



ANTI-DUMPING NOTICE NO. 2019/86

Customs Act 1901 – Part XVB

Deep Drawn Stainless Steel Sinks

Exported to Australia from the People's Republic of China

Initiation of a Continuation Inquiry No. 517 into Anti-Dumping Measures

Notice under subsection 269ZHD(4) of the Customs Act 1901

I, Dale Seymour, the Commissioner of the Anti-Dumping Commission (Commissioner), have initiated an inquiry into whether the continuation of anti-dumping measures, in the form of a dumping duty notice and a countervailing duty notice¹, in respect of deep drawn stainless steel sinks (stainless steel sinks, the goods) exported to Australia from the People's Republic of China (China) is justified.

The anti-dumping measures are due to expire on 26 March 2020 (specified expiry day).²

1. The goods

The goods subject to the anti-dumping measures and this inquiry 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;

stainless steel sinks with multiple deep drawn bowls that are joined through a welding operation to form one unit; and

deep drawn stainless steel sinks whether or not that 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.

Stainless steel sinks with fabricated bowls are excluded from the goods covered.

¹ All exporters of the goods from China are subject to the dumping duty notice. All exporters of the goods from China are subject to the countervailing duty notice except for Primy Corporation Ltd and Zhongshan Jiabaolu Kitchen & Bathroom Products Co. Ltd.

² On and from 27 March 2020, if not continued, the anti-dumping measures would no longer apply.

The goods are generally, but not exclusively, classified to the following tariff subheadings of Schedule 3 to the *Customs Tariff Act 1995*:³

Tariff Subheading	Statistical Code
7324.10.00	52

2. Background to the anti-dumping measures

The anti-dumping measures were declared by public notice on 26 March 2015 by the then Parliamentary Secretary to the Minister for Industry and Science (the Parliamentary Secretary), taking effect from 27 March 2015.⁴ This followed the Parliamentary Secretary's consideration of the Commissioner's recommendations in *Anti-Dumping Commission Report No.238* (REP 238) following the conclusion of *Investigation No. 238* (original investigation).

The original investigation and the imposition of the anti-dumping measures resulted from an application made under section 269TB of the *Customs Act 1901*⁵ by Tasman Sinkware Pty Ltd (Tasman) representing the Australian industry producing like goods to the goods subject to the anti-dumping measures.

The following table summarises the existing measures.

Exporter	Dumping Ad Valorem Rate	Countervailing Ad Valorem Rate
<u>Primy Corporation Limited</u>	5.0%	Exempt
<u>Zhongshan Jiabaolu Kitchen & Bathroom Products Co. Ltd</u>	15.4%	Exempt
<u>Zhuhai Grand Kitchenware Co., Ltd</u>	9.2%	3.3%
<u>Jiangmen New Star Hi-Tech Enterprise Ltd</u>	7.3%	3.4%
<u>Elkay (China) Kitchen Solutions Co. Ltd</u>	7.3%	3.4%
<u>Franke (China) Kitchen System Co. Ltd</u>	7.3%	3.4%
<u>Xinhe Stainless Steel Products Co., Ltd</u>	7.3%	3.4%
<u>Guangzhou Komodo Kitchen Technology Co Ltd</u>	7.3%	3.4%
<u>Rhine Sinkwares Manufacturing Ltd. Huizhou</u>	7.3%	3.4%
<u>Ningbo Afa Kitchen and Bath Co., LTD</u>	7.3%	3.4%
<u>Jiangmen City HeTangHengWeiDa Kitchen & Sanitary Factory</u>	7.3%	3.4%
<u>Shengzhou Chunyi Electrical Appliances Co. Ltd</u>	7.02%	0.98%
<u>Guangdong Yingao Kitchen Utensils Co. Ltd</u>	N/A (floor price)	0.4%
<u>All other exporters</u>	46.2%	6.4%

Further details on the goods and existing measures is available on the Dumping Commodity Register at www.industry.gov.au.

³ These tariff classifications and statistical codes may include goods that are both subject and not subject to the anti-dumping measures. The listing of these tariff classifications and statistical codes are for convenience or reference only and do not form part of the goods description. Please refer to the goods description for authoritative detail regarding goods subject to the anti-dumping measures.

⁴ Refer to Anti-Dumping Notice (ADN) No. 2015/41.

⁵ All legislative references in this notice are to the *Customs Act 1901*, unless otherwise stated.

3. Application for continuation of the anti-dumping measures

Division 6A of Part XVB sets out, among other things, the procedures to be followed in considering an application for the continuation of anti-dumping measures.

In accordance with subsection 269ZHB(1), on 12 April 2019 I published a notice⁶ on the Commission's website, advising that the measures were due to expire on 26 March 2020. The notice invited the following persons to apply for the continuation of the anti-dumping measures:

- the person whose application under section 269TB resulted in the anti-dumping measures (subsection 269ZHB(1)(b)(i)); or
- persons representing the whole or a portion of the Australian industry producing like goods to the goods covered by the anti-dumping measures (subsection 269ZHB(1)(b)(ii)).

On 11 June 2019, an application for the continuation of the anti-dumping measures was received from Oliveri Solutions Pty Ltd (Oliveri).⁷ A non-confidential version of the application is available on the Commission's public record.

Having regard to the application and the original investigation, I am satisfied that Oliveri is the person specified under subsection 269ZHB(1)(b)(i) because Oliveri (formally Tasman Sinkware Pty Ltd) lodged the application under section 269TB that resulted in the existing anti-dumping measures.

Like goods are defined under subsection 269T(1). Subsections 269T(2), (3), (4) and (4A) are used to determine whether the like goods are produced in Australia and whether there is an Australian industry producing those like goods. Having regard to the application and the original investigation, I am satisfied that Oliveri produces like goods to the goods under consideration and that it represents the Australian industry.

4. Consideration of application under subsection 269ZHD(1)

Pursuant to subsection 269ZHD(1), I must reject an application for the continuation of anti-dumping measures if I am not satisfied of one or more of the matters referred to in subsection 269ZHD(2). These are:

- the application complies with section 269ZHC (subsection 269ZHD(2)(a)); and
- there appear to be reasonable grounds for asserting that the expiration of the anti-dumping measures to which the application relates might lead, or might be likely to lead, to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent (subsection 269ZHD(2)(b)).

5. Assessment under subsection 269ZHD(2)(a) - compliance with section 269ZHC

I consider that the application complies with the requirements of section 269ZHC because it is in writing, in a form approved by me for the purposes of this section, contains the information that the form requires, is signed in the manner indicated by the form, and was lodged in a manner approved under section 269SMS, being by email to the Commission's email address provided in the instrument under section 269SMS.⁸

⁶ Refer to ADN No. 2019/49.

⁷ Formerly Tasman Sinkware Pty Ltd prior to December 2018.

⁸ A copy of the instrument can be found at www.industry.gov.au.

6. Assessment under subsection 269ZHD(2)(b) – appearance of reasonable grounds

6.1 Basis for initiation

Having regard to the application, Oliveri's claims and other relevant information set out in this notice, I am satisfied that, in accordance with subsection 269ZHD(2)(b), there appear to be reasonable grounds for asserting that the expiration of the anti-dumping measures might lead, or might be likely to lead, to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent.

In particular, I am satisfied that there appear to be reasonable grounds for asserting that exports of the goods from China will continue and that those exports are likely to impact the state of the Australian industry.

I therefore have no basis to reject the application.

6.2 Applicant's claims

In its application, Oliveri claims, among other things, that:

- Exporters from China have maintained their distribution channels to Australia and have continued to export the goods under consideration to Australia;
- Oliveri's domestic selling prices of like goods are influenced, and suppressed, by the price of imported goods;
- Following the imposition of measures, certain parties have sought to have the measures reviewed. Oliveri claims that this signals that exports of the goods will continue to Australia. Notably:
 - an importer sought a review of measures on two occasions, the latter being within the last 18 months;
 - an exporter sought a review of measures within the last 16 months;
 - another exporter sought an accelerated review of measures; and
- If the measures were not to be continued, the exporters would reduce their prices and the Australian industry would suffer material injury as a result.

As part of its application, Oliveri provided sales and cost data in relation to its sales of like goods and export data for the goods. This data was used to demonstrate that Chinese manufacturers continue to export the goods to Australia and contribute to the price depression and price suppression it claims to have experienced as a result of Chinese exports.

Oliveri's application also refers to the findings of the United States and Canadian anti-dumping authorities which found substantial excess production capacity in relation to Chinese manufacturers of stainless steel sinks.

6.3 Commission's consideration

The Commission has examined information obtained from the Australian Border Force (ABF) import database and has found that exporters from China have continued to export the goods to Australia since the imposition of the measures in 2015. The Commission observes that import volumes of the goods from China have continued at similar levels since the measures were imposed. China continues to be a major source of the goods compared to other countries, particularly in the period from 2015 to 2018.

The Commission also observes that, based on ABF data, whilst the weighted average export price of the goods from China has increased slightly since 2017, the export prices

of the goods from the largest Chinese exporters appears to have trended downwards since 2015. The ABF data also indicates that certain exporters of the goods from China have continued trading with the same Australian importers since measures were imposed.

To further highlight the continued trade flow of the goods from China, the Commission notes that, in addition to the exporters who were specifically named on the notice when the measures were imposed:

- two additional exporters have since applied to have the measures reviewed (one exporter applied for an accelerated review in 2015 and the other applied for a review in 2018); and
- one importer applied for two reviews (in respect of its exporter) in 2016 and 2017.

The Commission considers that the abovementioned reviews are indicative that Chinese exporters intend to export the goods to Australia in the future.

In its application Oliveri states that it is under pressure from customers to reduce prices in order to compete with Chinese exports and maintain market share. In support of its claims, Oliveri provided examples of Chinese export prices influencing its negotiations with customers, which in turn negatively impacted its profitability. Financial data provided by Oliveri supports its claims of decreases in its prices, since the imposition of measures, and the reduction in profit and increase in costs in the 12 month period preceding the date of its application.

The financial data provided by Oliveri indicates that the Australian industry has experienced reductions in prices and profits at a time when China continues to be the major source of imports of the goods. The Commission observed decreased export prices of goods for certain exporters from China based on ABF data, as claimed by Oliveri.

Recognising the continued distribution links between Chinese exporters and Australian importers, and the consistent level of imports of the goods from China, I am satisfied that the expiration of the anti-dumping measures might lead, or might be likely to lead, to a continuation of, or a recurrence of, the material injury suffered by the Australian industry that the measures are intended to prevent.

7. This continuation inquiry

For the purposes of this inquiry, I will examine the period from 1 July 2018 to 30 June 2019 (the inquiry period) to determine whether the anti-dumping measures should:

- (i) remain unaltered; or
- (ii) cease to apply to a particular exporter or to a particular kind of goods; or
- (iii) have effect in relation to a particular exporter or to exporters generally, as if different variable factors had been ascertained; or
- (iv) expire on the specified expiry day.

My examination of countervailable subsidies will be limited to programs currently covered by the countervailing duty notice, however should further evidence of additional countervailable subsidy programs be provided I may examine the additional programs if to do so will not prevent the timely completion of the inquiry.

8. Proposed model control code structure

On 9 August 2018, the Commission announced its policy and practice in regards to model control code (MCC) structures via ADN No. 2018/128.

Chapter 14 of the Anti-Dumping Commission's *Dumping and Subsidy Manual* further explains that the MCC structure provides a system of identifying fundamental characteristics of the goods subject to investigation and assigns an alphanumeric code to define categories and sub-categories of the goods and like goods. The objective of the MCC structure is to provide a framework for comparing goods exported to Australia with similar like goods sold on an exporter's domestic market.⁹ This process is commonly referred to as 'model matching'.

Model matching assists the Commission to assess whether dumping has occurred and is a useful way to ensure that the normal value is properly comparable with the export price.

In determining an MCC structure for any given case, the Commission will have regard to differences in physical characteristics that give rise to distinguishable and material differences in price.

In the original investigation (REP 238) the Commission found that the goods and like goods vary in a number of different ways, and that there were many physical characteristics influencing prices. There were also different consumer preferences on the Australian and Chinese markets. The above factors limited the Commission's ability to identify sales of like goods that would be relevant for the purpose of determining a price under subsection 269TAC(1). The Commission considers it is likely that similar issues will be present in this inquiry. As a result, the Commission has elected not to propose an MCC structure at the outset of this inquiry. However, information gathered in responses received from importers and exporters, and from the Australian industry, will be examined to assess if an appropriate MCC structure can be developed.

Proposals about the MCC structure should be raised as soon as is practicable, preferably by **9 August 2019**, the day submissions concerning the continuation of the measures are due.

If an MCC structure is developed, interested parties will have an opportunity to discuss the structure and propose modifications. Any changes to the MCC structure will be considered by the Commission and reported in verification reports or in the statement of essential facts (SEF).

9. Public record

I must maintain a public record for this inquiry. The public record must contain, among other things, a copy of all submissions from interested parties. Documents included in the public record may be examined at www.industry.gov.au.

10. Submissions

Interested parties, as defined in subsection 269T(1), are invited to lodge written submissions concerning the continuation of the measures, no later than **9 August 2019**, being 37 days after publication of this notice. The Commission's preference for this inquiry is to receive submissions by email to investigations3@adcommission.gov.au.

⁹ Full guidance regarding the Commission's application of an MCC structure is provided at section 14 of the Anti-Dumping Commission *Dumping and Subsidy Manual* which is available at www.industry.gov.au.

Submissions may also be addressed to:

The Director, Investigations 3
Anti-Dumping Commission
GPO Box 2013
Canberra ACT 2601

or faxed to +61 3 8539 2499.

Interested parties wishing to participate in the inquiry must ensure that submissions are lodged promptly. Interested parties should note that I am not obliged to have regard to a submission received after the date indicated above if to do so would, in my opinion, prevent the timely placement of the SEF on the public record.

Interested parties claiming that information contained in their submission is confidential, or that the publication of the information would adversely affect their business or commercial interests, must:

- (i) provide a summary containing sufficient detail to allow a reasonable understanding of the substance of the information that does not breach that confidentiality or adversely affect those interests, or
- (ii) satisfy me that there is no way such a summary can be given to allow a reasonable understanding of the substance of the information.

Submissions containing confidential information must be clearly marked "FOR OFFICIAL USE ONLY". Interested parties must lodge a non-confidential version or a summary of their submission in accordance with the requirement above (clearly marked "PUBLIC RECORD").

11. Sampling of exporters

For this inquiry, I propose to make findings on the basis of the information obtained from an examination of a selected number of exporters as outlined at [Attachment A](#).

12. Statement of essential facts

The dates specified in this notice for lodging submissions must be observed to enable me to report to the Minister for Industry, Science and Technology (Minister) within the legislative timeframe. I will place the SEF on the public record on or before **21 October 2019**, that is, within 110 days after the publication of this notice, or by such later date as I may allow in accordance with subsection 269ZHI(3). The SEF will set out the essential facts on which I propose to base a recommendation to the Minister concerning the continuation of the anti-dumping measures.

Interested parties are invited to lodge submissions in response to the SEF within 20 days of the SEF being placed on the public record. Submissions received in response to the SEF within 20 days of the SEF being placed on the public record will be taken into account in completing my report and recommendation to the Minister.

13. Report to the Minister

I will make a recommendation to the Minister in a report on or before **5 December 2019**, that is, within 155 days after the date of publication of this notice, or such later date as I may allow in accordance with subsection 269ZHI(3).

The Minister must make a declaration within 30 days after receiving the report, or if the Minister considers there are special circumstances, such longer period, ending before the specified expiry day, as the Minister considers appropriate. If the Minister receives the

report less than 30 days before the specified expiry day, the Minister must make the declaration before that day.

14. The Commission Contact

Enquiries about this notice may be directed to the Case Manager on telephone number +61 3 8539 2418 or investigations3@adcommission.gov.au

Dale Seymour
Commissioner
Anti-Dumping Commission

3 July 2019

Application of sampling provisions for China

Subsection 269TACAA(1) states that where the number of exporters from a particular country of export in relation to an investigation, review or continuation 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 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.

I note that there are many suppliers of the goods from China listed in the ABF data during the inquiry period. Given the large number of exporters, it is not practicable to examine the exports of all of those exporters. Accordingly, I will carry out this inquiry on the basis of 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 are encouraged to participate in the inquiry process.

Selected exporters

I intend to select the following exporters for examination (selected exporters):

- Primy Corporation Limited;
- Zhuhai Grand Kitchenware Co. Ltd.;
- Zhongshan Jiabaolu Kitchen and Bathroom Products Co. Ltd.;
- Guangzhou Komodo Kitchen Technology Co. Ltd.;
- Rhine Sinkwares Manufacturing Ltd. Huizhou.

According to ABF data, the selected exporters represent over 83 per cent of the volume of the goods (measured by statistical quantity reported in units) exported to Australia from China during the inquiry period.

The Commission will contact the selected exporters directly and invite them to complete an exporter questionnaire with respect to the inquiry period. Certain importers may also be contacted directly and invited to complete an importer questionnaire in relation to their imports of the goods from the selected exporters.

If an exporter other than a selected exporter wishes to complete an exporter questionnaire, the exporter questionnaire has also been placed on case page no. 517 at www.industry.gov.au.

If information is submitted by an exporter that is not named above as a selected exporter, the inquiry must extend to that exporter unless to do so would prevent the timely completion of the inquiry.

Responses to the exporter questionnaire are due by **9 August 2019**.

Residual exporters, information requests and associated spreadsheets

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

The Commission will make reasonable attempts to contact exporters of the goods who currently have individual measures (as recorded on the Commission's Dumping

Commodity Register) and provide them directly with the information request and associated spreadsheets. The information request and associated spreadsheets are also available on case page no. 517 at www.industry.gov.au.

This information request and associated spreadsheets will assist in the inquiry and may assist me to determine which additional exporters to include as selected exporters, if necessary, for example in the event that selected exporters named above do not cooperate with the inquiry.

By completing the information request and associated spreadsheets, 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 review and they are not an uncooperative exporter or non-cooperative entity in relation to the inquiry.

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 the amount of countervailable subsidies received by the selected exporters.

Responses to the information request and associated spreadsheets are due by **9 August 2019**.

Uncooperative exporters and non-cooperative entities

For the purposes of this inquiry, any selected exporter who does not cooperate with the inquiry by providing a complete exporter questionnaire response¹⁰ by 9 August 2019¹¹, and any other exporter (other than the selected exporters) that does not cooperate with the inquiry by providing a complete response to the information request and associated spreadsheets by 9 August 2019,¹² will be considered an uncooperative exporter and/or a non-cooperative entity (pursuant to section 269T, section 269TAACA and the *Customs (Extensions of Time and Non-cooperation) Direction 2015*).

Assessments in relation to the variable factors for uncooperative exporters and non-cooperative entities, will be based on all relevant information.

¹⁰ For clarity it is not the Commissioner's intention for selected exporters to provide an information request and associated spreadsheets.

¹¹ Or later date if granted an extension by the Commissioner.

¹² Or later date if granted an extension by the Commissioner.