receipt was confirmed at the company's verification visit. No evidence was found that Jiabaolu received any programs other than those listed above.

Primy submitted in its exporter questionnaire and at the exporter verification visit that it received benefits under seven subsidy programs. No evidence was

¹² Subsection 269TDA(16)

found that Jiabaolu received any other programs than the seven identified by the company.

Primy has specified that it views information pertaining to the names and value of benefits received under those programs as confidential, hence they are not listed in this report but are summarised in **Confidential Appendix 1**.

4.4.2 Are the programs subsidies in accordance with Section 269T?

The Commission has determined that all programs received by Jiabaolu and Primy, excluding Program 12, are subsidies in respect of the goods exported to Australia by those parties.

In relation to Program 12, Jiabaolu submitted to the Commission that the benefits of this program were not applicable to the goods exported to Australia, because the program relates to product patents, and all goods sold to Australia are designed in conjunction with the Australian customer and hence cannot be patented by Jiabaolu. For this reason, the Commission considers that Program 12 is not a subsidy in respect of the goods exported by Jiabaolu.¹³

The details of this assessment are included in **Confidential Appendix 1** to this report.

4.4.3 Are the programs countervailable subsidies (Section 269TAAC)?

The Commission has determined that all of the subsidy programs received by Jiabaolu and Primy are countervailable subsidies.

The analysis undertaken by the Commission pertaining to the countervailability of the subsidy programs received by Jiabaolu and Primy is included in **Confidential Appendix 1**.¹⁴

SEF 238 contains the Commission's detailed analysis in relation to the countervailability of all 24 subsidy programs examined as part of the investigation into deep drawn stainless steel sinks.¹⁵

4.4.4 Benefit and subsidy margin calculations

The financial contribution received (including taxation foregone) under each applicable subsidy program received by Jiabaolu and Primy is determined to be the amount of the benefit received under that program.

In accordance with subsection 269TACD(2), the amount of subsidy received

¹³ However, the Commission found in SEF 238 that Program 12 did constitute a subsidy

¹⁴ This information has been included in a confidential appendix to ensure that the details of subsidy programs received by Primy remain confidential.

¹⁵ Although SEF 238 contained preliminary findings, the Commissioner has considered the subsidy analysis in SEF 238 along with submissions received following the release of SEF 238, and determined its findings remain current for the purposes of this termination report.

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in respect of deep drawn stainless steel sinks has been apportioned to each unit of the goods using the total applicable sales volume¹⁶ relevant to that benefit.

This per unit amount was then calculated as a proportion of that exporter's weighted average export price, to determine a subsidisation rate (percentage).

Using the method detailed above, the Commission determined that the overall subsidy margin attributable to the goods exported by Jiabaolu and Primy is considered to be negligible, as it is less than 2 per cent.¹⁷

Further details of how subsidisation was calculated under each program is contained in **Confidential Appendix 1**.

Calculation of the companies' subsidy margins is contained in **Confidential Appendix 2**.

¹⁶ In some cases, only export volume was used, while in other whole company volume, depending on the nature of the program.

¹⁷ Subsection 269TDA(16).

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