



ANTI-DUMPING NOTICE NO. 2024/048

Customs Act 1901 – Part XVB

DEEP DRAWN STAINLESS STEEL SINKS

EXPORTED TO AUSTRALIA

FROM THE PEOPLE'S REPUBLIC OF CHINA

Application of sampling provisions for Continuation Inquiry 646 and Review 652

Section 269TACAA of the Customs Act 1901 – Part XVB

On 6 May 2024, I, Isolde Lueckenhausen, Acting Commissioner¹ of the Anti-Dumping Commission (**Commissioner**), initiated an inquiry (**CON 646**) into whether to continue anti-dumping measures applying to deep drawn stainless steel sinks (**the goods**) exported to Australia from the People's Republic of China (**China**).

On 25 June 2024, I also initiated a review into whether the variable factors relevant to the taking of the anti-dumping measures as they affect exporters of the goods from China generally should be varied and/or revoked (**REV 652**).

CON 646 and REV 652 will examine exports to Australia in the same period.

Anti-dumping Notice (**ADN**) No 2024/028 provides the particulars on the initiation of CON 646. ADN No 2024/039 provides the particulars on the initiation of REV 652. Both notices are available on the commission's website.²

1. Background

Section 269TACAA(1) of the *Customs Act 1901*³ states that where the number of exporters from a particular country of export in relation to an investigation, review or inquiry is so large that it is not practicable to examine the exports of all of those exporters, then the investigation, review or inquiry may be carried

¹ References in this document to individuals holding positions within the Anti-Dumping Commission (**commission**) are references to whoever occupies the position at the time. This includes when the position is held in an acting capacity.

² www.adcommission.gov.au

³ All references to legislation are to the *Customs Act 1901* unless stated otherwise.

out, and findings may be made, on the basis of information obtained from an examination of a selected number of those exporters who:

- constitute a statistically valid sample of those exporters or
- are responsible for the largest volume of exports to Australia that can reasonably be examined.

Section 269TACAA(2) states if information is submitted by an exporter that is not named as a selected exporter, the investigation, review or inquiry must extend to that exporter unless to do so would prevent the timely completion of the investigation, review or inquiry.

CON 646

In initiating CON 646, I noted there are many suppliers of the goods from China listed in the Australian Border Force (**ABF**) database during the inquiry period. Given the large number of exporters, it is not practicable to examine the exports of all Chinese exporters of the goods.

In ADN No 2024/028 I stated I would carry out the inquiry based on information obtained from an examination of a selected number of exporters who are responsible for the largest volume of exports to Australia that can reasonably be examined. All exporters from China were encouraged to participate in the inquiry process.

I stated that I intended to select the following exporters for examination (**selected exporters**):

- Primy Corporation Limited (**Primy**)
- Rhine Sinkwares Manufacturing Ltd. (**Rhine**)
- Zhuhai Grand Kitchenware Co. Ltd. (**Zhuhai Grand**).

According to the ABF database, the selected exporters represent more than 60% of the volume of the goods (measured by statistical quantity reported in units) exported to Australia from China during the inquiry period.

For those exporters of the goods from China, other than the selected exporters named above, the commission requested they provide a basic level of information, via an information request and associated spreadsheets.

ADN No 2024/028 stated that by completing the information request, exporters of the goods (other than selected exporters) will be regarded as 'residual exporters' for the purposes of this inquiry if their exports are not examined as part of the inquiry and they are not an uncooperative exporter or non-cooperative entity in relation to the inquiry.

ADN No 2024/028 further stated that in making assessments in relation to the variable factors for residual exporters, the commission will not calculate:

- export prices that are less than the weighted average of export prices for cooperative exporters and
- normal values that exceed the weighted average of normal values for cooperative exporters.

The commission will determine subsidy margins for the residual exporters having regard to countervailable subsidies received by the selected exporters.

REV 652

I initiated REV 652 after receiving a request from the Minister for Industry and Science (**the Minister**). The Minister advised the reasons for the request are:

- to take into account the findings made by the World Trade Organization Panel (**Panel**) in *Australia – Anti-Dumping and Countervailing Duty Measures on Certain Products from China*⁴, endorsed by the Dispute Settlement Body on 26 April 2024
- to consider changes which have occurred in the market for the goods exported to Australia from China since the dumping duty notice was last varied (effective from 27 March 2020) following the completion of Continuation Inquiry 517.

To complete REV 652 in a timely manner, I intend to use information from CON 646, to the extent that it is relevant, for the purposes of REV 652. I stated in ADN No 2024/039:

- I would carry out the review based on the information obtained from the same selected exporters in CON 646
- exporters who had provided a timely and complete response to CON 646 are not required to submit additional information in respect of REV 652.

2. Exporter questionnaire responses

The commission received completed questionnaire responses from each of the selected exporters and the following non-selected exporters within the required timeframe for CON 646⁵:

- Flowtech Co., Ltd. (**Flowtech**)
- Zhongshan Jiabaolu Kitchen & Bathroom Products Co., Ltd. (**Jiabaolu**)⁶

The commission also received responses to the information request from:

- Franke (China) Kitchen System Co., Ltd
- Guangdong Cresheen Smart Home Co., Ltd
- Guangdong Dongyuan Kitchenware Industrial Co., Ltd
- Guangdong Yingao Kitchen Utensils Co., Ltd
- Jiangmen New Star Hi-Tech Enterprise Ltd.
- Jiangmen Xinhe Stainless Steel Products Co., Ltd
- Komodo HK Limited
- Ningbo Afa Kitchen and Bath Co., Ltd.
- Taizhou Bolang Kitchenware Co., Ltd.

⁴ *Panel Report, Australia – Anti-Dumping and Countervailing Duty Measures on Certain Products from China*, WTO Doc WT/DS603/R (26 March 2024).

⁵ The commission granted Primy, Rhine and Zhuhai Grand an extension to submit a response to the exporter questionnaire. See Item 3 of the Electronic Public Record (EPR) No 646.

⁶ Flowtech is a trading company, which acts as trader for Jiabaolu, who manufactures the goods, and its Australian customers.

3. Application of sampling provisions⁷

In considering whether to extend CON 646 and REV 652 beyond the selected exporters to include those exporters who also provided information in the form of a completed selected exporter questionnaire, I have considered:

- the timeframe in which each case must be completed
- the resources needed to complete each case within the necessary timeframe
- the suitable level of verification required for each case.

After considering each of the above, I have decided that to extend CON 646 and REV 652 to include further exporters **would prevent the timely completion of the matter**. I have discussed each of these factors in further detail below.

Case timeframes

Due to the related nature of CON 646 and REV 652, the timeframes to complete each case has been considered.

The anti-dumping measures are due to expire on 27 March 2025, which limits the amount of time to complete CON 646.

In relation to REV 652, ADN No 2024/039 stated that I will publish the Statement of Essential Facts in respect of REV 652 on or before 14 October 2024, with a recommendation to the Minister made on or before 27 November 2024. To ensure REV 652 demonstrates Australia's commitment to bringing the measures into conformity with the Panel's findings, as noted by the Minister in his request, I will be limited in extending the period of time to publish these reports.⁸

The timeframes for CON 646 and REV 652 limit my ability to examine additional exporters.

Resources needed for this inquiry

In allocating resources to each case, I have considered the commission's available resources and the resources necessary to complete each case, noting:

- the complexity of the issues involved
- the number of exporter verification visits required to ensure I have sufficient information that is complete, relevant and accurate to make my recommendations to the Minister
- the need for commission staff to verify information provided by other parties, including the Australian industry.

I have decided that the commission will conduct in-country verification for the selected exporters. This verified information relating to more than 60% of the volume of exports of goods from China will ensure I make my findings and recommendations to the Minister based on reliable information.

⁷ To clarify, I examined the sampling approach for 646 and 652 separately, however having arrived at the same conclusion for both cases, this ADN was prepared to cover both cases for administrative convenience.

⁸ On 19 January 2017, the Parliamentary Secretary to the Minister for Industry, Innovation and Science delegated the powers and functions of the Minister under section 269ZHI to the Commissioner. See ADN No 2017/10 for further information.

I have also considered other cases currently underway, the resources needed to complete those other cases and the timeframe in which those cases must be completed.

Alternative methods of verification

I have considered whether I can utilise alternative methods of verification, other than in-country verification, to allow me to expand CON 646 or REV 652 beyond the selected exporters. While not requiring commission staff to travel overseas, alternative methods of verification such as virtual verification still require a rigorous process and allocation of resources. I consider that extending verification in CON 646 and REV 652 beyond the selected exporters will cause delays to the timely and efficient completion of each case.

4. Exporter status

Selected exporters

I intend to limit CON 646 and REV 652 to an examination of exports of the goods by the selected exporters, Primy, Rhine and Zhuhai Grand.

Residual exporters

Notwithstanding that Jiabaolu submitted a completed questionnaire response in respect of CON 646 within the required timeframe, for the reasons set out above I consider that it is not practicable to examine the exports of Jiabaolu.

Consequently, at this stage of CON 646 and REV 652, Jiabaolu is a residual exporter.

The following exporters are also residual exporters:

- Franke (China) Kitchen System Co., Ltd
- Guangdong Cresheen Smart Home Co., Ltd
- Guangdong Dongyuan Kitchenware Industrial Co., Ltd
- Guangdong Yingao Kitchen Utensils Co., Ltd
- Jiangmen New Star Hi-Tech Enterprise Ltd.
- Jiangmen Xinhe Stainless Steel Products Co., Ltd
- Komodo HK Limited
- Ningbo Afa Kitchen and Bath Co., Ltd.
- Taizhou Bolang Kitchenware Co., Ltd.

Uncooperative exporters and non-cooperative entities

Where an exporter or entity did not give me information I considered to be relevant to CON 646 or REV 652 within a period I considered to be reasonable, or I am satisfied that the exporter or entity significantly impeded the case:

- section 269T(1) provides that, in relation to a dumping duty notice, such an exporter is an 'uncooperative exporter'
- section 269TAACA(1) provides that, in determining whether a countervailable subsidy has been received in respect of particular goods, I may act on the basis of all the facts available and may make such assumptions as I find reasonable. Such an entity is a 'non-cooperative entity'.

The *Customs (Extensions of Time and Non-cooperation) Direction 2015 (the Customs Direction)* states respectively at sections 8 and 9 that I must determine an exporter to be an uncooperative exporter, or an entity to be a

non-cooperative entity, on the basis that no relevant information was provided in a reasonable period, if that exporter or entity:

- fails to provide a response or
- fails to request a longer period to provide a response within the legislated period.

After having regard to sections 269T(1) and 269TAACA(1) as well as the Customs Direction, I have determined that all exporters and entities from China that did not provide information requested of them through a selected exporter questionnaire or a residual exporter questionnaire are uncooperative exporters and non-cooperative entities for the purposes of CON 646 and REV 652.

Other entities that are not exporters of the goods

Based on the information before me, I consider that Flowtech is an intermediary involved in the export of the goods but is not itself an exporter the goods.

The commission will continue to assess exporter status throughout CON 646 and REV 652.⁹

5. The commission contact

Enquiries about this notice may be directed via email to investigations3@adcommission.gov.au.

Isolde Lueckenhausen
Acting Commissioner
Anti-Dumping Commission

8 August 2024

⁹ For example, as stated in a file note at Item 3 of EPR No 646, the commission identified Primy as a supplier of exports to Australia prior to initiation of this inquiry and the commission provided Primy with an exporter questionnaire. Primy advised the commission that Zhuhai Dali Kitchen and Bathroom Technology Co., Ltd is the manufacturer of the exported goods. The Commissioner will make an assessment of the exporter, following consideration and verification of the responses to the exporter questionnaire.