



**Australian Government**  
**Department of Industry,  
Innovation and Science**

**Anti-Dumping  
Commission**

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*CUSTOMS ACT 1901 - PART XV B*

**STATEMENT OF ESSENTIAL FACTS**  
**NO. 517**

**INQUIRY CONCERNING THE CONTINUATION OF  
ANTI-DUMPING MEASURES APPLYING TO  
DEEP DRAWN STAINLESS STEEL SINKS  
EXPORTED TO AUSTRALIA FROM  
THE PEOPLE'S REPUBLIC OF CHINA**

**27 November 2019**

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**ABBREVIATIONS**

\$	Australian dollars
ABF	Australian Border Force
ABS	Australian Bureau of Statistics
ADN	Anti-Dumping Notice
the Act	<i>Customs Act 1901</i>
the Australian industry, Oliveri	Oliveri Solutions Pty Ltd
CFR	Cost and Freight
China	the People's Republic of China
COGS	cost of goods sold
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
CRC	cold rolled coil
Cresheen	Guangdong Cresheen Smart Home Co Ltd
CTMS	cost to make & sell
DCR	Dumping Commodity Register
DSN	dumping specification number
Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975</i>
DXP	dumping export price
EPR	electronic public record
FIS	Free Into Store
Flowtech	Flowtech Co Ltd
FOB	Free On Board
FY	financial year(s)
GAAP	generally accepted accounting principles
GOC	Government of China
the goods	the goods the subject of the application (also referred to as the goods under consideration)
the Guidelines	<i>Guidelines on the Application of Forms of Dumping Duty (November 2013)</i>
ICD	interim countervailing duty
IDD	interim dumping duty
Jiabaolu	Zhongshan Jia Bao Lu Kitchen and Bathroom Products Co Ltd
Komodo	Guangzhou Komodo Kitchen Co Ltd and Komodo Hong Kong Limited
the Manual	<i>Dumping and Subsidy Manual (November 2018)</i>
MCC	model control code
the Minister	the Minister for Industry, Science, and Technology

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NIP	non-injurious price
OCOT	ordinary course of trade
OEM	original equipment manufacturer
Original investigation	Investigation No. 238
PIR	Preliminary Information Request
Primy	Primy Corporation Ltd
the Regulation	<i>Customs (International Obligations) Regulation 2015</i>
REP 238	<i>Anti-Dumping Commission Report No. 238</i>
REP 461	Review of Measures No. 461
REQ	response to exporter questionnaire
Rhine	Rhine Sinkwares Manufacturing Ltd Hui Zhou
ROI	return on investment
SBB	Steel Business Briefing Ltd
SCM Agreement	<i>Agreement on Subsidies and Countervailing Measures</i>
SEF	statement of essential facts
SG&A	selling, general, and administration
SIE	state invested enterprise
sinks	deep drawn stainless steel sinks
SOE	state owned enterprise
Tasman	Tasman Sinkware Pty Ltd
Tradelink	Tradelink Pty Ltd
USP	unsuppressed selling price
Xintian	Zhongshan Xintian Hardware Co Ltd
Zhongshan Flowtech	Zhongshan Flowtech Co Ltd
Zhuhai Grand	Zhuhai Grand Kitchenware Co Ltd

# 1 SUMMARY AND RECOMMENDATIONS

## 1.1 Introduction

This statement of essential facts (SEF) concerns an inquiry into whether the continuation of the anti-dumping measures, in the form of a dumping duty notice and a countervailing duty notice, applying to deep drawn stainless steel sinks (the goods) exported to Australia from the People's Republic of China (China) is justified. This SEF sets out the findings and conclusions on which the Commissioner of the Anti-Dumping Commission (the Commissioner) proposes to base his recommendations to the Minister for Industry, Science and Technology (the Minister).

The anti-dumping measures currently applicable to exports of the goods to Australia from China (the current measures) are due to expire on 26 March 2020.<sup>1</sup>

The inquiry was initiated on 3 July 2019 following the Commissioner's consideration of an application lodged by Oliveri Solutions Pty Ltd (Oliveri, the Australian industry), whose application (then trading as Tasman Sinkware Pty Ltd) under section 269TB of the *Customs Act 1901* (the Act)<sup>2</sup> resulted in the current measures, seeking the continuation of the anti-dumping measures.

## 1.2 Legislative framework

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

Section 269ZHE(1) requires that the Commissioner publish a SEF on which he proposes to base his recommendations to the Minister concerning the continuation of the anti-dumping measures. Section 269ZHE(2) requires that in doing so the Commissioner must have regard to the application, any submissions received within 37 days of the initiation of the inquiry and may have regard to any other matters that he considers relevant.

Pursuant to section 269ZHF(2), the Commissioner must not recommend that the Minister take steps to secure the continuation of the anti-dumping measures unless satisfied that the expiration of the anti-dumping measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and / or subsidisation and the material injury that the anti-dumping measure is intended to prevent.

Pursuant to section 269ZHF(1)(a), in giving the Minister a report, the Commissioner must recommend:

- that the notice remain unaltered; or
- that the notice cease to apply to a particular exporter or to a particular kind of goods; or

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<sup>1</sup> Under section 269TM, dumping duty notices and countervailing duty notices expire five years after the date on which they were published, unless they are revoked earlier.

<sup>2</sup> All legislative references in this report are to the *Customs Act 1901* unless otherwise stated.

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- that the notice have effect in relation to a particular exporter or to exporters generally, as if different variable factors had been ascertained; or
- that the notice expire on the specified expiry day.

### 1.3 Preliminary findings

Based on the evidence currently available, the Commissioner is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, dumping and subsidisation and the material injury that the measures are intended to prevent.

In order to assess whether dumping and subsidisation may continue or recur, the Anti-Dumping Commission (Commission) has obtained information relevant to the assessment of dumping and subsidisation. The Commission has therefore ascertained the variable factors relevant to the anti-dumping measures during the inquiry period and has found that there has been a change in the variable factors.<sup>3</sup>

### 1.4 Proposed recommendation

Based on the above findings, the Commissioner proposes to recommend that the Minister:

- take steps to secure the continuation of the dumping duty notice and countervailing duty notice applicable to the goods exported from China; and
- alter the variable factors for the dumping duty notice and countervailing duty notice in relation to all exporters generally.

### 1.5 Responding to this SEF

This SEF sets out the essential facts on which the Commissioner proposes to base his final recommendations to the Minister.

This SEF represents an important stage in the inquiry. It informs interested parties of the facts established and allows them to make submissions in response to the SEF.

It is important to note that the SEF may not represent the final views of the Commissioner.

Interested parties are invited to make submissions to the Commissioner in response to the SEF within 20 days of the SEF being placed on the public record. The due date to lodge written submissions in response to this SEF is **17 December 2019**.

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<sup>3</sup> The variable factors relevant to the dumping duty notice are the normal value, the export price and the non-injurious price (NIP) (section 269T(4D)(a) refers). The variable factors in relation to the countervailing duty notice are the export price, amount of countervailable subsidy received and the NIP (section 269T(4D)(b) refers). The Commission notes that there have been no reviews (under Division 5) nor duty assessments (Division 4) relevant to the selected exporters (section 2.2.5 of this report refers) since the publication of the original notice. If the measures are continued, the Commission considers that it is appropriate to establish a contemporary basis for calculating the payment of interim duty.

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The Commissioner is not obliged to have regard to any submission made in response to the SEF received after this date if to do so would, in the opinion of the Commissioner, prevent the timely preparation of the report to the Minister.

Submissions may be provided by email to [investigations3@adcommission.gov.au](mailto:investigations3@adcommission.gov.au).

Alternatively, interested parties may post submissions to:

Director, Investigations 3  
Anti-Dumping Commission  
GPO Box 2013  
CANBERRA ACT 2601  
AUSTRALIA

Confidential submissions must be clearly marked accordingly and a non-confidential version of any submission is required for inclusion on the Public Record. Information in relation to making submissions is available on the Commission's website [www.industry.gov.au](http://www.industry.gov.au).

The public record contains non-confidential submissions by interested parties, the non-confidential versions of the Commission's visit reports and other publicly available documents. The electronic public record (EPR) is available via the Commission's website. Interested parties should read this SEF in conjunction with other documents on the public record.

### 1.6 Final report

The Commissioner's final report and recommendations must be provided to the Minister within 155 days after the publication of a notice under section 269ZHD(4) or such longer period as is allowed.<sup>4</sup> The current due date for the final report is **14 February 2020**.

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<sup>4</sup> Section 269ZHF(1). On 14 January 2017 the powers and functions of the Minister under section 269ZHI were delegated to the Commissioner, see Anti-Dumping Notice (ADN) No. 2017/10.



## **2 BACKGROUND**

### **2.1 Initiation and current 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 then Parliamentary Secretary), taking effect from 27 March 2015.<sup>5</sup> This followed the then 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 and countervailing measures resulted from an application made under section 269TB by Tasman Sinkware Pty Ltd (Tasman) representing the Australian industry producing like goods to the goods subject to the anti-dumping measures.

The anti-dumping measures currently apply to all exporters of the goods from China.

A background to key cases in relation to the goods is summarised in Table 1 below.

Case type and no.	ADN No.	Date	Country of export	Findings
Investigation No. 238	2015/41	26 March 2015	China	Measures imposed on China.
Accelerated Review No. 324	2016/05	1 March 2016	China	Termination of accelerated review.
Review of Measures No. 352	2016/107	21 November 2016	China	Variable factors altered for Shengzhou Chunyi Electrical Appliances Co. Ltd.
Exemption Inquiry No. EX0047	Ministerial Exemption Instrument No. 6 of 2017	11 July 2017	China	Certain goods exempted from measures.
Review of Measures No. 459	2018/75	15 June 2018	China	Variable factors altered for Shengzhou Chunyi Electrical Appliances Co. Ltd.
Review of Measures No. 461	2018/143	12 October 2018	China	Variable factors altered for Guangdong Yingao Kitchen Utensils Co Ltd (Yingao).

**Table 1: Summary of cases undertaken in relation to the goods**

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<sup>5</sup> Refer to ADN No. 2015/41.

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Table 2, below, sets out the current measures applying to exports of the goods to Australia.

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

**Table 2: Current measures applying to exports of the goods**

Further details on the existing measures is available on the Dumping Commodity Register (DCR) at [www.industry.gov.au](http://www.industry.gov.au).

## **2.2 Conduct of inquiry**

The Commissioner established an inquiry period of 1 July 2018 to 30 June 2019 (the inquiry period) for the purposes of making recommendations concerning the dumping duty notice and the countervailing duty notice for this inquiry.

The Commission has also examined the data from the Australian Border Force (ABF) import database for the period 1 July 2015 to 30 June 2019 and financial data from the Australian industry from 1 July 2015 to 30 June 2019 for the purposes of analysing trends in the market for the goods and assessing potential injury factors.

### **2.2.1 Statement of essential facts**

The initiation notice advised that the SEF would be placed on the public record by 21 October 2019. However, as advised in ADN No. 2019/121, the Commissioner approved an extension of time for the publication of the SEF until 27 November 2019.

### **2.2.2 Australian industry**

The Commissioner is satisfied that the Australian industry for the continuation of the measures, Oliveri (formally Tasman Sinkware Pty Ltd), is the person specified under section 269ZHB(1)(b)(i), being that it lodged the application under section 269TB that resulted in the current measures.

The Commission conducted a verification visit to Oliveri's premises in July 2019. The report made in relation to the visit is available on the EPR.<sup>6</sup>

### **2.2.3 Importers**

The Commission identified several importers in the ABF import database that imported the goods from China during the inquiry period. The Commission forwarded importer questionnaires to 12 importers and placed a copy of the importer questionnaire on the Commission's website for completion by other importers who were not contacted directly. The Commission received 10 questionnaire responses from the importers listed below.

- Abey Australia Pty Ltd
- Arcorp Enterprises Pty Ltd
- Caroma Industries Ltd
- Everhard Industries Pty Ltd
- Jayco Unit Trust
- Milena Australia Pty Ltd
- Reece Australia Pty Ltd
- Seima Pty Ltd
- Shiro Australia Pty Ltd
- The Trustee For Intersource Solutions Unit Trust

The following three importers were selected for an on-site verification visit. Questionnaires received from the remaining seven importers was retained on the case file.

- Caroma Industries Pty Ltd;
- Everhard Industries Pty Ltd; and
- Reece Australia Pty Ltd.

The reports made in relation to the importer visits are available on the EPR.<sup>7</sup>

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<sup>6</sup> EPR 517, No. 013.

<sup>7</sup> EPR 517, Nos. 005, 014, and 017.

## **2.2.4 Sampling of exporters from China**

Section 269TACAA(1) states that where the number of exporters from a particular country of export in relation to the 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 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.

On review of the suppliers of the goods from China listed in the ABF database, the Commission finds that there are a large number of exporters such that it is not practicable to examine the exports of all of those exporters. Therefore, the inquiry regarding China has proceeded on the basis of information obtained from an examination of a selected number of Chinese exporters who are responsible for the largest volume of exports to Australia.

In determining which exporters from China to examine, the Commission took into account:

- the number of exporters who submitted exporter questionnaires from China that the Commission can practically verify;
- the number of cooperative exporters from China required to sufficiently cover the various stainless steel sink characteristics sold to Australia and on the Chinese domestic market; and
- the individual volume of each identified exporter and the cumulative volume of a manageable number of the largest volume exporters.

Exporters not selected to be examined fall within the definitions of either 'residual exporters', 'uncooperative and all other' exporters and 'non-cooperative entities'.

A residual exporter is an exporter whose exportations were not examined and who was not an uncooperative exporter or a non-cooperative entity.

An uncooperative exporter is defined as an exporter that did not provide information considered to be relevant within the specified timeframe, or an exporter that significantly impeded the inquiry.

A non-cooperative entity is defined as an entity that did not provide information considered to be relevant to a countervailing inquiry within the specified timeframe, or an entity that significantly impeded the inquiry.

## **2.2.5 Selected exporters**

As detailed in the initiation notice,<sup>8</sup> the Commission selected five exporters which were requested to complete an exporter questionnaire. According to ABF data, the selected

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<sup>8</sup> EPR 517, No. 002.

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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 forwarded questionnaires to the following five selected exporters who all responded with fully completed exporter questionnaire responses (REQ) by the due date. Table 3 below summarises the cooperating selected exporters.

Company	Exporter Status	Cooperative?
Primy Corporation Ltd	Selected	Yes
Zhuhai Grand Kitchenware Co Ltd	Selected	Yes
Zhongshan Jiabaolu Kitchen & Bathroom Products Co Ltd	Selected	Yes
Guangdong Cresheen Smart Home Co Ltd (exported through Guangzhou Komodo Kitchen Technology Co Ltd) <sup>9</sup>	Selected	Yes
Rhine Sinkwares Manufacturing Ltd Huizhou	Selected	Yes

**Table 3: Selected cooperating exporters**

**2.2.6 Residual exporters**

In addition to the five selected exporters listed at Table 3 the Commission also contacted the following exporters to request completion of a Preliminary Information Request (PIR). These exporters were contacted by the Commission on the basis that they were also listed as named exporters on the Commission’s DCR. All contacted exporters responded with a completed PIR by the due date. The variable factors for residual exporters have been determined by having regard to the variable factors determined for the selected exporters. The residual exporters are listed below in Table 4.

Company	Exporter Status
Yuyao Afa Kitchenware Co Ltd	Residual
Jiangmen New Star Hi-Tech Enterprise Ltd	Residual
Franke (China) Kitchen System Co Ltd	Residual
Elkay (China) Kitchen Solutions Co Ltd	Residual
Xinhe Stainless Steel Products Co Ltd	Residual
Shengzhou Chunyi Electrical Appliances Co. Ltd	Residual
Guangdong Yingao Kitchen Utensils Co. Ltd	Residual
Guangdong Dongyuan Kitchenware Industrial Co Ltd	Residual
Taizhou Boland Kitchenware Co Ltd	Residual

**Table 4: Cooperating residual exporters**

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<sup>9</sup> Although not initially identified as an exporter of the goods, subsequent to initiating the inquiry, the Commission found that Guangdong Cresheen Smart Home Co Ltd was the exporter of the goods where the supplier of the goods listed in the ABF database was named as being Guangzhou Komodo Kitchen Technology Co Ltd. Section 2.2.8 refers.

### **2.2.7 Uncooperative, non-cooperative and all other exporters**

For the purpose of other exporters, who were not requested to complete an REQ or a PIR, a copy of the exporter questionnaire and PIR was placed on the Commission's website. No additional REQs or PIRs were received by the Commission by the specified due dates.

All other exporters that have not provided information that the Commissioner considers to be relevant to the inquiry within a period the Commissioner considers reasonable, in accordance with section 269T(1), are considered to be uncooperative exporters and non-cooperative entities in accordance with section 269TAACA in relation to this inquiry.

### **2.2.8 Treatment of certain exporters**

The Commission notes that goods exported from China where Guangzhou Komodo Kitchen Technology Co Ltd (Komodo) was the supplier name on Australian importer declaration, the sales of these goods were produced by Guangdong Cresheen Smart Home Co Ltd (Cresheen).

With respect to identifying the exporter of the goods, the Commission generally identifies the exporter as a principal in the transaction, located in the country of export from where the goods were shipped, that gave up responsibility by knowingly placing the goods in the hands of a carrier, courier, forwarding company, or its own vehicle for delivery to Australia; or a principal in the transaction, located in the country of export, that owns, or previously owned, the goods but need not be the owner at the time the goods were shipped.

The verification of the exports by Cresheen and Komodo confirmed that Cresheen was the manufacturer of the goods. Cresheen was further found to sell these goods to Komodo for sale to Australian importers.

For the purpose of the original investigation in REP 238, the Commission at that time identified Komodo as the exporter of the goods. However, Komodo was not the manufacturer of the goods. Komodo's supplier at the time, Zhongshan Xintian Hardware Co., Ltd (Xintian), was not considered to be the exporter on the basis of the explanation given by Komodo that Xintian was not aware of the final destination of the goods at the time they were sold to Komodo. The Commission at the time accepted that Xintian should not be classified as the exporter.<sup>10</sup>

As a result of cooperating with this inquiry, the information provided by Komodo's current supplier, Cresheen, is considered sufficient to conclude that Cresheen should be considered to be the exporter of the goods and the circumstances that existed in the original investigation are not found to apply. Variable factors relevant to exports of the goods to Australia from Cresheen via Komodo have been determined on the basis of the sales and cost data provided in the REQ lodged by Cresheen.<sup>11</sup> The Commission's

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<sup>10</sup> REP 238, section 6.3.5, p.34.

<sup>11</sup> EPR 517, No. 010

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findings have been outlined in the Cresheen verification report<sup>12</sup> and are further detailed in this report at section 7.6.2.

### 2.2.9 Government of the Peoples' Republic of China (GOC)

On the day the inquiry was initiated (3 July 2019), the Commission contacted the GOC advising it of the conduct of the inquiry and inviting it to complete a government questionnaire and forward copies of the exporter questionnaires and the PIRs to Chinese producers of the goods as it considered necessary.

The government questionnaire sought information regarding the subsidy programs that were countervailed in the original investigation, additional new programs that may be in operation in relation to exporters of the goods and information about the Chinese steel industry.

The due date for the GOC's response was Friday 9 August 2019. The Commission also advised the GOC to contact the Commission should it have considered further time was necessary to complete the questionnaire. The GOC did not lodge a government questionnaire.

### 2.3 Submissions received from interested parties

The Commission has received two submissions during the course of the inquiry which have been considered in this SEF. A further four further submissions were received outside of the 37 day period after the date of initiation.

With the exception of the submissions lodged by Milena Australia Pty Ltd and Caroma Industries Limited, the remaining three submissions have not been considered by the Commissioner in reaching the conclusions contained within this SEF on account that they were lodged at a time prior to the publication of the SEF and to do so would have prevented the timely placement of the SEF on the public record. All submissions received are available on the public record.

The Commission will have regard to these submissions and any submissions submitted within 20 days of the publication of this SEF in the preparing the final report.

EPR Item No.	Interested Party	Date lodged	Considered in SEF?
3	Milena Australia Pty Ltd	7 August 2019	Yes
4	Caroma Industries Limited	23 August 2019	Yes <sup>13</sup>
18	Zhongshan Jia Bao Lu Kitchen and Bathroom Products Co Ltd	18 November 2019	No

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<sup>12</sup> EPR 517, No. 023

<sup>13</sup> Caroma Industries Limited submission was accepted after the initial due date for submissions, i.e. after 9 August 2019, on the basis that the Commission did not consider it would delay the publication of the SEF by the due date. Notwithstanding this exception, the matters raised by Caroma in its submission have been addressed where practicable to do so.

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20	Rhine Sinkwares Manufacturing Ltd hui Zhou	25 November 2019	No
22	Zhuhai Grand Kitchenware Co. Ltd.	25 November 2019	No

**Table 5: Submissions received prior to publication of the SEF**

### **2.4 Public record**

The public record contains non-confidential submissions by interested parties, the non-confidential versions of the Commission's visit reports and other publicly available documents. It is available online via the EPR at [www.industry.gov.au](http://www.industry.gov.au).

Documents on the public record should be read in conjunction with this SEF.



## 3 THE GOODS AND LIKE GOODS

### 3.1 Preliminary finding

The Commissioner considers that the deep drawn stainless steel sinks produced locally are “like” to the goods subject to the anti-dumping measures.

### 3.2 Legislative framework

In order to be satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation or recurrence of dumping or subsidisation, the Commissioner assesses whether the goods produced by the Australian industry are “like” to the imported goods. Section 269T(1) defines like goods as:

*“Goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration”.*

Where the locally produced goods and the imported goods are not alike in all respects, the Commissioner assesses whether they have characteristics closely resembling each other against the following considerations including:

- physical likeness;
- commercial likeness;
- functional likeness; and
- production likeness.

### 3.3 The goods

#### 3.3.1 Goods subject to measures

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.*

### 3.3.2 Submissions received in relation to the goods description

Caroma submission claims that the goods description was overly board, such that it captures an overly large sample of products.<sup>14</sup> Caroma requested that the goods description be narrowed in order to account for the nuances of pricing, market share, and competition on a product by product basis. The Commission notes that the goods description is not open to be modified in a continuation inquiry, and further considers that by adopting an MCC structure (section 3.4), it is able to account for the differences between the various products.

### 3.3.3 Tariff classification

The goods are generally classified to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995*:

Tariff Subheading	Statistical Code	Heading Description
7324.10.00	52	Sinks and wash basins, of stainless steel

**Table 6: Tariff classification of the goods**

## 3.4 Model control code

As detailed in the initiation notice<sup>15</sup>, the Commission did not propose a model control code (MCC) structure at the outset of this inquiry. Information gathered in responses received from importers and exporters, and the Australian industry, will be used to assess whether an appropriate MCC structure can be developed.

To aid in assessing the application of an MCC structure, the Commission requested the following information be provided for all product models that the importer, exporter, and Australian industry sold.

Category	Characteristics of category
Product Identifier	Company's product ID or product code which will link to the sales listing
Stainless Steel Grade	Grade of stainless steel used to manufacture sink, e.g. 304
Material Gauge (Thickness "mm")	Thickness of steel sheet used to manufacture sink
Finish	Final finish of sink, e.g. polished/brushed/etc.
Total Capacity All Bowls ("Litres" or "L")	Combined capacity of all bowls
Total Number of Bowls	As named
Capacity of Largest Bowl ("Litre" or "L")	As named
Capacity of Additional Bowl 2 ("Litre" or "L")	As named

<sup>14</sup> EPR 517, No. 004, p.3-4

<sup>15</sup> ADN No. 2019/86

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Category	Characteristics of category
Capacity of Additional Bowl 3 ("Litre" or "L")	As named
Capacity of Additional Bowl 4 ("Litre" or "L")	As named
Number of Drainer Boards	As named
Bowl Corner Radius ("millimetres" or "mm")	Radius of inside corners of bowls
Included Accessories (Yes/No?)	As named
Accessory 1	As named
Accessory 2	As named
Accessory 3	As named
Accessory 4	As named
Accessory 5	As named
Packaging type	As named

**Table 7: Categories selected for identification**

All five selected exporters provided the above information categories for both their Australian sales listing and domestic sales listing. The Australian industry also provided the above information in relation to their Australian sales listing. Detailed product specification information was also obtained.

Exporters were not requested to provide the same level of detail in the cost of production data for the purpose of section G-3 and G-5 of the questionnaire, however information was provided by exporters to allow the cost data reported by product code to be mapped against the product specification data reported in the sales listings.

**3.4.1 Submissions on MCC structure**

In regards to the MCC structure, Jiabaolu claimed in its REQ at Section C-2.2 that *“it is not possible to find the comparable models sold in domestic market for the models sold in Australian market, and this conclusion has been agreed by the Commission in the original investigation.”* The Commission notes Jiabaolu’s reference to the original investigation.

In response to Jiabaolu’s submission the Commission considers that, consistent with the like goods framework and the available information obtained for the purpose of this inquiry, domestic and exported deep drawn stainless steel sinks are comparable (discussed further at section 3.5). As defined in section 269T(1), the Commission is satisfied that whilst exported goods subject to measures may be not identical to like goods in all respects, the like goods sold by each exporter on their domestic market did *“have characteristics closely resembling those of the goods under consideration”*.

Caroma’s submission further claims that it considers certain products sold by Jiabaolu to the domestic Chinese market to be comparable to products exported to Australia<sup>16</sup> and thus it is not appropriate for the Commission to undertake a model matching analysis. The

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<sup>16</sup> EPR 517, No. 004, p.3

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Commission interprets Caroma’s position as meaning that only certain domestic models are a suitable basis for a normal value for the purpose of comparing to export prices.

As noted above, the Commission considers that the comparability between the domestic and exported products does in fact allow for the model matching structure to be implemented. Caroma’s submission was also made at a time when the Commission was not in full receipt of all data from cooperating exporters and importers and was yet to examine and analyse this data to determine whether an appropriate MCC structure could be developed. Using the product information provided by the selected exporters the Commission was able to group numerous sinks by product code and map these sinks to the relevant MCC categories to develop the MCCs applicable to each exporter’s circumstances.

The Commission considers that the MCC structure developed at Table 8 results in an outcome that compares domestic sales of like goods which are either identical or have characteristics closely resembling those of the goods under consideration.

### 3.4.2 Mapping MCC structure

Relying on an analysis of each exporter’s sales and production of deep drawn stainless steel sinks sold into the domestic market and the export market, and the Australian industry’s verified sales and cost data, the Commission considers that the stainless steel required to produce sinks is the main driver of both cost and price in relation to the goods and like goods, and can be linked to the following attributes of the sink:

- number of bowls;
- drainer boards; and
- the total capacity of the sink.

In relation to Jiabaolu and Rhine, the Commission also considered it necessary to have regard to the shape of the bowl where the sinks were found to have bowls which were either circular or rectangular. Circular shaped bowls were identified by the sink radius data reported by the exporters and comparing the relevant sales to the product information provided by the exporter. To map sinks with circular bowls the Commission added the “R” suffix to MCC Category 1 sub-categories.

In addition to the above, the kinds of accessories offered with sinks was also found to be a price determinant, particularly since the range of accessories sold with sinks on the domestic market in China were considerably larger than the range of accessories sold with sinks exported to Australia. As a result, the Commission has applied adjustments to normal value to account for differences in accessories.

The resulting MCC structure applied to each exporter’s domestic and export sales and cost of production is outlined below.

Item	Category	Subcategory	Identifier
1	Number of Bowls	1 Bowl	1BWL
		1 Bowl (Round)	1BWLR
		2 Bowls	2BWL

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Item	Category	Subcategory	Identifier
		2 Bowls (Round)	2BWLR
2	Number of Drainer Boards	No drainer board	0DB
		1 drainer board	1DB
		2 drainer boards	2DB
3	Total Sink Capacity (Litres or "L")	Greater than or equal to 7L but less than or equal to 30L	A
		Greater than 30L but less than or equal to 50L	B
		Greater than 50L but less than or equal to 70L	C

**Table 8: MCC Structure**

When expressed within the MCC structure, a two bowl sink with one drainer board and a total capacity of 35 litres would have an MCC of 2BWL-1DB-B.

**3.4.3 Assessment of MCC structure**

Noting that the sink capacity MCC category has three sub-categories, the Commission further examined the average capacity of the sinks that mapped to the MCC structure.

After mapping sales to the relevant MCC it was found that the average sink capacity for domestic and export markets within each MCC was similar. On this basis, the Commission is satisfied that the MCC sub-categories relating to total sink capacity were suitable.

In relation to other sink features, regard was also had to whether the sink corner radius influenced price. Particularly the concept that sinks with a smaller corner radius attracted higher prices than sinks with larger radius corners. The analysis of the prices of sinks of differing corner radius within each MCC category for each exporter revealed that there was no correlation between price and size of corner radius, i.e. the price of larger corner radius sinks were sometimes more expensive than those with a smaller corner radius. As a result this particular aspect of the sink design is not covered by an MCC category.

**3.4.4 Verification of MCCs**

Exporters and Australian industry were not initially required to report cost and sales in accordance with an MCC structure. Accordingly, the Commission has relied on the information reported by the exporters in its cost and sales data to map each kind of sink to the MCC structure at Table 8.

To ensure that the product characteristics reported in relation to sales and costs were accurate for the purpose of mapping the MCC structure, the Commission has had regard to the following;

- product code information provided by the exporters with their questionnaire responses;
- samples of sales invoices pertaining to domestic and export sales;

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- product brochures; and;
- other publicly available information, such as Australian importers' online web based catalogues.

The Commission considers that the above information is sufficient to confirm that the product information reported by interested parties in their cost and sales worksheets was accurate and the MCC structure at Table 8 has been correctly applied.

### **3.5 Like goods**

In the original investigation, REP 238 established that the Australian industry, who was at the time named Tasman, was a producer of like goods.<sup>17</sup>

As noted at 2.2.2, the Australian industry for the continuation, Oliveri, is formerly known as Tasman. The Commission established through an on-site visit to Oliveri, for the purpose of verifying the sales, cost and other production data supplied to the inquiry by Oliveri, that it continues to manufacture deep drawn stainless steel sinks out of the same location in Regency Park, South Australia that Tasman was also utilising.<sup>18</sup>

Having regard to the information provided by Australian industry in its application, and the sales and costs data provided by exporters and importers in their questionnaire responses, the Commission has been able to assess whether the Australian industry seeking continuation of the measures is a producer of like goods.

#### **3.5.1 Physical likeness:**

Similar to the imported deep drawn stainless steel sinks, the Australian industry manufactures a wide variety of deep drawn stainless steel sinks, available in multiple shapes, configurations (number of bowls, drainer boards, bowl volume) and in various finishes.

#### **3.5.2 Commercial likeness:**

The analysis of the sales listings provided by the Australian industry, importers and exporters demonstrated that the Australian industry's deep drawn stainless steel sinks compete directly with imported goods in the Australian market at various levels of trade in the supply chain and often to the same customers or customers from the same market sector.

#### **3.5.3 Functional likeness:**

Both imported and Australian produced deep drawn stainless steel sinks have comparable or identical end-uses as evidenced by Australian industry customers that source equivalent goods from China.

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<sup>17</sup> REP 238 Section 3.5 refers.

<sup>18</sup> EPR 517 Item No.013

#### **3.5.4 Production likeness:**

Australian industry deep drawn stainless steel sinks are manufactured in a similar manner to the imported goods.

#### **3.5.5 Like goods assessment**

Based on the above findings the Commission considers that the deep drawn stainless steel sinks manufactured by the Australian industry, whilst not identical, have characteristics closely resembling, the goods exported to Australia, as:

- the primary physical characteristics of the goods and locally produced goods are similar;
- the goods and locally produced goods are commercially alike as they are sold to common users, and directly compete in the same market;
- the goods and locally produced goods are functionally alike as they have a similar range of end uses; and
- the goods and locally produced goods are manufactured in a similar manner.

In light of the above, the Commissioner is satisfied that the Australian industry produces like goods to the goods the subject of the application, as defined in section 269T.

## 4 THE AUSTRALIAN INDUSTRY

### 4.1 Preliminary finding

The Commissioner is satisfied that there is an Australian industry producing like goods, consisting solely of Oliveri.

### 4.2 Legislative framework

The Commissioner must be satisfied that the “like” goods are in fact produced in Australia. Sections 269T(2) and 269T(3) specify that for goods to be regarded as being produced in Australia, they must be wholly or partly manufactured in Australia. In order for the goods to be considered as partly manufactured in Australia, at least one substantial process in the manufacture of the goods must be carried out in Australia.

### 4.3 Australian industry

Oliveri (then Tasman) was recognised as the sole manufacturer of deep drawn stainless steel sinks in the original investigation. Upon initiating this inquiry the Commission has not found any evidence to suggest that there are other manufacturers of like goods in Australia and no other parties have made submissions claiming the existence of other industry members. The Commission remains satisfied that the Australian industry consists only of Oliveri.

### 4.4 Production process

The Commission completed an Australian industry verification visit and undertook a tour of Oliveri’s manufacturing facility where it observed the production process.

Stainless steel deep drawn sinks are produced from flat stainless steel, which are subject to a deep drawing and stamping press process to form the bowl and drainer board components. Following this the components are trimmed to the correct shape. After the drawing and trimming operations are complete the sink bowl and drainer board components are joined using a welding process. After assembly the sinks pass through a polishing stage which is followed by a washing and drying stage. At this point the sink is essentially complete. Production staff take the completed sinks, add the relevant accessories and installation items and package the completed sink assembly ready for dispatch. Sinks at various stages of completion are handled between each stage either manually or via robotic aid.

The main raw material used to make sinks is 304 grade stainless steel. These are flat square or rectangular metal sheets which are produced from stainless steel coil. The coil is slit to produce several smaller coils of the necessary width. The newly slit coils are then unspooled and cut at prescribed intervals to produce flat blanks to the desired width and length. Oliveri demonstrated how its blanks have a protective plastic sheeting applied to each blank which helps reduce damage to the steel in the form of scratches and abrasions and also aids in the deep drawing process.

Stainless steel is not produced in Australia. As a result, end-users of this product are required to import their stock from overseas suppliers located in a range of countries.



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Slitting however is undertaken by domestic service providers such as the one used by Oliveri.

### **4.5 Summary**

The Commission is satisfied that the manufacture of deep drawn stainless steel sinks is substantially carried out in Australia, and therefore there is an Australian industry who continue to produce like goods.

## 5 AUSTRALIAN MARKET

### 5.1 Preliminary finding

The Commission has found that, during the inquiry period, the Australian market for the goods was supplied by the Australian industry, imports from China, and imports from other countries not subject to measures.

### 5.2 Market structure

Having regard to the customer listings from sales data obtained from the Australian industry, importers and exporters, the Commission has developed the diagram below depicting the general structure of the Australian stainless steel sinks market, which includes sales of the goods subject to measures.

The structure indicates that Australian industry is in direct competition with exporters of sinks from overseas in its sales to the retail / re-seller / distribution level of trade. Through that particular level of trade it also competes for sales to end users such as the plumbing and commercial / construction sector and over the counter sales for goods sold by retailers in the hardware store or show room floor settings.

Another sales channel in which Australian industry competes with exporters in through the original equipment manufacturer (OEM) level of trade. OEM sinks are produced by sinks manufactures on behalf of importers who market their sinks in Australian under their own brand names. In the OEM market level of trade Oliveri competes for business directly with Chinese producers of the goods.

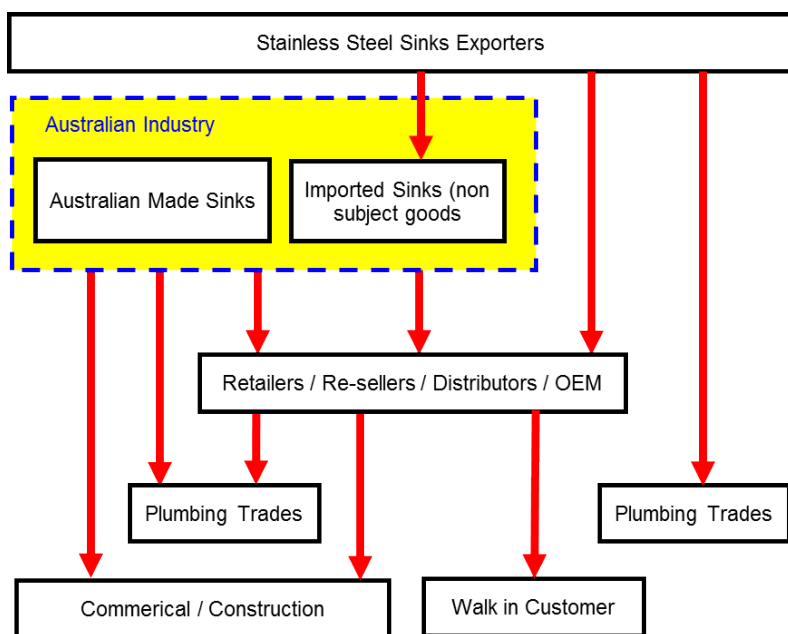


Figure 1 – Australian Market Structure<sup>19</sup>

<sup>19</sup> Confidential Attachment 1 – Australian Market “Market Structure”

### **5.3 Market size**

In its application the Australian industry provided to the Commission data relating to its sales for the period covering financial years (FY) ending 30 June 2015 to 2019. For the purpose of this inquiry the Australian industry has used its own sales data and import data for stainless steel sinks sourced from the Australian Bureau of Statistics (ABS) to estimate the size of the Australian market for the goods.<sup>20</sup>

The Commission notes that the ABS data contained not only imports of the goods, but also imports of all other stainless steel sinks into Australia. Unlike ABF data, ABS data lacks sufficient details that enables the separate identification of imports of sinks subject to measures from all other types of sinks.

In contrast, using ABF import relevant to the tariff subheading under which the goods are imported, the goods subject to measures from China can be identified by dumping specification number (DSN). The remaining sinks from China which are not considered subject to measures because they are either exempt from duty or are not covered by the goods description can also be readily identified on the basis that no DSN is reported by importers in relation to these products.

Similarly, sinks in the same tariff subheading imported from countries other than China are by definition under the tariff subheading, sinks and wash basins of stainless steel. Although these imports may not be comparable to the subject goods, the ABF data can at least be relied on as an input into the Commission's estimate of the size of the stainless steel sinks market generally.

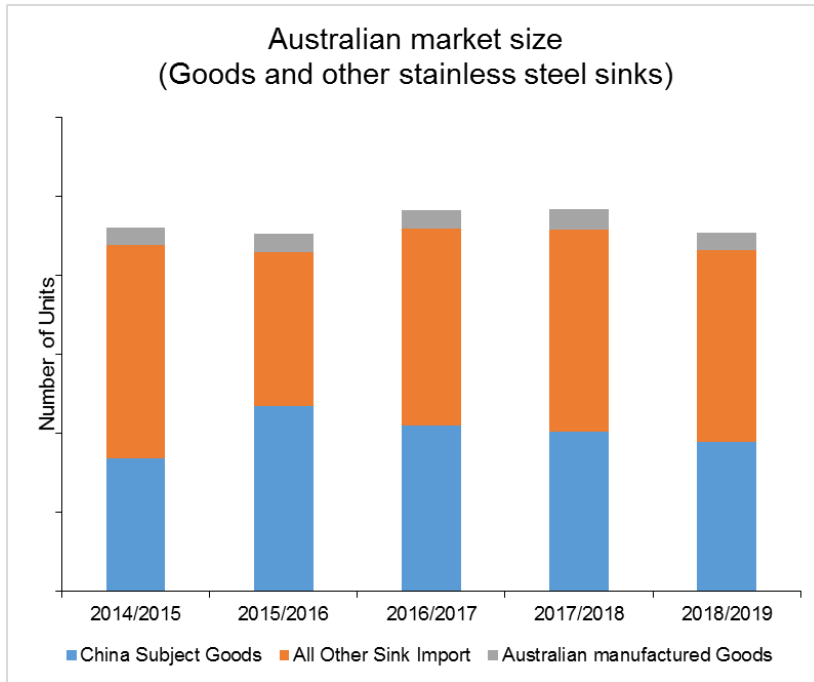
The Commission considers using the ABF tariff subheading data provides the most reliable and relevant estimate of stainless steel sinks imports generally whilst also providing an accurate means of calculating the import volume of sinks subject to measures.

Noting the above limitations, the Commission has estimated the size of the Australian stainless steel sinks market by having regard to the sales data provided by Australian industry and import data from the ABF import database.

Figure 2 below shows the relative size of the Australian market year-on-year for the five year period from 1 July 2014 to 30 June 2019, as well as the share of sales of like goods manufactured in Australia compared with imported goods from China which were subject to measures and all other imported stainless steel sinks (which are not the goods).

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<sup>20</sup> Confidential Attachment 1 - Australian Market – “Market Share”



**Figure 2 – Australian market size FY15 to FY19<sup>21</sup>**

Figure 2 shows that the overall size of the Australian market for stainless steel sinks remained relatively stable following the imposition of the measures in 2015, although the volume of sinks subject to measures from China did increase after measures were imposed. The volume of imports of the goods from China in the period 2018/19 remained at levels that are higher than that which followed the implementation of anti-dumping measures.

#### **5.4 Australian industry sales volume**

Relying on the Australian industry’s verified sales data for like goods, Table 9 below shows the changes in the Australian industry’s sales volumes relative the base year of FY15.

Sales Volume	FY15	FY16	FY17	FY18	FY19
Australian manufactured like goods	100	105	109	113	100

**Table 9: Index of changes in the Australian industry’s domestic sales of the goods<sup>22</sup>**

Table 9 above indicates that relative to the year in which measures were imposed (FY15) it has experienced increasing sales volume up to the FY18 period. However, in the 12 month period prior to making its application, Australian industry’s sales volume returned to levels last seen in FY15. In addition to the trend shown above in Table 9, in

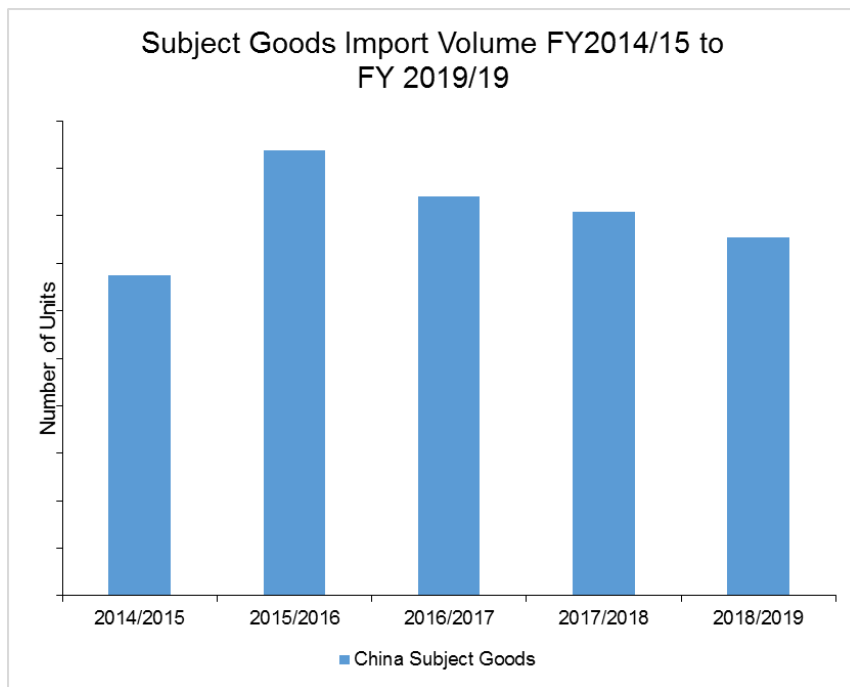
<sup>21</sup> Confidential Attachment 1 - Australian Market “Volume Analysis”

<sup>22</sup> Ibid

the assessment of the economic condition of the Australian industry, at sections 6.4.2 and 6.5.2, the Commission observed that over the last five years Australian industry has seen a decline in the sales volume of it sinks ranges at higher price points and an increase in sales volumes of sinks at lower price points. The Commission considers that the change in the pattern of trade observed in relation to Australian industry’s sales may be symptomatic of a switch in customer preferences to lower priced sinks subject to measures which, as pointed out at 9.5.1, continue to be imported from China.

### **5.5 Source of imports**

The Commission’s analysis of ABF import data found that China continues to be a significant source country of imported stainless steel sinks, both subject and non-subject goods. As a proportion of all imports of stainless steel sinks, imports of the goods from China in the 2018/19 period remain higher than after measures were imposed in 2015 and consistently make up between approximately 40 to 55 per cent of all imports of stainless steel sinks.<sup>23</sup> The chart below shows the trend for import volumes of the goods from China. Since measures were imposed in 2014/15 the volume of imports of the goods increased and remained at higher levels through to the inquiry period.



**Figure 3 – Import Volumes of the Goods from China FY2014/15 to FY2018/19**

### **5.6 Demand for deep drawn stainless steel sinks in Australia**

#### **5.6.1 Market segmentation and end use**

The Australian industry confirmed during the verification visit that the end use of the goods has remained consistent with the original investigation, being as fixtures in

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<sup>23</sup> Confidential Attachment 1 – Australian Market “Volume Analysis”

residential and non-residential installations such as kitchens, utility rooms and laundry rooms.

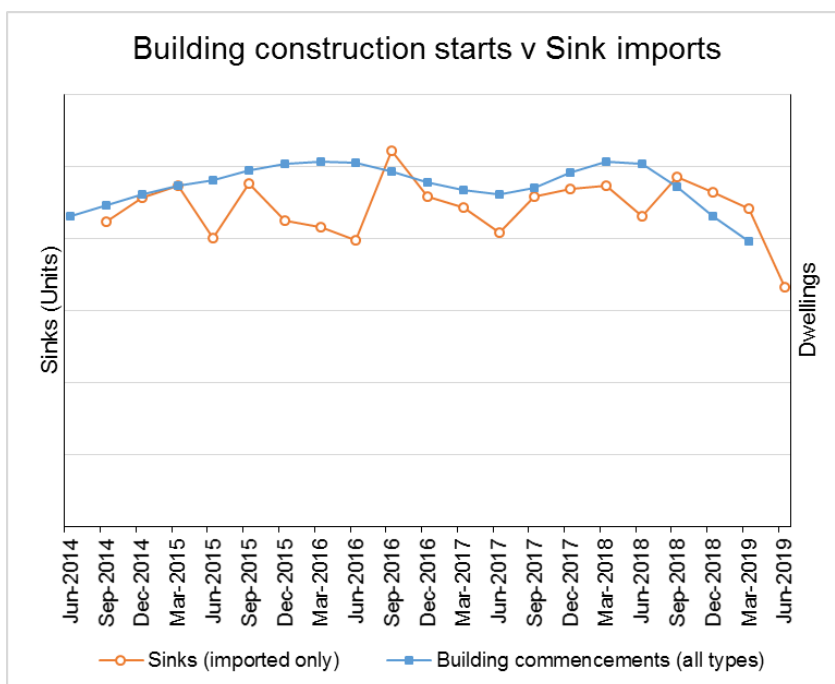
The Australian industry explained that market segmentation is also consistent with the original investigation, with key market segments divided into:

- residential renovation;
- residential new builds; and
- commercial (non-residential).

**5.6.2 Demand variability**

Australian industry contends that demand for the goods is driven primarily by residential and non-residential building construction and home renovation in Australia. Having regard to this statement, the Commission has reviewed ABS data relating to Australian building construction starts and contrasted this with the trends in market size and Australian industry’s sales in the preceding sections.

Figure 4 shows a comparison of the total volume of all stainless steel sinks imported and manufactured in Australia with the total number of building construction starts (both residential and non-residential) in Australia. The Commission considers that Figure 4 demonstrates a reasonable correlation between demand in the Australian stainless steel sink market and Australian building construction over the period FY15 to FY19, with sink imports lagging slightly behind construction starts.



**Figure 4 – Australian building construction and stainless steel sink market FY15 to FY19<sup>24, 25</sup>**

Australian industry further submits that demand for sinks is inelastic and that a change in price will not change demand for the product. The Commission considers this position to be reasonable, given the limited uses for sinks and that the primary drivers of demand (building construction and renovation) are based on overall construction costs and broader economic factors, rather than sink prices.

## **5.7 Submissions in relation to the Australian market**

Caroma claimed in its submission that the Australian market for sinks is strong and growing, and that the Australian industry has been performing well.<sup>26</sup> Caroma claimed that in such a market, any injury claimed by the Australian industry is due to factors other than dumping. It further submitted that if all members of the Australian market are performing well, then the current measures have served the purpose, and that removal of the measures would not cause the Chinese exporters to lower their prices due to the current level of demand.

In its examination of the size of the Australian market at 5.3 the Commission found that contrary to Caroma's submission the Australian market for deep drawn stainless steel sinks is not growing and in recent years shows signs of contraction.

Further the Commission's examination of the economic condition of the Australian industry in chapter 6, found that Australian industry has experienced reduced sales volumes and price depression in key sink ranges. Based on these two measures alone, the Commission does not consider that all members of the Australian market for deep drawn stainless steel sinks are "performing well" on the basis of the observation that imports of the goods from China continue in sustained and similar volumes year on year.

Caroma also claimed that its position in the market meant that it was not competing with Oliveri on the same level of trade and thus was not a factor in the injury to the Australian industry.<sup>27</sup> The Commission considers that Figure 1 shows that Oliveri competes with other companies at all levels of trade (barring walk-in customers) and competes directly with Caroma.

Regarding the diagram of the market structure in Figure 1, the Commission has developed a picture of the Australian market structure by having regard to an analysis of customer listings obtained from Australian industry, selected exporters and importers. Using this information the Commission found that Australian industry competes against importers of the goods for sales to the same customer category, e.g. the plumbing trade and the retail/big box sector.

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<sup>24</sup> Australian building construction starts sourced from ABS Report 8752.0 Building Activity, Australia, Mar 2019 - Dwelling units commenced; Total Sectors; Total (Type of Building); Total (Type of Work) - TABLE 33. Number of Dwelling Unit Commencements by Sector, Australia.

<sup>25</sup> Confidential Attachment 1 - Australian Market "Demand Analysis"

<sup>26</sup> EPR 517, No. 004, p.4

<sup>27</sup> Ibid, p.5

In addition, a review of publicly available information, e.g. online kitchen and bathroom retailers, reveals that numerous vendors of deep drawn stainless steel sinks offer both Australian industry's brand of sinks and the Australian importer's brand of sinks produced by Chinese exporters. On the basis of the Commission's analysis of the Australian market structure for deep drawn stainless steel sinks the Commission considers that Caroma does compete against the Australian industry.

## **5.8 Summary**

The Commission's analysis shows that the Australian stainless steel sinks market, which includes sales of deep drawn stainless steel sinks, has been maintained at a similar level over the last five years. Notable features of the Australian market include:

- stainless steel sinks which are sourced from China continue to be a major source of supply;
- in the inquiry period, Chinese imports of the goods accounted for approximately 45 per cent of all imports of stainless steel sinks generally;
- Australian manufacturers of like goods continue to supply the market at various levels of trade and compete against large volumes of imported goods at all levels of the supply chain; and
- the Commission's evaluation of the ABS data relating to building construction starts shows that demand variability for sinks fluctuates with the number of Australian building construction starts which has been at broadly consistent levels since 2014.

Regarding the state of the Australian market it would be reasonable to conclude that the key drivers of deep drawn stainless steel sink sales have remained present and have not diminished since measures were imposed and are likely to remain prevalent into future years.

Taking the above observations into account, the Commission considers overseas producers will continue to seek out opportunities to supply the Australian market for deep drawn stainless steel sinks. In particular, market trends observed over recent years suggest that the Australian market will continue to be predominantly composed of deep drawn stainless steel sinks sourced from China.



## 6 ECONOMIC CONDITION OF THE INDUSTRY

### 6.1 Preliminary finding

The Commission preliminarily finds that the economic performance of the Australian industry generally declined in the period FY15 to FY19. The Australian industry suffered a deterioration in its economic performance during the inquiry period through injury in the form of:

- reduced sales volume
- price depression;
- price suppression;
- reduced profit and profitability;
- reduced revenue;
- reduced return on investment (ROI); and
- reduced capacity utilisation.

As the period where injury has been found to have occurred coincides with dumping and subsidisation (as outlined at chapters 7 and 8) and the continued large volumes of imports from China, the Commission considers that this indicates that the Australian industry (Oliveri) is susceptible to injury from dumped and subsidised imports.

### 6.2 Approach to analysis

This chapter considers the economic condition of the Australian industry since the measures were first imposed in 2015. The Commission notes that measures have remained unchanged since that time.

As was discussed in previous chapters, the Commission considers that the Australian industry is comprised of only one producer, Oliveri.

The injury analysis detailed in this chapter is therefore based on verified financial information submitted by Oliveri, the sole member of the Australian industry seeking the continuation of anti-dumping measures.

In assessing whether the measures should continue, the Commission is required to perform a forward looking analysis. Recognising that past trends might be indicative of future outcomes, the Commission has examined the Australian market and the economic condition of the Australian industry from 1 July 2015 to 30 June 2019 to provide context for the purposes of its injury analysis. Where relevant the analysis has identified discreet product lines sold by Australian industry.

The data supporting the Commission's analysis of the Australian market and the economic condition of the Australian industry is at **Confidential Attachments 1 and 2**.

Consideration of whether it is likely, in the absence of the anti-dumping measures, that material injury caused by dumping and subsidisation (as opposed to other factors) will continue or recur is considered in Chapter 9 of this report.

### 6.3 Finding in the original investigation

In REP 238, the Commission found that the Australian industry producing deep drawn stainless steel sinks had suffered the following forms of injury:

- lost sales volumes;
- price depression;
- reduced profit and profitability at the whole company level;
- reduced capacity utilisation;
- reduced capital investment;
- reduced value of production assets;
- reduced revenue; and
- reduced employment numbers.

### 6.4 Volume effects

#### 6.4.1 Injury claims relating to volume

The Australian industry claims it has maintained market share by reducing the prices at which it sells like goods. Further the Australian industry claims that should the measures not be continued, the resulting lower price of exports from China would lead to an increase in export volumes to Australia, placing further pressure on the Australian industry to reduce prices to maintain market share.<sup>28</sup>

#### 6.4.2 Sales Volume

Consistent with the Australian industry’s claims, the Commission has found that the sales volume of Australian manufactured like goods, as well as its share of the Australian stainless steel sink market, has remained relatively steady from FY15 to FY19.<sup>29</sup>

Table 10 below is an index of the Australian industry’s sales volumes for FY15 to FY19:

Sales Volume	FY15	FY16	FY17	FY18	FY19
Australian manufactured like goods	100	105	109	113	100

**Table 10: Index of changes in the Australian industry’s domestic sales of the goods<sup>30</sup>**

In Table 10 above, FY16, FY17 and FY18 show an increasing trend in sales volumes, which the Commission largely associates with the commencement of its arrangement with Tradelink to produce OEM sinks in FY17 and a corresponding increase in Australian building construction.

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<sup>28</sup> Application – EPR 517, No. 001, p.15

<sup>29</sup> Section 5.4 refers.

<sup>30</sup> Confidential Attachment 1 - Australian Market Analysis

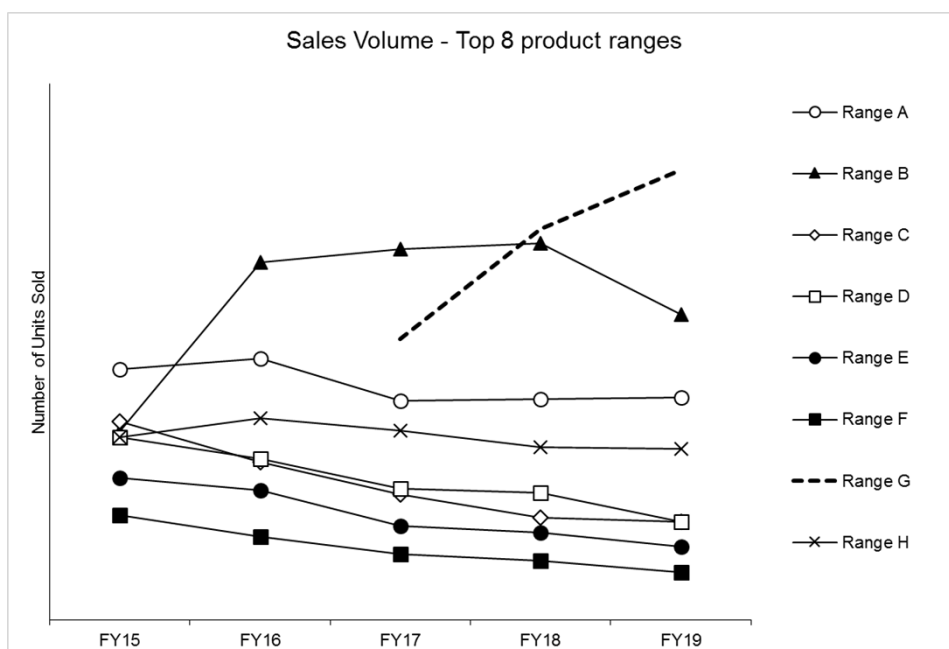
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If related party sales of OEM sinks are excluded, as is depicted in Table 11 below, the sales volume of non-OEM sinks have declined over the FY15 to FY19 period. At the same time, sales of OEM sinks have increased each year since the commencement of production in FY17.

	FY15	FY16	FY17	FY18	FY19
<b>Non-OEM ranges</b>	100	105	95	90	82
<b>OEM range</b>	0	0	100	139	160

**Table 11: Index of changes in the Australian industry’s domestic sales of the goods – Non-OEM and OEM ranges FY15 to FY19<sup>31</sup>**

The chart at Figure 5 below shows the sales volume trends relevant to the top eight sinks ranges by volume sold in the period FY15 to FY19.



**Figure 5 – Sales Volume of Australian manufactured like goods (Top 8)<sup>32</sup>**

Based on the above, the Commission is satisfied that there is evidence that since the imposition of measures, the Australian industry has been able to maintain its sales volumes of like goods at an aggregate level as shown in Table 11. However, in the data shown in Figure 5 at the range level, the Commission observed that sales volumes have declined in a number of ranges.

<sup>31</sup> Confidential Attachment 2 – Australian Industry Injury Analysis “OEM vs non-OEM”

<sup>32</sup> Confidential Attachment 2 – Australian Industry Injury Analysis “Range Analysis”

## 6.5 Price effects

### 6.5.1 Injury claims relating to price

The Australian industry claims that the Australian industry is under pressure to reduce prices to maintain market share, and that this contributes to injury in the form of price suppression and/or price depression.<sup>33</sup> The Australian industry provided evidence indicating it has maintained its market share over the three financial years prior to the application, as well as evidence demonstrating a reduction in the average selling price of the goods.<sup>34</sup>

### 6.5.2 Price depression

Price depression occurs when a company, for some reason, lowers its prices.

In its application, the Australian industry provided evidence depicting a reduction in the weighted average selling price for the goods from FY15 to FY19.<sup>35</sup> The Australian industry notes that some product ranges have maintained their selling price, however in some instances prices have reduced.

The Commission's examination of like goods sales data reported by the Australian industry for FY15 to FY19 in Figure 6 below shows that the weighted average selling price across all like goods manufactured by the Australian industry over this period has declined year-on-year.

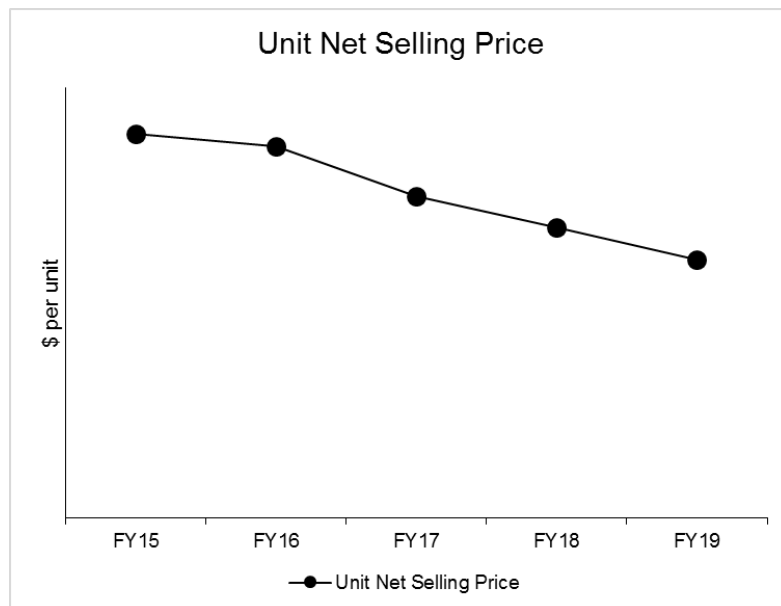


Figure 6 – Weighted Average Selling Price Australian manufactured like goods<sup>36</sup>

<sup>33</sup> Application – EPR 517, No. 001, p.15

<sup>34</sup> Application – EPR 517, No. 001, p.17-18

<sup>35</sup> Application – EPR 517, No. 001, p.17

<sup>36</sup> Confidential Attachment 2 – Australian Industry Injury Analysis “Range Analysis”

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The Commission considers that the selling price of the goods varies depending on a number of factors, including the product range, and accessories e.g. number of bowls and presence of drainer boards. Consequently, it is considered that an accurate assessment of price should take into account, as far as possible, these factors. Accordingly, the Commission has also examined sales data summarised by product code and sink range for the period FY15 to FY19.

Using data provided for FY19, a weighted average unit price was calculated for the top eight product ranges sold by the Australian industry between FY15 and FY19. The combined sales volume of these eight ranges represented more than 80 per cent of the like goods sold during that period.<sup>37</sup> The Commission then compared the weighted average selling price for each model within each range to the weighted average selling price of the respective range.

To determine whether the weighted average unit price for each range could be used as a suitable proxy for all models within a particular sink range, the Commission then calculated what effect the sales of each model had on the weighted average unit price for the whole range.

Using this method, the Commission found that no model within a particular range had a disproportionate effect on the weighted average unit price within a particular sink range, other than for two models within the “Laundry/Trough Inset” range.

Accordingly, the Commission considers it appropriate (with the exception of the “Laundry/Trough Inset” range) to undertake a detailed prices analysis at the range level.

In examining the selling prices of like goods within each sink range, the Commission observed that pricing for most of the ranges sold by the Australian industry have remained largely consistent in the period since measures were imposed. However, price reductions were observed in FY19 in relation to four sinks ranges. This is depicted in Figure 7, which shows the weighted average selling price of the top eight highest selling sink ranges offered by the Australian industry, by volume:

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<sup>37</sup> Ibid

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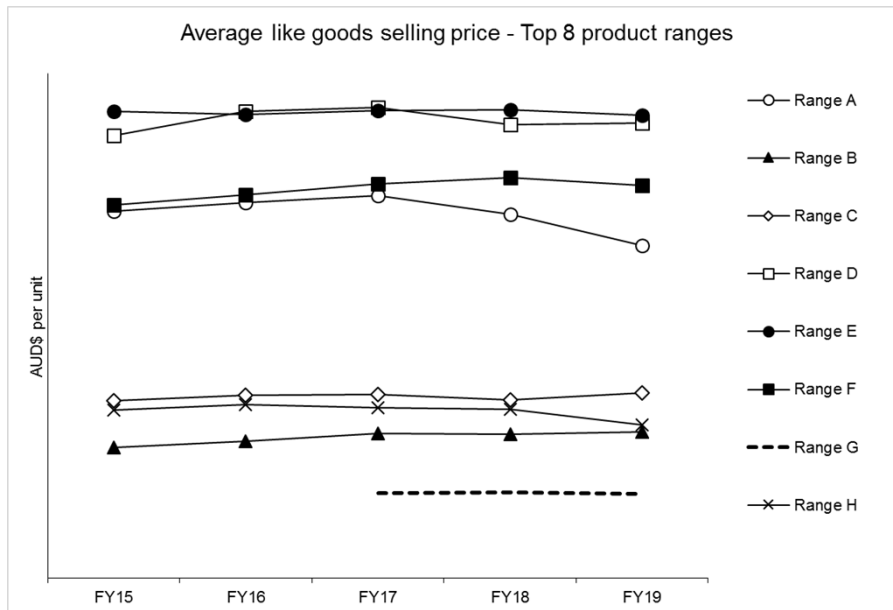


Figure 7 – Average selling price of Australian manufactured goods by product range<sup>38</sup>

Contrasting the price data in Figure 6 and Figure 7, the Commission observed that the five year trend in the weighted average unit price of all like goods sales did not exhibit the same trend at the individual range level.

Analysis of the sales volumes at Figure 5 reveals that;

- the like goods sales volume of the three sinks ranges at the highest price points, “Range E” and “Range D” and “Range F” went from representing approximately 35 per cent of total like goods sales in FY15 to approximately 14 per cent in FY19;
- the two sink ranges at the lowest price point, “Range B” and “Range G” went from representing approximately 15 per cent of total like goods sales in FY15 to approximately 50 per cent in FY19; and
- the FY19 price of the third and fourth largest selling range by sales volume, “Range A” and “Range H”, show decreases of 13 and 10 per cent respectively when compared to the peaks in FY17.

The Commission considers that the decline in the weighted average unit prices for all like goods is the combined function of the following;

- a switch away from higher priced sinks to lower priced sinks;
- sales of OEM sinks at a lower point; and
- price reductions of other large selling sink ranges.

As shown in Figure 7 above, with the exception of “Range A”, most product ranges have maintained their selling price to within a reasonable variance between FY15 and FY19.

<sup>38</sup> Confidential Attachment 2 – Australian Industry Injury Analysis “Range Analysis” refers. Laundry/Trough Inset sinks have been included in the figure but have not been considered as part of the analysis, in line with the discussion above. Product ranges including taps have been excluded from this analysis as taps are not the goods.

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Some ranges, such as “Range B” and “Range F”, have seen a broad increase in price over the period. Notwithstanding the longer term trend, four out of the eight sink ranges analysed exhibited price reductions in FY19 and in the year prior. The Commission also observed that the reduction in weighted average selling occurred in the absence of OEM sinks sales.<sup>39</sup> “Range G” has shown no change in price since its introduction in 2017.

Excluding the effect on the price trend caused by OEM sinks sales to Oliveri’s related party customer Tradelink, and the observation that higher priced sinks appear to be less in favour, the Commission remains satisfied that the Australian industry’s selling prices support its claims it has suffered price depression.

### 6.5.3 Price suppression

Price suppression occurs when price increases, which otherwise would have occurred, have been prevented.

To determine whether price suppression has occurred, the Commission has undertaken a comparison of prices having regard to the CTMS to assess whether, over time, prices have increased in line with cost increases.

Figure 8 shows a comparison of the weighted average selling price per unit on a whole-of like goods basis versus the weighted average CTMS for each unit.

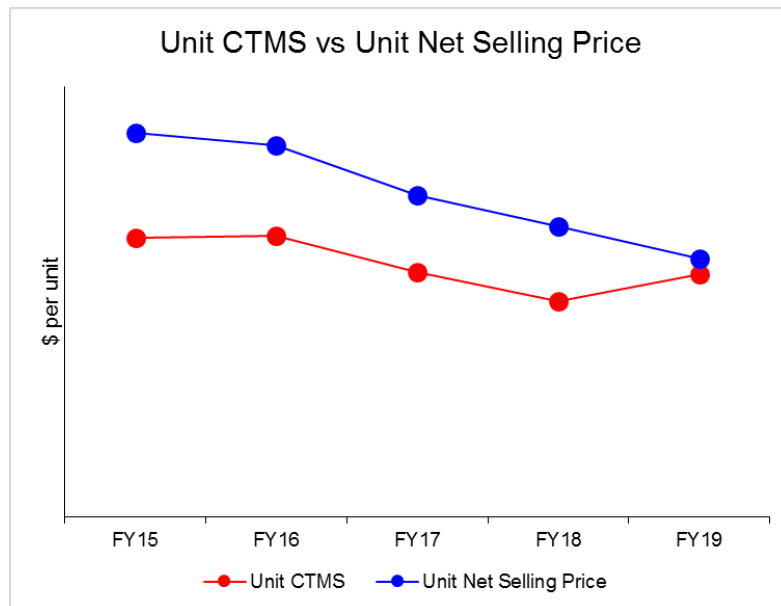


Figure 8 – Australian manufactured like goods – Unit CTMS v Unit Price<sup>40</sup>

Consistent with the Australian industry’s claims, the Commission is satisfied that Australian industry, on a whole-of like goods basis, is suffering price suppression, particularly in FY16 and FY19. In relation to FY19, the Commission’s analysis of the Australian industry’s CTMS data for FY19 found that it experienced increases in the unit

<sup>39</sup> Confidential Attachment 2 – Australian Industry Injury Analysis “OEM vs non-OEM”

<sup>40</sup> Confidential Attachment 2 – Australian Industry Injury Analysis “CTMS”

cost of raw materials, direct labour and manufacturing overheads, however these increases were unable to be recovered through an increase in selling price which continued to decline in FY19 compared to FY18.

Recognising the large price variance between the sink ranges at Figure 7, the Commission also undertook a price suppression analysis at the sink range level relying on cost of goods sold (COGS) data for each range adjusted for manufacturing variances reported in the Australian industry's profit and loss statements. The Commission notes that this approach results in an approximation of the COGS in each range, however it considers this suitable to illustrate the relative changes between the price and production cost of like goods. The Commission therefore considers it can be used in a price suppression analysis in further support of the observations discussed in relation to the comparison at Figure 8.

At the specific sink range, variations in the relationship between COGS and price were observed. However, common amongst the top selling sinks and consistent with the broader trend, is the increase in COGS in FY19 with a corresponding decrease in price. The Commission considers that the price suppression at the sink range level is consistent with the Australian industry's claim, where it explained it was not recovering its fully absorbed cost at the selling prices required to maintain its OEM sinks business.<sup>41</sup>

Noting the observations of price suppression at the whole-of-like goods level and at specific sink ranges, the Commission considers that there is sufficient evidence to support the Australian industry's claim it has suffered price suppression in respect of Australian manufactured like goods.

## **6.6 Profit and profitability**

### **6.6.1 Injury claims in relation to Profit and Profitability**

The Australian industry claims that the reduction in its prices, necessary to maintain market share, has impacted its profitability.<sup>42</sup>

### **6.6.2 Profit and Profitability – All Goods**

Relying on Oliveri's verified sales revenue and CTMS data the Commission ascertained that Oliveri's sales of like goods declined in profit and unit profitability since measures were introduced in 2015.<sup>43</sup>

The rate of the decline in profit and unit profitability was the greatest in FY19. As discussed in the price suppression analysis at section 6.5.3 the Commission observed that the FY19 reduction in profit and profitability is the result of the simultaneous occurrence of an increase in CTMS and the continuation of the long term downward trend in selling prices experienced by the Australian industry.

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<sup>41</sup> Application – EPR 517, No. 001, p.16

<sup>42</sup> Application – EPR 517, No. 001, p.15

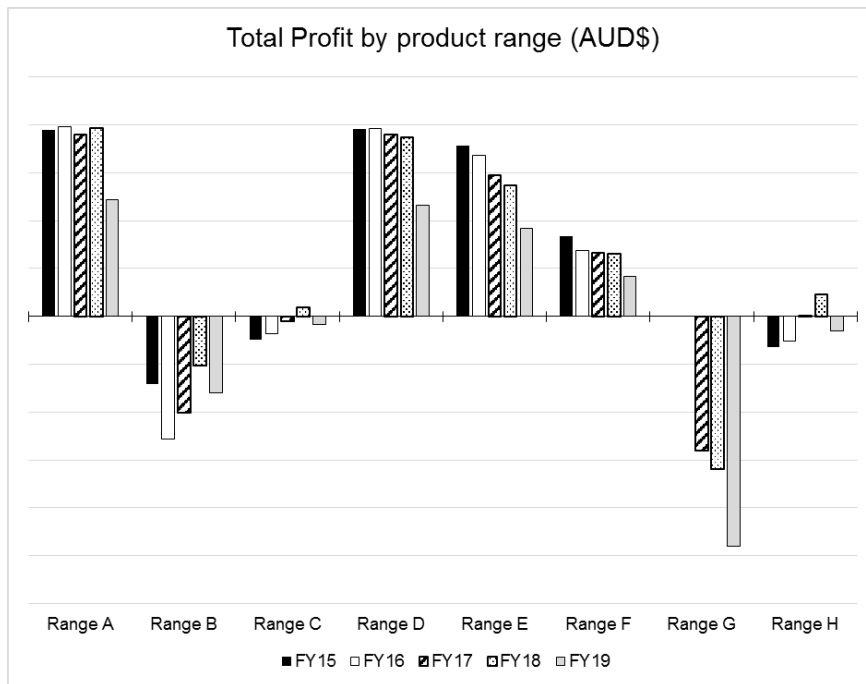
<sup>43</sup> Confidential Attachment 2 – Australian Industry Injury Analysis "Profit and Profitability"



**6.6.3 Profit and Profitability – By Product Range**

Depicted below in Figure 9 the Commission has calculated an indicative profit for the top eight like goods ranges by sales volume. The volume of like goods that make up the top eight represent approximately 80 per cent of sales volume in the period FY15 to FY19. The Commission worked out the profit by relying on;

- the COGS data adjusted for manufacturing variances discussed in the price suppression analysis at Section 6.5.3; and
- the annual weighted average unit SG&A costs.



**Figure 9 – Profit by product range FY15-FY19<sup>44</sup>**

Figure 9 indicates that both Range B and Range G were not profitable at any stage during the previous five financial years and Range C and H were overall unprofitable. The remaining ranges were profitable in each year however typically exhibited a downward trend, with the most significant decrease in profit observed in relation to FY19.

To account for the effect on profit that might be the result of OEM related party sales, the Commission has also examined the like goods profit result with and without OEM sinks. The Commission observed that profits in the absence of OEM sink sales were higher however still indicated a decline consistent with the overall trend discussed in Section 6.6.2.<sup>45</sup>

<sup>44</sup> Confidential Attachment 2 – Australian Industry Injury Analysis “Profit by Range”

<sup>45</sup> Confidential Attachment 2 – Australian Industry Injury Analysis “OEM vs non-OEM”

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For further context, in Figure 10 below, the Commission observed that the three sinks ranges (Range D, E and F) that achieved the highest unit profit are also the top three most expensive (Figure 7 refers). Not only have these three ranges suffered a reduction in unit profit, the sales volumes for these three ranges have decreased in FY19 to a five year low. It also appears lower priced sinks are being sold in substitution for higher priced sinks. Further, these lower priced sinks were either unprofitable, i.e. Ranges B, G and H, or in the case of the remaining profitable range, Range A, was in a state of declining profitability (Figure 5 refers).

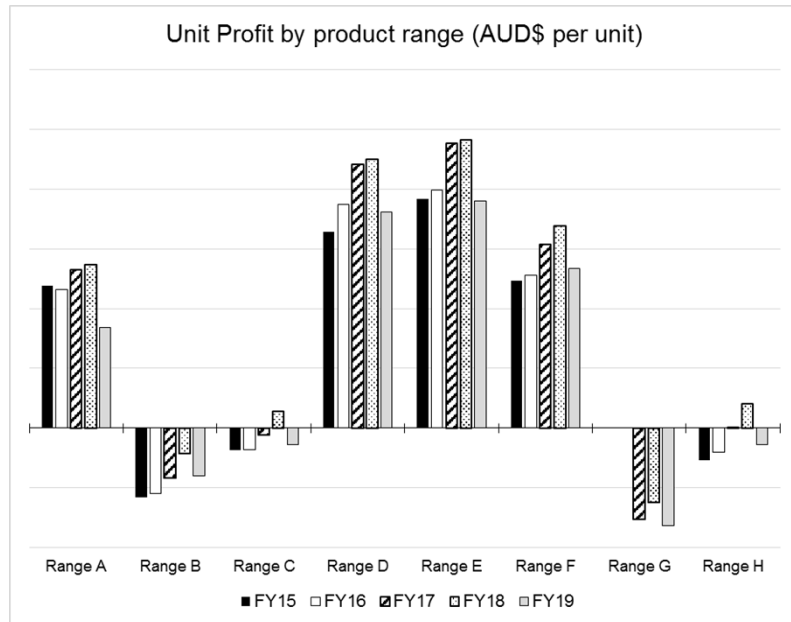


Figure 10 – Unit Profit by product range<sup>46</sup>

Based on the analysis of the profit and profitability of like goods as a whole and at the range level, the Commission is satisfied that the Australian industry has experienced injury in the form of reduced profit and profitability.

## 6.7 Other economic factors

### 6.7.1 Injury claims relating to other economic factors

As part of its application, the Australian industry provided data in relation to a range of other economic factors which may also be indicative that injury has occurred. This included data, for the period of FY15 to FY19, relating to:

- assets;
- capital investment;
- research and development expenses;
- revenue;
- return on investment;

<sup>46</sup> Confidential Attachment 2 – Australian Industry Injury Analysis “Profit by Range”

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- capacity;
- capacity utilisation;
- employment;
- productivity;
- stocks;
- cash flow measures; and
- wages.<sup>47</sup>

The Commission notes that while data was provided in respect of each of the factors above, the Australian industry is not necessarily claiming injury under each factor.

Upon an examination of the data, the Commission observed the following trends over the FY15 to FY19 period:<sup>48</sup>

- ROI fell each year;
- revenue in respect of the goods was stable for FY15 and FY16, before declining each year thereafter;
- capacity and capacity utilisation remained relatively steady, although at no stage during the period observed was the Australian industry operating at full capacity;
- production volumes declined in FY19 however were six percentage point higher than the base year of FY15 when measures were imposed; and
- the number of employees engaged in the manufacture of the goods decreased each year, along with the total hours worked.

The following improvements were also observed:

- the value of production assets used in the manufacture of the goods increased each year;
- productivity, measured by actual production output divided by hours work, increased in FY17 and FY18 compared to FY15 and F16, before dropping slightly in FY19; and
- cash flow increased year-on-year from FY15 to FY18, before dropping slightly in FY19.

No discernible trend was observed in respect of the remaining factors.

### 6.7.2 Assets, Revenue and Return on Investment

ROI has been calculated by the Australian industry as a ratio of its revenue on its sales of like goods to the proportion of the value of its assets used in connection with those sales.

Injury Factor	FY15	FY16	FY17	FY18	FY19
Assets	100	104	108	119	125
Revenue	100	102	95	87	73

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<sup>47</sup> Confidential Attachment 2 – Australian Industry Injury Analysis “*Other Injury Factors*”

<sup>48</sup> *Ibid*

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ROI	100	98	88	73	58
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**Table 12: Index of Assets, Revenue and ROI FY15-FY19<sup>49</sup>**

The table above shows that compared to FY15 when the measures were first imposed, Oliveri has experienced a decline in sales revenue and ROI.

**6.7.3 Capacity and Capacity Utilisation**

As part of its application, the Australian industry submitted that the manufacture of Raymor branded sinks produced for its related OEM customer Tradelink represents a critical source of production volume. Australian industry’s application goes on to state that whilst its production of Raymor branded sinks does not recover the fully absorbed cost to make and sell at the selling prices it currently achieves, the revenue received from this business makes a positive contribution towards fixed costs and provides valuable volume for the Australian industry production facility.<sup>50</sup>

This was reaffirmed during the verification visit, where the Australian industry explained that the loss of production volume associated with Raymor sinks would lead to a level of capacity utilisation which would likely result in the continued manufacturing of the goods by Australian industry becoming no longer viable.

Noting that Raymor sinks make up a growing volume of goods manufactured by the Australian industry, the Commission is satisfied that its capacity utilisation would be significantly impacted should the Australian industry cease producing Raymor sinks. The Commission also considers that if Australian industry was to lose Tradelink as its OEM supplier the fixed manufacturing costs incurred by Australian industry would be allocated across a smaller production volume and the resulting price of the goods produced would need to increase. To avoid this outcome it is therefore necessary for Australian industry to either continue production its OEM sinks, despite those sinks being loss making, or in the alternative, increase its sales volumes of other sinks ranges.

This is depicted in Table 13 below, which is an index of the Australian industry’s capacity utilisation from FY15 to FY19, compared against capacity utilisation without Raymor production.

Factor	FY15	FY16	FY17	FY18	FY19
Capacity Utilisation (all goods)	100	97	94	115	106
Capacity Utilisation (Ex. Raymor)	100	97	79	93	81

**Table 13: Capacity utilisation FY15-FY19, with and without Raymor production<sup>51</sup>**

<sup>49</sup> Ibid.

<sup>50</sup> Application – EPR 517, No. 001, p.16

<sup>51</sup> Confidential Attachment 2 – Australian Industry Injury Analysis “*Other Injury Factors*”

#### **6.7.4 Employment and Productivity**

During the verification visit, the Australian industry explained that the pressure on prices from imports has led to it investing in increased efficiency, for example through increased investment on equipment and a slight decrease in its workforce. This reflects the trends observed by the Commission from the application data.

The Australian industry explained that the decrease in employee numbers occurred through natural attrition, and with the increase in efficiency, it did not hire replacements for these departing employees. In this respect, the Commission notes the requirement that, for there to be injury, it must be greater than that likely to occur in the normal ebb and flow of business.<sup>52</sup>

As such, from the data provided to the Commission, it cannot be satisfied that the Australian industry has suffered material injury in respect of its employment numbers outside that which it would likely have experienced normally.

#### **6.8 Factors other than dumping**

The following factors other than dumping were identified during verification as possibly having an impact on the economic condition of the Australian market for the goods:

- Australian building construction;
- substitutability for other products; and
- the OEM product range.

##### **6.8.1 Australian building construction**

During the verification visit, the Australian industry submitted that the demand for new kitchens (and thereby, new sinks) has dropped 10 per cent over FY19 and is expected to drop a further 9 per cent in the coming financial year.

In its examination of demand for the goods, the Commission has had regard to ABS building data up to March 2019.<sup>53</sup> The data shows a 9.3 per cent decline in the construction of new private sector houses, along with a 36 per cent decline in other private sector residential buildings (e.g. apartments) when compared to the same quarter last year. This equates to a 21.8 per cent drop in residential building starts overall. This drop can be seen in Figure 4 above.

The Commission has also had regard to the residential renovation data over the four quarters to March 2019.<sup>54</sup> The data shows a 0.8 per cent increase in the value of work done when compared to the same period in FY18. However, this data is based on value rather than the number of renovations and does not specify whether such renovations are for kitchens or bathrooms (or any other room which uses a sink). It also represents 7.4

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<sup>52</sup> ADN No. 2012/24 – New Ministerial Direction on Material Injury

<sup>53</sup> ABS Report 8752.0 Building Activity, Australia, Mar 2019 – Summary

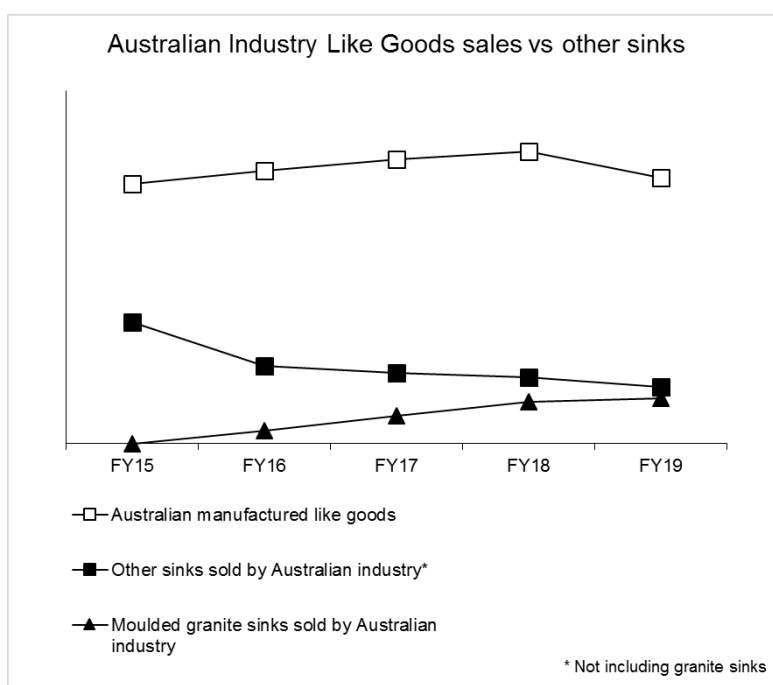
<sup>54</sup> Ibid. Reported as “Alteration and additions to residential building data” by the ABS.

per cent of the value of the building activity. It is therefore considered to be of limited value in any analysis of demand variability for the goods.

**6.8.2 Substitutability and product trends**

The Australian industry submitted during verification that like goods are substitutable for other stainless steel sinks, primarily fabricated stainless steel sinks. There is also a recent trend towards the use of moulded granite sinks as a substitute for like goods. The Commission considers this submission reasonable, after having consideration of the end use of these products.

The Australian industry further submitted that there is an increasing trend towards customers preferring fabricated sinks over like goods. The Commission has examined sales data provided by the Australian industry and has found that there has been a slight increase in its sales of like goods since FY15 and a decreasing trend in fabricated sink sales, however, this appears to have been offset by a similar increase in moulded granite sink sales. This is demonstrated in Figure 11 below.



**Figure 11 – Australian sales of the goods, fabricated sinks and moulded granite sinks<sup>55</sup>**

**6.8.3 OEM sinks**

As noted previously the Commission considers that sales of OEM sinks have been a factor which have impacted on the Australian industry’s economic condition, profit in particular, due to the lower price point and significant sales volumes associated with OEM sinks.

<sup>55</sup> Confidential Attachment 2 – Australian Industry Injury Analysis “Range Analysis”

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These two factors appear to have combined to contribute to the decrease in the average selling price of the like goods produced by the Australian industry and also meant that a large proportion of its production costs have not been fully recovered. The economic performance of OEM sinks has therefore had an effect on the Australian industry's overall economic performance.

However, sales of OEM sinks has allowed the Australian industry to maintain its production volumes in line with the previous five year average. Notwithstanding the performance of OEM sinks ranges sold to its related party customer Tradelink, the Australian industry still sells over half of its like goods to unrelated customers. Within this context the Commission considers it reasonable that the Australian industry's commitment to its OEM products is a source of injury however not the only factor.

### **6.9 Conclusion**

Based on an analysis of the information provided in the application and verified during and after the visit, the Commission is satisfied that the Australian industry continues to experience injury in the form of:

- reduced sales volume
- price depression;
- price suppression;
- reduced profit and profitability;
- reduced revenue;
- reduced ROI; and
- reduced capacity utilisation.

**7 ASCERTAINMENT OF VARIABLE FACTORS (DUMPING)**

**7.1 Preliminary finding**

For the purpose of assessing whether the continuation of the anti-dumping measures is required to prevent the continuation or recurrence of dumping, the Commissioner has ascertained all variable factors<sup>56</sup> relevant to the taking of the measures during the inquiry period.

The Commissioner has found that the variable factors in relation to all exporters have changed. The Commissioner has ascertained dumping margins as summarised in Table 14.

<b>Exporter</b>	<b>Dumping Margin</b>
Cresheen	negative 12.1%
Jiabaolu	10.2%
Primy	58.9%
Rhine	25.0%
Zhuhai Grand	39.3%
Residual exporters	38.5%
Uncooperative and all other exporters	88.8%

**Table 14: Summary of dumping margins**

**7.2 Legislative framework**

In accordance with section 269ZHF(2), the Commissioner must not recommend that the Minister take steps to secure the continuation of anti-dumping measures unless the Commissioner is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of dumping. The existence of dumping during the inquiry period may be an indicator of whether dumping may occur in the future.

Dumping occurs when a product from one country is exported to another country at a price less than its normal value. The export price and normal value of the goods are determined under sections 269TAB and 269TAC respectively. Section 269TACB is used to work out whether dumping has occurred and the levels of dumping by comparing the export price and normal value of the goods.

Further details of the export price and normal value calculations for each exporter are set out below.

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<sup>56</sup> The variable factors are export price and normal value (as examined in this chapter) and non-injurious price (as examined in chapter 11).



### **7.2.1 Cooperative exporters**

Pursuant to the sampling provisions under section 269TACAA(1) and in line with the discussion at section 2.2 regarding the conduct of the inquiry, the Commission received fully completed REQs from the following exporters, who are also considered cooperative exporters:

- Cresheen;
- Jiabaolu;
- Primy;
- Rhine; and
- Zhuhai Grand.

The Commission undertook onsite verification visits to Primy and Zhuhai Grand. Offsite verifications of the data was undertaken in relation to the REQs received from Cresheen, Jiabaolu and Rhine.

### **7.2.2 Uncooperative and all other exporters**

Section 269T(1) provides that an exporter is an “uncooperative exporter”, where the Commissioner is satisfied that an exporter did not give the Commissioner information that the Commissioner considered to be relevant to the inquiry, within a period the Commissioner considered to be reasonable or where the Commissioner is satisfied that an exporter significantly impeded the inquiry.

The *Customs (Extensions of Time and Non-cooperation) Direction 2015* (the Direction) states at section 8 that the Commissioner must determine an exporter to be an uncooperative exporter, on the basis that no relevant information was provided in a reasonable period, if that exporter fails to provide a response or fails to request a longer period to do so within the legislated period.

After having regard to the Direction, the Commissioner determined that all exporters that did not provide a response to the exporter questionnaire or a completed preliminary information request, or which did not request a longer period to provide a response within the legislated period (being 37 days, concluding on 9 August 2019), are uncooperative exporters for the purposes of this inquiry.

As provided for in section 269TACAB(1), for uncooperative exporters, export price and normal value are worked out in accordance with section 269TAB(3) and section 269TAC(6) respectively by having regard to all relevant information (refer section 7.12).

## **7.3 Stainless steel costs**

### **7.3.1 Suitability of stainless steel production costs**

In REP 238, the Commission found that there was sufficient evidence which showed that there was significant GOC influence in the Chinese steel industry that either directly or indirectly impacted on the domestic market for stainless steel, specifically, grade 304 cold rolled coil (CRC) stainless steel which is used to make deep drawn sinks. For brevity, references to stainless steel should be considered a reference to grade 304 CRC stainless steel.

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Having regard to the available information about the Chinese steel industry, the Commission in REP 238 considered that the stainless steel costs incurred by deep drawn stainless steel sink manufacturers in China did not reasonably reflect competitive market costs in terms of the then Regulation 180(2) of the *Customs Regulations 1926*. The Commission then replaced the stainless steel costs in the CTMS figures reported by the exporters with what was considered a competitive market cost substitute. Using the revised CTMS figures the Commission then set about identifying domestic sales of like goods sold in the ordinary course of trade (OCOT) pursuant to section 269TAA. Depending on whether sufficient OCOT sales were available, normal values were determined pursuant to either section 269TAC(1) or were constructed under section 269TAC(2)(c).

The Commission found that whilst the cost of stainless steel in the Chinese market did not reflect competitive market costs, it did not have the impact of rendering domestic sales of deep drawn stainless steel sinks unsuitable for determining the normal values under section 269TAC(1).

Following the release of the *Customs (International Obligations) Regulation 2015* (the Regulation), the assessment of an exporter's cost of production is undertaken in accordance with section 43 of the Regulation. Section 43(2) of the Regulation states the following;

*If:*

*(a) an exporter or producer of like goods keeps records relating to the like goods; and*

*(b) the records:*

*(i) are in accordance with generally accepted accounting principles in the country of export; and*

*(ii) reasonably reflect competitive market costs associated with the production or manufacture of like goods;*

*the Minister must work out the amount by using the information set out in the records*

In addition to REP 238, the Commission has found in several investigations and reviews that there has been, and continues to be, a significant GOC influence in the Chinese steel industry.<sup>57</sup>

In addition to the findings of other investigations undertaken by the Commission which also involved the Chinese steel industry, the Commission has compared the prices of stainless steel in China, North America and Europe published by Steel Business Briefing

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<sup>57</sup> For example, Report No. 177 – Hollow structural section from China, Report No. 190 – Aluminium zinc coated steel from China, Report No. 198 – Hot rolled plate steel from China, Report No. 237 – Silicon Metal from China, Report No. 300 – Steel reinforcing bar from China, Report No. 301 – Rod in coils from China, Report No. 316 – Grinding balls from China, Report No. 382 – Alloy round steel bar from China, Report No. 441 – Steel Pallet Racking from China and Report No. 466 – Railway wheels from China.

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Ltd (SBB) during the inquiry period. The Commission found that the average monthly market price of stainless steel out of China was 30 per cent lower than the combined monthly average price of stainless steel out of North America and Europe.

Comparing the SBB prices published for China to the verified price of stainless steel purchases reported by the selected exporters in this inquiry, the Commission found that the prices reported by the exporters were comparable to the data published by SBB.

As noted previously, the GOC was provided an opportunity to comment on the current state of its steel industry and provide information in a questionnaire response that may have been relevant to the question of whether the circumstances identified in the original investigation in relation to stainless steel continue to be relevant. However, the GOC did not lodge a questionnaire response. As a result, the assessment of the steel industry in China has been made on the basis of the following available information;

- other cases conducted by the Commission;
- the original investigation findings;
- analysis of the market prices of stainless steel relevant to the inquiry period; and
- cost and purchasing data reported by exporters in questionnaire response.

Having regard to the available information, the Commission considers that the stainless steel costs incurred by deep drawn stainless steel sink manufacturers in China over the inquiry period did not reasonably reflect competitive market costs in terms of section 43(2) of the Regulation.<sup>58</sup>

### 7.3.2 Competitive market costs substitute

In light of the above finding that the production costs of stainless steel incurred by Chinese exporters of the goods do not reasonably reflect competitive market costs for that input, the Commission has considered how best to determine what a competitive market substitute price for this input in China should be, having regard to all available information.

For the purpose of this inquiry, the Commission does not propose to depart from the approach adopted in the original investigation which applied a benchmark price that was considered to be representative of 'adequate remuneration' for the purposes of determining a benefit under Subsidy Program 1 - Raw materials provided by the Government at Less than Adequate Remuneration.<sup>59</sup>

For the purpose of this inquiry the benchmark price used for Program 1 and the stainless steel cost substitute in relation to section 43(2) of the Regulation relies on the average price of grade 304 stainless steel CRC for North America and Europe published by SBB.

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<sup>58</sup> *Customs (International Obligations) Regulations 2015*.

<sup>59</sup> To the extent that the stainless steel inputs impact on both the dumping and subsidy margin, any overlap will be removed from the combined fixed interim dumping duty and countervailing duty to avoid a double-count.

Details of the competitive market costs substitute are provided in **Confidential Attachment 3**.

### **7.3.3 Replacement methodology**

To ensure that the cost of stainless steel used in determining the costs of manufacture or production reasonably reflect competitive market costs for the purposes of OCOT tests and constructing normal values, the Commissioner compared:

- the benchmark SBB European and North American average price, on delivered terms, for grade 304 stainless steel CRC; to
- verified stainless steel purchase prices reported by the selected exporters of deep drawn stainless steel sinks (when this was purchased an input),

to arrive at an individual percentage difference between the SBB benchmark price and the exporters' purchases prices. The percentage variance between the two prices was then applied to the stainless steel costs recorded in the exporters' records, i.e. the domestic and Australian CTMS data.

In performing this calculation, the Commissioner applied the applicable benchmark to the verified purchase data based on the reported delivery and physical state (slit/unslit) of those purchases to ensure a 'like to like' comparison.

In each case, application of the SBB benchmark price resulted in an increase to each exporters' production costs, i.e. the actual stainless steel costs incurred by exporters were lower than the benchmark amount. Details of the cost variance calculations are provided in worksheet 1 to **Confidential Attachment 3**.

### **7.3.4 Submissions in relation to stainless steel costs**

Milena claimed in its submission that the stainless steel prices in China are not due to government influence, but due to other advantages such as cheaper electricity and nickel.<sup>60</sup> Milena also pointed to the stainless steel suppliers of its Chinese manufacturer, and claimed that they were not an SIE or SOE and thus are not influenced by the GOC.<sup>61</sup> As discussed above the Commission considers that there has been, and continues to be a significant GOC influence in the Chinese steel industry, which extends to both SIE/SOE and non-SIE/SOE.

Milena further claimed that use of a benchmark consisting of the North American and European prices was not appropriate as they do not have similar market conditions to China.<sup>62</sup> As determined in the original investigation, and the approach taken by the Commission in this inquiry, it was found that using the North American and European stainless steel prices was the only reasonable approach in the circumstances, predominantly due to the scope of the available data, and the absences of any influence from the Chinese stainless steel market.

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<sup>60</sup> EPR 517, No. 003, p.4-5

<sup>61</sup> Ibid, p.6

<sup>62</sup> Ibid, p.7

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Milena claimed that in the event that a benchmark is used, using an average price does not accurately reflect the movement in the market over a period.<sup>63</sup> The Commission considers that the methodology described in section 7.3.3 accurately reflects the movement in the stainless steel costs for the chosen benchmarks.

Milena claimed that any adjustments made to the stainless steel cost benchmark should reflect the same export terms as those received by the manufacturers in China.<sup>64</sup> The Commission considers that this has been addressed in its replacement methodology in section 7.3.3.

In its submission on the issue of stainless steel costs Caroma submitted the following;

- that it does not consider that a particular market situation exists in the Chinese domestic market; and
- it does not consider the use of a constructed value based on the MEPS based average North American and European prices to be appropriate;
- actual prices should be used to determine the cost to make and sell, normal value and export price.

For the reasons outlined in section 7.3.1, the Commission continues to consider that the cost of stainless steel cold rolled coil purchased by Chinese exporters from domestic suppliers does not reflect a competitive market cost.

To Caroma's point on the use of actual domestic selling prices upon which to base normal values, the Commission considers that the approach outlined at section 7.7.3 in relation to Jiabaolu's normal value achieves the objective expressed by Caroma. Likewise, the Commission has also utilised the exporters' Australian sales data to determine an appropriate export price, having regard to all of the circumstances of the exportation.

### **7.4 Verification of selected exporters**

The Commission undertook on-site visits to Primy and Zhuhai Grand to verify the information disclosed in the respective REQs. For the remaining three selected exporters, Cresheen, Jiabaolu and Rhine, the Commission undertook off-site verification of the respective REQs. Although these three exporters were not requested to host the Commission for a verification visit, their REQs were considered suitable such that it could be verified by having regard to other information available and benchmarking to other data sources.

The suitability of the data in the REQs of Cresheen, Jiabaolu and Rhine was established by ascertaining the variable factors relating each exporter's exports of the goods to Australia and benchmarking these factors, and the relevant data underlying these factors to the following:

- the sales and cost data and the variable factors ascertained for other cooperating exporters that were the subject of a verification visit;

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<sup>63</sup> Ibid, p.8

<sup>64</sup> Ibid, p.8

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- the sales and cost data and the variable factors ascertained for other cooperating exporters whose data was not the subject of a verification visit;
- relevant information from previous investigations which involved the exporter; and
- the data submitted with the exporter's REQ.

Where the examination of the data in the REQ produced results that were inconsistent with those observed in relation to other exporters' data or other relevant information, the verification team has undertaken further analysis and where necessary reported the outcome of this analysis accordingly.

### **7.5 Approach to adjustments for differences in product specification**

As outlined in the following sections relating to the calculation of each exporter's normal value, for certain MCCs exported to Australia there were insufficient domestic sales of the identical MCCs in OCOT or no sales at all. Where domestic sales of like goods in OCOT for the relevant export MCC had occurred, the sales volumes of these sinks were extremely low when expressed as a proportion of the volume of exported sinks in the same MCC.

In such instances the Commission considers it appropriate that the sales of these MCCs in OCOT were unsuitable for the purpose of a normal value under section 269TAC(1). This approach is consistent with the Commission's stated practice in the *Dumping and Subsidy Manual* (the Manual)<sup>65</sup> where sales of individual models that are below five per cent of the equivalent export model may not be sufficient.

In the alternative, the Commission examined each exporter's domestic sales to identify suitable surrogate models based on the MCCs with the closest physical characteristics under the MCC hierarchy structure. In relying on surrogate models, the Commission considers that specification adjustments under section 269TAC(8) are warranted to ensure fair comparison between the export MCC and surrogate domestic MCC.

In determining whether such an approach was reasonable, the Commission compared and contrasted the differences between the surrogate and export MCC for each exporter by having regard to the available technical and product catalogue information supplied by the exporters in their REQs and other publically available information. Taking this information into account the Commission is satisfied that the surrogate models selected in relation to each exporter's circumstances are suitable. Adjustments based on differences in product specification were limited to instances where the difference related to adjacent MCC sub-categories, e.g. difference between MCC subcategory A and B, within the same MCC category.

The to arrive at a market value for the specification difference between the export MCC and surrogate MCC, the Commission firstly worked out the difference in the cost of production reported in relation to the MCCs exported to Australia and then added to this result each exporter's profit margin (as a percentage of cost) realised on domestic sales of like goods in OCOT. Differences in cost of production related to either of the following;

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<sup>65</sup> Suitability of Sales, Section 7.3, p.34 (November 2018). Available on the Commission website.



- number of drainer boards;
- number of bowls; or
- differences in the capacity of the sink bowls.

The Commission considers that the adjustments to account for differences in specifications between the export MCC and the surrogate MCC reflect the practice outlined in the Manual.<sup>66</sup>

## **7.6 Cresheen**

### **7.6.1 Verification**

Having regard to the approach outlined at section 7.4, the Commission is satisfied that the variable factors ascertained for Cresheen are reliable for the purposes of determining the level of dumping relating to its exports of the goods to Australia during the inquiry period.

Relying on the information available, the Commission is further satisfied that Cresheen is the producer of the goods and like goods.

A report detailing the verification findings relating to the variable factors determined for Cresheen is available on the public record.<sup>67</sup>

### **7.6.2 Export price**

As detailed in Cresheen's verification report, the circumstances which existed at the time of the original investigation are no longer relevant.<sup>68</sup> At the time of the original investigation, Komodo was identified as the exporter of the goods however its supplier Zhongshan Xintian Hardware Co., Ltd was not considered the exporter as it was not aware of the final destination of the goods at the time they were sold to Komodo.

With regard to the present inquiry, the Commission finds that Komodo's supplier during the inquiry period was Cresheen. Cresheen manufactured the goods and were aware that the goods would be exported to Australia. Having regard to the findings in Cresheen's verification report, the Commission is satisfied that Cresheen is the exporter of the goods and Komodo is an intermediary to the export of the goods.

Accordingly, the Commission considers Komodo's Australian customer to be the beneficial owner of the goods at the time of importation and therefore the importer of the goods. On the basis of the available information the Commission is satisfied that all sales made by Cresheen to Komodo during the period were arms length transactions.

Noting that Komodo is an intermediary in the export of the goods rather than the producer, the Commission considers that the importer has not purchased the goods from the exporter and export prices cannot be determined under sections 269TAB(1)(a) or 269TAB(1)(b). Consistent with the findings in Cresheen's verification report, the

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<sup>66</sup> Section 15.3, Physical Characteristics and Quality, p.67 (November 2018).

<sup>67</sup> EPR 517, No. 023

<sup>68</sup> Ibid.

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Commission recommends that the export price be calculated under section 269TAB(1)(c) having regard to all the circumstances of the exportation. Specifically, the Commission recommends that the export price be calculated based on the price received by the exporter (Cresheen) when selling to the intermediary (Komodo).<sup>69</sup>

### 7.6.3 Normal value

As detailed in Cresheen's verification report, the Commission was satisfied that pursuant to section 269TAC(14), there were sufficient domestic sales of like goods sold in OCOT during the inquiry period such that normal values can be ascertained under section 269TAC(1).

However, consistent with findings in section 7.3 where the Commission has determined it necessary to replace each exporter's reported stainless steel production costs with a suitable competitive market substitute, the Commission has re-examined the volume of sales in OCOT for Cresheen using a revised CTMS.

After applying the exporter's revised CTMS figures, the Commission found that pursuant to section 269TAC(14), there were sufficient domestic sales of like goods in OCOT during the inquiry period such that normal values can be ascertained under section 269TAC(1).

As per the Manual, where the total volume of like goods is greater than five per cent of the total volume of the goods under consideration pursuant to section 269TAC(14), and where comparable models exist, the Commission also tests the suitability of domestic sales of like goods individually for each model type.

Having regard to sufficiency on a model by model basis, the Commission is satisfied that for four MCCs of stainless steel sinks exported to Australia there were suitable sales of like goods in the OCOT.

For three MCCs exported to Australia the Commission is not satisfied that there were sufficient domestic sales of like goods sold in OCOT on the basis there was an absence, or low volume, of sales in the country of export of the identical MCC. For these MCCs the Commission is satisfied that there were sufficient domestic sales volumes of surrogate models based on the MCCs with the closest physical characteristics under the MCC hierarchy structure. Accordingly, the normal value for these MCCs could be determined under section 269TAC(1) with an appropriate specification adjustment applied in the manner described at section 7.5.

In using domestic sales as a basis for normal value, the Commission considers that certain adjustments, in accordance with section 269TAC(8), are necessary to ensure fair comparison of normal values with export prices, as detailed in section 7.6.4.

For one MCC of the goods exported to Australia, the Commission is not satisfied that there were sufficient sales of suitable surrogate MCC on the domestic market to enable the use of domestic sales under section 269TAC(1). The next available domestic MCC

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<sup>69</sup> The Manual, p. 30, "Where an intermediary is involved the export price, for the purposes of calculating a dumping or subsidy margin, will be the price received by that exporter when selling to the intermediary (even if the intermediary is in the same country as the exporter)".



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did not have MCC sub-categories that were adjacent in the MCC hierarchy. As a result, the Commission did not consider that the use of a surrogate MCC adjusted for specification differences was appropriate.

For this export MCC, and pursuant to section 269TAC(2)(a)(i), the Commission considers there is an absence of sales of like goods in the market of the country of export that would be relevant for the purposes of determining a price under section 269TAC(1) and has constructed the normal value for this MCC under section 269TAC(2)(c). The Commission has constructed the normal value based on Cresheen's cost of producing the goods with a competitive market substitute for stainless steel, SG&A costs and an amount for profit.

As required by sections 269TAC(5A) and 269TAC(5B), Cresheen's costs of production or manufacture, its SG&A costs and its profit are established in accordance with the regulations:

- the cost of production was determined pursuant to section 43 of the Regulation and including a competitive market cost replacement for 304 grade stainless steel;
- SG&A costs were calculated under section 44(2) of the Regulation, using the exporter's records; and
- the amount of profit was worked out under section 45(2) of the Regulation.

In constructing the normal value, the Commission considers that certain adjustments, in accordance with section 269TAC(9), are necessary to ensure fair comparison of normal values with export prices, as detailed in section 7.6.4.

### 7.6.4 Adjustments

In calculating normal values under sections 269TAC(1) and 269TAC(2)(c), the Commission considers that certain adjustments, in accordance with sections 269TAC(8) and 269TAC(9) respectively, are necessary to ensure fair comparison of normal values with export prices, as summarised in Table 15.

Adjustment Type	Deduction/addition
Domestic inland freight expenses	<b>Deduct</b> an amount for domestic inland freight for normal values determined under section 269TAC(1).
Domestic credit term expenses	<b>Deduct</b> an amount for domestic credit terms for normal values determined under sections 269TAC(1) and (2)(c).
Domestic accessories	<b>Deduct</b> an amount for domestic accessories for normal values determined under section 269TAC(1).
Export inland freight expenses	<b>Add</b> an amount for export inland freight for normal values determined under sections 269TAC(1) and (2)(c).
Export bank charges	<b>Add</b> an amount for export bank charges for normal values determined under sections 269TAC(1) and (2)(c).
Export port handling charges	<b>Add</b> an amount for export port handling charges for normal values determined under sections 269TAC(1) and (2)(c).
Export customs fees	<b>Add</b> an amount for export customs fees for normal values determined under sections 269TAC(1) and (2)(c).
Export accessories	<b>Add</b> an amount for export accessories for normal values determined under section 269TAC(1).
Export credit term expenses	<b>Add</b> an amount for export credit terms for normal values determined under sections 269TAC(1) and (2)(c).

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Adjustment Type	Deduction/addition
Non-refundable VAT expenses	<b>Add</b> an amount for non-refundable VAT for normal values determined under sections 269TAC(1) and (2)(c).
Specification differences	<b>Add or deduct</b> an amount for specification difference for normal values determined under section 269TAC(1).

**Table 15: Summary of Cresheen’s adjustments**

### 7.6.5 Dumping margin

The dumping margin in respect of the goods exported to Australia by Cresheen for the inquiry period is **negative 12.1 per cent**.

The Commission’s calculations are included at **Confidential Attachment 8**.

## 7.7 Jiabaolu

### 7.7.1 Verification

Having regard to the approach outlined at section 7.4, the Commission is satisfied that the variable factors ascertained for Jiabaolu are reliable for the purposes of determining the level of dumping and subsidisation relating to its exports of the goods to Australia during the inquiry period.

Relying on the information available, the Commission is satisfied that Jiabaolu is the producer of the goods and like goods.

A report detailing the verification findings relating to the variable factors determined for Jiabaolu is available on the public record.<sup>70</sup>

### 7.7.2 Export price

In respect of Australian sales of the goods by exporter, the verification team found that the importer has not purchased the goods from the exporter, therefore, export prices cannot be determined under sections 269TAB(1)(a) or 269TAB(1)(b).

The verification team recommends that the export price be calculated under section 269TAB(1)(c) having regard to all the circumstances of the exportation. Specifically, the verification team recommends that the appropriate method of calculating the FOB export price as the price paid by Flowtech to Jiabaolu, with the addition of relevant FOB costs incurred by Flowtech.<sup>71</sup>

The Commission has therefore determined Jiabaolu’s export price under section 269TAB(1)(c) having regard to all the circumstances of the exportation in the manner outlined in Jiabaolu’s verification report.

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<sup>70</sup> EPR 517, No. 024

<sup>71</sup> The Manual, p. 30, “Where an intermediary is involved the export price, for the purposes of calculating a dumping or subsidy margin, will be the price received by that exporter when selling to the intermediary (even if the intermediary is in the same country as the exporter)”.

**7.7.3 Normal value**

As detailed in Jiabaolu’s verification report, the Commission was satisfied that pursuant to section 269TAC(14), there were sufficient domestic sales of like goods for the inquiry period such that normal values can be ascertained under section 269TAC(1).

However, consistent with findings in section 7.3 where the Commission has determined it necessary to replace each exporter’s reported stainless steel production costs with a suitable competitive market substitute, the Commission has re-examined the volume of sales in OCOT for Jiabaolu using a revised CTMS.

After applying the exporter’s revised CTMS figures, the Commission found that pursuant to section 269TAC(14), there were sufficient domestic sales of like goods in OCOT during the inquiry period such that normal values can be ascertained under section 269TAC(1).

As per the Manual, where the total volume of like goods is greater than five per cent of the total volume of the goods under consideration pursuant to section 269TAC(14), and where comparable models exist, the Commission also tests the suitability of domestic sales of like goods individually for each model type.

Having regard to sufficiency on a model by model basis, the Commission is satisfied that for four MCCs of stainless steel sinks exported to Australia there were suitable sales of like goods in the OCOT.

For four MCCs exported to Australia the Commission is not satisfied that there were sufficient domestic sales of like goods sold in OCOT on the basis there was an absence, or low volume, of sales in the country of export of the identical MCC. For these MCCs the Commission is satisfied that there were sufficient domestic sales volumes of surrogate models based on the MCCs with the closest physical characteristics under the MCC hierarchy structure. Accordingly, the normal value for these MCCs could be determined under section 269TAC(1) with an appropriate specification adjustment applied in the manner described at section 7.5.

In using domestic sales as a basis for normal value, the Commission considers that certain adjustments, in accordance with section 269TAC(8), are necessary to ensure fair comparison of normal values with export prices, as detailed in section 7.7.4.

**7.7.4 Adjustments**

In calculating normal values under sections 269TAC(1), the Commission considers that certain adjustments, in accordance with sections 269TAC(8), are necessary to ensure fair comparison of normal values with export prices, as summarised in Table 16.

<b>Adjustment Type</b>	<b>Deduction/addition</b>
Domestic credit term expenses	<b>Deduct</b> an amount for domestic credit expense for normal values determined under section 269TAC(1).
Domestic inland freight expenses	<b>Deduct</b> an amount for domestic inland freight expenses for normal values determined under section 269TAC(1).
Domestic accessories	<b>Deduct</b> an amount for domestic accessories for normal values determined under section 269TAC(1)

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Adjustment Type	Deduction/addition
Export inland freight expenses	<b>Add</b> an amount for export inland freight for normal values determined under section 269TAC(1).
Export port handling charges	<b>Add</b> an amount for export port handling charges for normal values determined under section 269TAC(1).
Level of trade	<b>Add</b> or <b>deduct</b> amounts for sales that were not of a level of trade that is comparable to the level of trade for export customers for normal values determined under section 269TAC(1).
Non-refundable VAT expenses	<b>Add</b> an amount for non-refundable VAT expense for normal values determined under section 269TAC(1).
Export accessories	<b>Add</b> an amount for export accessories for normal values determined under section 269TAC(1).
Specification differences	<b>Add</b> or <b>deduct</b> an amount for specification difference for normal values determined under section 269TAC(1).

**Table 16: Summary of Jiabaolu’s adjustments**

**7.7.5 Dumping margin**

The dumping margin in respect of the goods exported to Australia by Jiabaolu for the inquiry period is **10.2 per cent**.

The Commission’s calculations are included at **Confidential Attachment 13**.

**7.8 Primy**

**7.8.1 Verification**

The Commission conducted an onsite visit to Primy’s premises in Zhuhai, China during September 2019 to verify the information disclosed in its REQ.

The Commission is satisfied that Primy is the producer of the goods and like goods. The Commission is satisfied that the information provided by Primy is accurate and reliable for the purpose of ascertaining the variable factors applicable to its exports of the goods.

A report covering the visit findings is available on the public record.<sup>72</sup>

**7.8.2 Export price**

Having regard to the findings in its verification report, the Commission is satisfied that Primy is the exporter of the goods, that the goods were exported to Australia otherwise than by the importer and that the goods were purchased in arm’s length transactions by the importer from the exporter.

Accordingly, in respect of Australian sales of the goods by Primy, the Commission recommends that the export price be determined under section 269TAB(1)(a), as the

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<sup>72</sup> EPR 517, No. 025

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price paid by the importer to the exporter less transport and other costs arising after exportation.

### 7.8.3 Normal value

As detailed in Primy's verification report, the Commission was satisfied that pursuant to section 269TAC(14), there were sufficient domestic sales of like goods for the inquiry period such that normal values can be ascertained under section 269TAC(1).

However, consistent with findings in section 7.3 where the Commission has determined it necessary to replace each exporter's reported stainless steel production costs with a suitable competitive market substitute, the Commission has re-examined the volume of sales in OCOT for Primy using a revised CTMS.

After applying the exporter's revised CTMS figures, the Commission found that pursuant to section 269TAC(14), there were sufficient domestic sales of like goods in OCOT during the inquiry period such that normal values can be ascertained under section 269TAC(1).

As per the Manual, where the total volume of like goods is greater than five per cent of the total volume of the goods under consideration pursuant to section 269TAC(14), and where comparable models exist, the Commission also tests the suitability of domestic sales of like goods individually for each model type.

Having regard to sufficiency on a model by model basis, the Commission is satisfied that for three MCCs of stainless steel sinks exported to Australia there were suitable sales of like goods in the OCOT.

For two MCCs exported to Australia the Commission is not satisfied that there were sufficient domestic sales of like goods sold in OCOT on the basis there was an absence, or low volume, of sales in the country of export of the identical MCC. For these MCCs the Commission is satisfied that there were sufficient domestic sales volumes of surrogate models based on the MCCs with the closest physical characteristics under the MCC hierarchy structure. Accordingly, the normal value for these MCCs could be determined under section 269TAC(1) with an appropriate specification adjustment applied in the manner described at section 7.5.

In using domestic sales as a basis for normal value, the Commission considers that certain adjustments, in accordance with section 269TAC(8), are necessary to ensure fair comparison of normal values with export prices, as detailed in section 7.8.4.

The Commission is not satisfied however that there were sufficient sales of like goods in the domestic market for the remaining four MCCs of stainless steel sinks exported to Australia to enable the use of domestic sales under section 269TAC(1). For these export MCCs, and pursuant to section 269TAC(2)(a)(i), the Commission considers there is an absence of sales of like goods in the market of the country of export that would be relevant for the purposes of determining a price under section 269TAC(1) and has constructed the normal value for these MCCs under section 269TAC(2)(c). The Commission has constructed the normal value based on Primy's cost of producing the goods with a competitive market substitute for stainless steel, SG&A costs and an amount for profit.

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As required by sections 269TAC(5A) and 269TAC(5B), Primy’s costs of production or manufacture, its SG&A costs and its profit are established in accordance with the regulations:

- the cost of production was determined pursuant to section 43 of the Regulation and including a competitive market cost replacement for 304 grade stainless steel;
- SG&A costs were calculated under section 44(2) of the Regulation, using the exporter’s records; and
- the amount of profit was worked out under section 45(2) of the Regulation.

In constructing the normal value, the Commission considers that certain adjustments, in accordance with section 269TAC(9), are necessary to ensure fair comparison of normal values with export prices, as detailed in section 7.8.4.

**7.8.4 Adjustments**

In calculating normal values under sections 269TAC(1) and 269TAC(2)(c), the Commission considers that certain adjustments, in accordance with sections 269TAC(8) and 269TAC(9) respectively, are necessary to ensure fair comparison of normal values with export prices, as summarised in Table 17.

Adjustment Type	Deduction/addition
Domestic accessories	<b>Deduct</b> an amount for domestic accessories for normal values determined under section 269TAC(1).
Domestic credit term expenses	<b>Deduct</b> an amount for domestic credit expense for normal values determined under sections 269TAC(1) and (2)(c).
Domestic inland transport expenses	<b>Deduct</b> an amount for domestic inland transport expense for normal values determined under section 269TAC(1).
Domestic packaging expenses	<b>Deduct</b> an amount for domestic packaging expense for normal values determined under section 269TAC(1).
Export inland freight expenses	<b>Add</b> an amount for export inland freight expense for normal values determined under sections 269TAC(1) and (2)(c).
Export packaging expenses	<b>Add</b> an amount for export packaging expense for normal values determined under sections 269TAC(1) and (2)(c).
Export commissions	<b>Add</b> an amount for export commissions for normal values determined under section 269TAC(1).
Export port handling charges	<b>Add</b> an amount for export port handling charges for normal values determined under sections 269TAC(1) and (2)(c).
Level of trade	<b>Add or deduct</b> amounts for sales that were not of a level of trade that is comparable to the level of trade for export customers for normal values determined under section 269TAC(1) and (2)(c).
Export credit term expenses	<b>Add</b> an amount for export credit expense for normal values determined under sections 269TAC(1) and (2)(c).
Non-refundable VAT expenses	<b>Add</b> an amount for non-refundable VAT expense for normal values determined under sections 269TAC(1) and (2)(c).
Specification differences	<b>Add or deduct</b> an amount for specification difference for normal values determined under section 269TAC(1).
Export accessories	<b>Add</b> an amount for export accessories for normal values determined under sections 269TAC(1) and (2)(c).

**Table 17: Summary of Primy’s adjustments**



### **7.8.5 Dumping margin**

The dumping margin in respect of the goods exported to Australia by Primy for the inquiry period is **58.9 per cent**.

The Commission's calculations are included at **Confidential Attachment 18**.

## **7.9 Rhine**

### **7.9.1 Verification**

Having regard to the approach outlined at section 7.4, the Commission is satisfied that the variable factors ascertained for Rhine are reliable for the purposes of determining the level of dumping and subsidisation relating to its exports of the goods to Australia during the inquiry period.

Relying on the information available, the Commission is satisfied that Rhine is the producer of the goods and like goods.

A report detailing the verification findings relating to the variable factors determined for Rhine is available on the public record.<sup>73</sup>

### **7.9.2 Export price**

Having regard to the findings in its verification report, the Commission is satisfied that Rhine is the exporter of the goods, that the goods were exported to Australia otherwise than by the importer and that the goods were purchased in arm's length transactions by the importer from the exporter.

Accordingly, in respect of Australian sales of the goods by Rhine, the Commission recommends that the export price be determined under section 269TAB(1)(a), as the price paid by the importer to the exporter less transport and other costs arising after exportation.

### **7.9.3 Normal value**

As detailed in Rhine's verification report, the Commission was satisfied that pursuant to section 269TAC(14), there were sufficient domestic sales of like goods for the inquiry period such that normal values can be ascertained under section 269TAC(1).

However, consistent with findings in section 7.3 where the Commission has determined it necessary to replace each exporter's reported stainless steel production costs with a suitable competitive market substitute, the Commission has re-examined the volume of sales in OCOT for Rhine using a revised CTMS.

After applying the exporter's revised CTMS figures, the Commission found that pursuant to section 269TAC(14), there were not sufficient domestic sales of like goods in OCOT

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<sup>73</sup> EPR 517, No. 019

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during the inquiry period such that the volume of these sales as a proportion of the volume of the goods exported to Australia exceeded five per cent.

Under section 269TAC(14) the Minister may for the purpose of section 269TAC(2)(a) regard such sales to be a low volume unless the Minister is satisfied that it is still large enough to permit a proper comparison for the purposes of assessing a dumping margin under section 269TACB.

Notwithstanding the outcome detailed in the preceding paragraphs, the Commission considers that the remaining total sales volume in OCOT is still large enough to permit a proper comparison for the purposes of assessing a dumping margin under section 269TACB for the following reasons;

- The volumes of the three MCCs for which the Commission could determine a normal value under section 269TAC(1) remained in sufficient quantities after stainless steel costs were replaced;
- The volume of the MCCs which have been relied on as a surrogate to determine the normal values under section 269TAC(1) for three other MCCs remained in sufficient quantities after stainless steel costs were replaced; and
- For the eight MCCs where the normal values were already determined under section 269TAC(2)(c), the finding that the volume of OCOT sales being below 5 per cent has not caused the Commission to alter its initial approach.

In relation to the three MCCs above where the Commission considers that on a model by model basis there was an absence of sales in the country of export of the identical MCC, the Commission is satisfied that for these MCCs, sufficient domestic sales volumes of surrogate models based on the MCCs with the closest physical characteristics under the MCC hierarchy structure could be identified. Accordingly, the normal value for these MCCs has been derived under section 269TAC(1) with an appropriate specification adjustment applied in the manner described at section 7.5.

In using domestic sales as a basis for normal value, the Commission considers that certain adjustments, in accordance with section 269TAC(8), are necessary to ensure fair comparison of normal values with export prices, as detailed in 7.9.4.

For the remaining eight MCCs of the goods exported to Australia, the Commission is not satisfied that there were sufficient sales of a suitable surrogate MCC on the domestic market to enable the use of domestic sales under section 269TAC(1) as the next available domestic MCC did not have MCC sub-categories that were adjacent in the MCC hierarchy. As a result, the Commission did not consider that the use of a surrogate MCC adjusted for specification differences was appropriate.

For these export MCCs, and pursuant to section 269TAC(2)(a)(i), the Commission considers there is an absence of sales of like goods in the market of the country of export that would be relevant for the purposes of determining a price under section 269TAC(1) and has constructed the normal value for this MCC under section 269TAC(2)(c). The Commission has constructed the normal value based on Rhine's cost of producing the goods with a competitive market substitute for stainless steel, SG&A costs and an amount for profit.



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As required by sections 269TAC(5A) and 269TAC(5B), Rhine's costs of production or manufacture, its SG&A costs and its profit are established in accordance with the regulations:

- the cost of production was determined pursuant to section 43 of the Regulation and including a competitive market cost replacement for 304 grade stainless steel;
- SG&A costs were calculated under section 44(2) of the Regulation, using the exporter's records; and
- the amount of profit was worked out under section 45(2) of the Regulation.

In constructing the normal value, the Commission considers that certain adjustments, in accordance with section 269TAC(9), are necessary to ensure fair comparison of normal values with export prices, as detailed in 7.9.4.

### 7.9.4 Adjustments

In calculating normal values under sections 269TAC(1) and 269TAC(2)(c), the Commission considers that certain adjustments, in accordance with sections 269TAC(8) and 269TAC(9) respectively, are necessary to ensure fair comparison of normal values with export prices, as summarised in Table 18.

Adjustment Type	Deduction/addition
Domestic accessories	<b>Deduct</b> an amount for domestic accessories for normal values determined under section 269TAC(1).
Export inland freight expenses	<b>Add</b> an amount for export inland freight expenses for normal values determined under sections 269TAC(1) and (2)(c).
Export port handling charges	<b>Add</b> an amount for export port handling charges for normal values determined under sections 269TAC(1) and (2)(c).
Export accessories	<b>Add</b> an amount for export accessories for normal values determined under sections 269TAC(1) and (2)(c).
Non-refundable VAT expenses	<b>Add</b> an amount for non-refundable VAT for normal values determined under sections 269TAC(1) and (2)(c).
Timing adjustment	For normal values determined under section 269TAC(1).
Specification differences	<b>Add or deduct</b> an amount for differences in product specifications for normal values determined under section 269TAC(1).

**Table 18: Summary of Rhine's adjustments**

### 7.9.5 Dumping margin

The dumping margin in respect of the goods exported to Australia by Rhine for the inquiry period is **25.0 per cent**.

The Commission's calculations are included at **Confidential Attachment 23**.

## 7.10 Zhuhai Grand

### 7.10.1 Verification

The Commission conducted an onsite visit to Zhuhai Grand's premises in Guangdong, China during September 2019 to verify the information disclosed in its REQ.

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The Commission is satisfied that Zhuhai Grand is the producer of the goods and like goods. The Commission is satisfied that the information provided by Zhuhai Grand is accurate and reliable for the purpose of ascertaining the variable factors applicable to its exports of the goods.

A report covering the visit findings is available on the public record.<sup>74</sup>

### **7.10.2 Export price**

Having regard to the findings in its verification report, the Commission is satisfied that Zhuhai Grand is the exporter of the goods, that the goods were exported to Australia otherwise than by the importer and that the goods were purchased in arm's length transactions by the importer from the exporter.

Accordingly, in respect of Australian sales of the goods by Zhuhai Grand, the Commission recommends that the export price be determined under section 269TAB(1)(a), as the price paid by the importer to the exporter less transport and other costs arising after exportation.

### **7.10.3 Normal value**

As detailed in Zhuhai Grand's verification report, the Commission was satisfied that pursuant to section 269TAC(14), there were sufficient domestic sales of like goods for the inquiry period such that normal values can be ascertained under section 269TAC(1).

However, consistent with findings in section 7.3 where the Commission has determined it necessary to replace each exporter's reported stainless steel production costs with a suitable competitive market substitute, the Commission has re-examined the volume of sales in OCOT for Zhuhai Grand using a revised CTMS.

After applying the exporter's revised CTMS figures, the Commission found that pursuant to section 269TAC(14), there were not sufficient domestic sales of like goods in OCOT during the inquiry period such that the volume of these sales as a proportion of the volume of the goods exported to Australia exceeded five per cent.

Under section 269TAC(14) the Minister may for the purpose of section 269TAC(2)(a) regard such sales to be a low volume unless the Minister is satisfied that it is still large enough to permit a proper comparison for the purposes of assessing a dumping margin under section 269TACB.

Notwithstanding the outcome detailed in the preceding paragraphs, the Commission considers that the remaining total sales volume in OCOT is still large enough to permit a proper comparison for the purposes of assessing a dumping margin under section 269TACB for the following reasons;

- The volume of five MCCs for which the Commission could determine a normal value under section 269TAC(1) remained in sufficient quantities after stainless steel costs were replaced; and

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<sup>74</sup> EPR 517, No. 021

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- The volume of three MCCs which the Commission could rely on as a surrogate to determine the normal values under section 269TAC(1) remained in sufficient quantities after stainless steel costs were replaced; and

In relation to the three MCCs above where the Commission considers that on a model by model basis there was an absence of sales in the country of export of the identical MCC, the Commission is satisfied that for these MCCs, sufficient domestic sales volumes of surrogate models based on the MCCs with the closest physical characteristics under the MCC hierarchy structure could be identified. Accordingly, the normal value for these MCCs has been derived under section 269TAC(1) with an appropriate specification adjustment applied in the manner described at section 7.5.

In using domestic sales as a basis for normal value, the Commission considers that certain adjustments, in accordance with section 269TAC(8), are necessary to ensure fair comparison of normal values with export prices, as detailed in 7.10.4.

For the remaining two MCCs of the goods exported to Australia, the Commission is not satisfied that there were sufficient sales of a suitable surrogate MCC on the domestic market to enable the use of domestic sales under section 269TAC(1) as the next available domestic MCC did not have MCC sub-categories that were adjacent in the MCC hierarchy. As a result, the Commission did not consider that the use of a surrogate MCC adjusted for specification differences was appropriate.

For these export MCCs, and pursuant to section 269TAC(2)(a)(i), the Commission considers there is an absence of sales of like goods in the market of the country of export that would be relevant for the purposes of determining a price under section 269TAC(1) and has constructed the normal value for these MCCs under section 269TAC(2)(c). The Commission has constructed the normal value based on Zhuhai Grand's cost of producing the goods with a competitive market substitute for stainless steel, SG&A costs and an amount for profit.

As required by sections 269TAC(5A) and 269TAC(5B), Zhuhai Grand's costs of production or manufacture, its SG&A costs and its profit are established in accordance with the regulations:

- the cost of production was determined pursuant to section 43 of the Regulation and including a competitive market cost replacement for 304 grade stainless steel;
- SG&A costs were calculated under section 44(2) of the Regulation, using the exporter's records; and
- the amount of profit was worked out under section 45(2) of the Regulation.

In constructing the normal value, the Commission considers that certain adjustments, in accordance with section 269TAC(9), are necessary to ensure fair comparison of normal values with export prices, as detailed in 7.10.4.

### **7.10.4 Adjustments**

In calculating normal values under sections 269TAC(1) and 269TAC(2)(c), the Commission considers that certain adjustments, in accordance with sections 269TAC(8) and 269TAC(9) respectively, are necessary to ensure fair comparison of normal values with export prices, as summarised in Table 19.

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Adjustment Type	Deduction/addition
Domestic accessories	<b>Deduct</b> an amount for domestic accessories for normal values determined under section 269TAC(1).
Export inland freight expenses	<b>Add</b> an amount for export inland freight expenses for normal values determined under sections 269TAC(1) and (2)(c).
Export port handling charges	<b>Add</b> an amount for export port handling charges for normal values determined under sections 269TAC(1) and (2)(c).
Export accessories	<b>Add</b> an amount for export accessories for normal values determined under sections 269TAC(1) and (2)(c).
Non-refundable VAT expenses	<b>Add</b> an amount for non-refundable VAT for normal values determined under sections 269TAC(1) and (2)(c).
Timing adjustment	For normal values determined under section 269TAC(1).
Specification differences	<b>Add or deduct</b> an amount for differences in product specifications for normal values determined under section 269TAC(1).

**Table 19: Summary of Zhuhai’s adjustments**

**7.10.5 Dumping margin**

The dumping margin in respect of the goods exported to Australia by Zhuhai Grand for the inquiry period is **39.3 per cent**.

The Commission’s calculations are included at **Confidential Attachment 28**.

**7.11 Residual exporters**

The dumping margins for the residual exporters as listed in Table 3 have been determined in accordance with section 269TACB(2)(a) as outlined in the following chapter.

Section 269TACAB(2)(c) requires that the export price, and normal value, must not be less than the weighted average export price, or normal value, for like goods of selected cooperative exporters.

Section 269TACAB(3) does not apply to a continuation inquiry.

**7.11.1 Export prices**

The export price in relation to residual exporters of stainless steel sinks has been determined pursuant to section 269TACAB(2) as to not be less than the weighted average of export prices for like goods of cooperative exporters from China.

**7.11.2 Normal values**

The normal value in relation to residual exporters of stainless steel sinks has been determined pursuant to section 269TACAB(2) as to not be less than the weighted average of normal values for like goods of cooperative exporters from China.

**7.11.3 Dumping margin**

The dumping margin for residual exporters of stainless sinks from China is **38.5 per cent**.

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The Commission's calculations are included at **Confidential Attachment 29**.

### 7.12 Uncooperative and all other exporters

As detailed in section 7.2.2, the Commission considers all exporters of stainless steel sinks from China that did not provide a response to the exporter questionnaire, or which did not request a longer period to provide a response within the legislated period, are uncooperative exporters for the purposes of this inquiry.

Section 269TACAB(1) sets out the provisions for calculating export prices and normal values for uncooperative exporters.

#### 7.12.1 Export prices

Pursuant to section 269TACAB(1), the Commission has determined an export price pursuant to section 269TAB(3), having regard to all relevant information. Specifically, the Commission has used the lowest of export prices of those that were established for cooperating exporters in the inquiry period.

#### 7.12.2 Normal values

Pursuant to section 269TACAB(1), the Commission has determined the normal value for the uncooperative exporters pursuant to section 269TAC(6) after having regard to all relevant information. Specifically, the Commission has used the highest of normal values of those that were established for the cooperating exporters in the inquiry period.

#### 7.12.3 Dumping margin

The dumping margin for uncooperative and all other exporters of stainless sinks from China is **88.8 per cent**.

The Commission's calculations are included at **Confidential Attachment 29**.

### 7.13 Summary of dumping margins

Exporter	Dumping Margin
Cresheen	negative 12.1%
Jiabaolu	10.2%
Primy	58.9%
Rhine	25.0%
Zhuhai Grand	39.3%
Residual exporters	38.5%
Uncooperative and all other exporters	88.8%

**Table 20: Dumping margin summary**

## 8 ASCERTAINMENT OF VARIABLE FACTORS (COUNTERVAILING)

### 8.1 Preliminary finding

The Commission has found that countervailable subsidies have been received in respect of the goods exported to Australia from China during the inquiry period.

### 8.2 Legislative framework

Section 269T(1) defines '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
- (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.<sup>75</sup>

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

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<sup>75</sup> Section 269TACC sets out the steps for working out whether a financial contribution or income or price support confers a benefit.

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- (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:
- (a) eligibility for, and the amount of, the subsidy are established by objective criteria or conditions set out in primary or subordinate legislation or other official documents that are capable of verification; and
  - (b) eligibility for the subsidy is automatic; and
  - (c) those criteria or conditions are neutral, do not favour particular enterprises over others, are economic in nature and are horizontal in application; and
  - (d) those criteria or conditions are strictly adhered to in the administration of the subsidy.
- (4) 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.
- (5) In making a determination under subsection (4), the Minister must take account of:
- (a) the extent of diversification of economic activities within the jurisdiction of the subsidising authority; and
  - (b) the length of time during which the subsidy program has been in operation.

Section 269TACD provides that if the Minister is satisfied that a countervailable subsidy has been received in respect of the goods, the Minister must, if the amount of the subsidy is not quantified by reference to a unit of the goods, work out how much of the subsidy is properly attributable to each unit of the goods.

### 8.3 Investigated Programs

In REP 238, the Commission found that countervailable subsidies had been received by exporters of the goods in relation to 23 subsidy programs. In the absence of GOC advice regarding the individual enterprises that had received financial contributions under each of the investigated subsidy programs, the Commissioner had regard to the available relevant facts and determined that uncooperative exporters had received financial contributions conferring a benefit under all 23 programs found to be countervailable in relation to the goods.



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In *Review of Measures No. 461* (REP 461)<sup>76</sup> the Commission identified five additional subsidy programs that were not previously investigated but were however found to be countervailable in relation to the export of the goods to Australia.

For the purposes of the present inquiry, the Commission sent the GOC a questionnaire to obtain information necessary for the inquiry into the countervailable subsidies that have previously been identified as being received by exporters of deep drawn stainless steel sinks from China. The Commission did not receive a response to the questionnaire from the GOC.

During the course of the inquiry, verification responses lodged by cooperating exporters identified the following 11 subsidy programs where exporters reported receiving a countervailable subsidy in relation to their exports of the goods to Australia during the inquiry period;

- Jinwan technology transformation funds;
- Support post-disaster recovery fund;
- Development of market projects for SMEs in foreign trade (support SMEs in brand building);
- Steady employment subsidy for 2017;
- Technological transformation project (intelligent transformation) for 2018;
- Sci-tech 2017 innovation promotion fund;
- Sci-tech 2017 innovation promotion fund (district level);
- Post-technical transformation award;
- Post-technical transformation award for 2018 (provincial level);
- High Growth Enterprise Award; and
- Pre-tax deduction for enterprises of R&D expenses.

With the addition of the new programs listed above the following subsidy programs listed in Table 21 below were investigated with respect to this continuation inquiry.

Program Number <sup>77</sup>	Program Name	Program type
1	Raw Materials Provided by the Government at Less than Fair Market Value	Provision of goods
2	Research & Development (R&D) Assistance Grant	Grant
3	Grants for Export Activities	Grant
4	Allowance to pay loan interest	Grant
5	International Market Fund for Export Companies	Grant
6	International Market Fund for Small and Medium-sized Export Companies	Grant

<sup>76</sup> REP 461 can be found on the Commission's website at [www.industry.gov.au](http://www.industry.gov.au).

<sup>77</sup> Program numbers 1 to 24 are the same as those investigated in REP 238. In REP 461 the additional marked programs (asterisks) were identified in relation to the export of the goods. Program numbers 31 to 37 are further identified programs arising during the course of this inquiry.



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<b>Program Number<sup>77</sup></b>	<b>Program Name</b>	<b>Program type</b>
7	Found to be not countervailable in REP 238	
8	Tax preference available to companies that operate at a small profit	Income Tax
9	Award to top ten tax payer	Grant
10	Assistance to take part in overseas trade fairs	Grant
11	Grant for management certification	Grant
12	Grant for certification of product patents	Grant
13	Grant for inventions, utility models and designs	Grant
14	Grant for international marketing	Grant
15	Subsidy to electronic commerce	Grant
16	Grant for overseas advertising and trademark registration	Grant
17	Grant for overseas marketing or study	Grant
18	Gaolan Port Subsidy	Grant
19	Information development subsidy	Grant
20	Foreign Trade Exhibition Activity Fund	Grant
21	Zhuhai Technology Reform & Renovation Fund	Grant
22	Zhuhai Support the Strong Enterprise Interests Subsidy	Grant
23	Zhuhai Research & Development Assistance Fund	Grant
24	Preferential Tax Policies for High and New Technology Enterprises	Income tax
25*	Found to be the same as program 26 in REP 461	
26*	Foreign Trade Fund	Grant
27*	Technology Innovation	Grant
28*	Higher-New Technology Enterprise	Grant
29*	Patent Grant	Grant
30*	Patent Grant Special Fund	Grant

**Table 21: Subsidy programs being investigated**

## **8.4 Summary of programs**

Listed below are the programs where the Commission identified exporters had received a countervailable subsidy in relation to their exports of the goods to Australia during the inquiry period.

- Program 1 - Raw Materials Provided by the Government at Less than Fair Market Value
- Program 3 - Grants for Export Activities (Foreign Trade Development Special Fund);
- Program 8 - Tax preference available to companies that operate at a small profit
- Program 20 - Development of market projects for SMEs in foreign trade (encourage SMEs in foreign trade to hold exhibition in overseas countries);

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- New program 31 - Jinwan technology transformation funds;
- New program 32 - Support post-disaster recovery fund;
- New program 33 - Steady employment subsidy for 2017;
- New program 34 - Sci-tech 2017 innovation promotion fund;
- New program 35 - Post-technical transformation award;
- New program 36 - High growth enterprise award; and
- New program 37 - Pre-tax deduction for enterprises of R&D expenses

Payment or benefit conferred to the exporters in relation to each of the new programs identified above were assessed by the Commission and determined to be a countervailable subsidy. The Commission's full assessment of each new program is provided at **Appendix A**.

### **8.5 Information considered by the Commission**

#### **8.5.1 Information provided by exporters**

The Commission has relied upon information provided by cooperating exporters in assessing the alleged subsidy programs, and also considered as part of this assessment other relevant information obtained by the Commission during independent research into matters relevant to determining subsidisation in China. This information has been referenced where relevant.

#### **8.5.2 Information received from the GOC**

As noted in section 2.2.9, the Commission forwarded a questionnaire inviting the GOC to provide information regarding the status of the countervailable subsidies that the Commission has previously found applicable to the goods exported to Australia from China. The questionnaire also sought further information regarding any new programs which may be relevant to the goods. The GOC did not respond to the Commission's request to complete a questionnaire.

#### **8.5.3 Submissions in relation to subsidies**

Milena submitted that when considering subsidy programs such as tax benefits, reference should be made to similar programs that are in place in Australia.<sup>78</sup> The Commission notes that consideration of Australian subsidies does not form part of the legislation and has not been considered by the Commission.

### **8.6 Subsidy assessment – Cresheen**

#### **8.6.1 Program 3 Grants for Export Activities (Foreign Trade Development Special Fund)**

In Cresheen's verification report, the Commission noted that Cresheen has reported receiving a benefit in respect of this program.

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<sup>78</sup> EPR 517, No. 003, p.9

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As previously established REP 238 the Commission determined that a benefit received under this program in relation to exports of the goods to Australia is a countervailable subsidy.

### **8.6.2 New Program 36 High Growth Enterprise Award**

In Cresheen's verification report, the Commission noted that Cresheen has reported receiving a benefit in respect of this program. Following an inspection of the Commission's Subsidy Register, the Commission has established this program has not been previously countervailed in relation to exports of goods to Australia from China.

The Commission examined the evidence provided and found that Cresheen had received a countervailable subsidy in relation to this program.

The Commission assessment of the above programs is provided at **Non-Confidential Appendix A**.

### **8.6.3 Subsidy margin**

Based on the information available, the Commission has calculated a subsidy margin for Cresheen of **0.05 per cent**.

The Commission's countervailable subsidy calculations for Cresheen are contained in **Confidential Attachment 30**.

## **8.7 Subsidy assessment – Rhine**

### **8.7.1 Program 1 – Raw Materials Provided by the Government at Less than Fair Market Value**

As previously established in REP 238 the Commission determined that a benefits received under this program in relation to exports of the goods to Australia were countervailable subsidies.

In the worksheet provided in relation to G-7.4 of its REQ Rhine identifies the manufacturers of the stainless steel it purchased. One of the manufacturers of the stainless steel sourced by Rhine was found to be the same as that reported by the two exporters who were subject to on-site verification visits and were also not found to be a public body within the context of section 269T(1).

However, in relation to another of its suppliers, an examination of publicly available information was unable rule out that these suppliers were not a public body. Further, Rhine reported a material quantity of stainless steel purchases that were described as "*Goods received but not invoiced*" in the same column that the REQ required the identification of the manufacture/supplier to be reported. In addition, in the same column, it also reported negative quantities which were described as "*Offsetting goods received but not invoiced*". By reporting its purchases in this manner the Commission is not only unable to identify the supplier of the goods, it is also unable to assess whether the supplier is a public body for the purpose of Program 1.

Having regard to the available information, the Commission is not satisfied that Rhine did not purchase its SS CRC from a public body.

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For the purpose of this inquiry the benefit received by Rhine in relation to its stainless steel purchases was determined by comparing the prices of its purchases of stainless steel to an appropriate competitive market price benchmark. The value of the difference is considered to be the benefit conferred to the exporter. The benchmark relied on to work out the value of the benefit is the same as that which has been relied on for the assessment of production costs at section 7.3.

In accordance with section 269TACD(2), the benefit received has been apportioned to each unit of the goods using the value of all goods produced by the exporter during the inquiry period investigation period.

### **8.7.2 Program 8 – Tax preference available to companies that operate at a small profit**

In Rhine's verification report, the Commission noted that Rhine has reported receiving a benefit in respect of this program.

As previously established in REP 238 the Commission determined that a benefit received under this program in relation to exports of the goods to Australia is a countervailable subsidy.

### **8.7.3 Subsidy margin**

Based on the information available, the Commission has calculated a subsidy margin for Rhine of **17.1 per cent**.

The Commission's countervailable subsidy calculations for Rhine are contained in **Confidential Attachment 31**.

## **8.8 Subsidy assessment – Zhuhai Grand**

### **8.8.1 Program 1 – Raw Materials Provided by the Government at Less than Fair Market Value**

In Zhuhai Grand's verification report, the Commission had considered whether Program 1 was applicable in relation to its purchases of stainless steel.

In its REQ Zhuhai Grand reported purchasing stainless steel from traders who it advised were State Invested Enterprises (SIEs). Further examination of its purchasing data established that the producer of all stainless steel purchased by Zhuhai Grand (through various traders) was not either an SIE or a State Owned Enterprise (SOE).

To determine whether Zhuhai Grand had received a benefit from its SIE traders through less than fair market value, the Commission compared the selling prices from its SIE traders to non-SIE traders and noted that the prices paid by Zhuhai Grand to its SIE traders were consistently higher than purchases from non-SIE traders.

The Commission is of the view that purchases of stainless steel via SIE traders did not result in a benefit in the form of lower prices being received by Zhuhai Grand. As such, the Commission does not consider that a benefit under this program has been conferred.

### **8.8.2 Program 20 – Development of market projects for SMEs in foreign trade**

In Zhuhai Grand's verification report, the Commission noted that Zhuhai Grand has reported receiving a benefit in respect of this program.

As previously established REP 238 the Commission determined that a benefit received under this program in relation to exports of the goods to Australia is a countervailable subsidy.

### **8.8.3 New programs not previously countervailed**

The following programs were identified during verification of Zhuhai Grand's REQ.

- Jinwan technology transformation funds;
- Support post-disaster recovery fund;
- Development of market projects for SMEs in foreign trade (support SMEs in brand building);
- Steady employment subsidy for 2017;
- Technological transformation project (intelligent transformation) for 2018;
- Sci-tech 2017 innovation promotion fund;
- Sci-tech 2017 innovation promotion fund (district level);
- Post-technical transformation award;
- Post-technical transformation award for 2018 (provincial level); and
- Pre-tax deduction for enterprises of R&D expenses.

An inspection of the Anti-Dumping Commission Subsidy Register did not identify these programs as having been previously countervailed in relation to exports of the goods to Australia from China.<sup>79</sup>

The Commission has examined each of the above programs and determined that Zhuhai Grand has received a countervailable subsidy in relation to the below programs:

- New program 31 - Jinwan technology transformation funds;
- New program 34 - Sci-tech 2017 innovation promotion fund;
- New program 35 - Post-technical transformation award; and
- New program 37 - Pre-tax deduction for enterprises of R&D expenses.

The Commission assessment of the above programs is provided at **Non-Confidential Appendix A**.

### **8.8.4 Subsidy margin**

Based on the information available, the Commission has calculated a subsidy margin for Zhuhai Grand of **2.4 per cent**.

The Commission's countervailable subsidy calculations for Zhuhai Grand are contained in

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<sup>79</sup> <https://www.industry.gov.au/data-and-publications/anti-dumping-commission-subsidies-register>

**Confidential Attachment 32.**

**8.9 Residual exporters**

**8.9.1 Assessment of programs**

The Commission has determined that the residual exporters will receive benefits by having regard to the examination of the selected cooperative exporters. Inputs to the subsidy margin calculation for residual exporters, included a unit of measure (sales volume) and an export price calculated as the weighted average of selected cooperating exporters.

**8.9.2 Subsidy margin**

The Commission has calculated a subsidy margin for residual exporters of **20.2 per cent**.

**8.10 Subsidy assessment – Non-cooperating entities**

The Commission considers that the volumes exported by the exporters who have cooperated with the inquiry do not represent the total volume of exports that are relevant to the inquiry period. Having regard to section 269TAACA with respect to relevant to non-cooperating entities, the Commissioner calculated a subsidy margin for these entities.

The subsidy margin for non-cooperative entities has been determined on the basis of all facts available and having regard to reasonable assumptions pursuant to section 269TAACA. In determining the countervailable subsidies for those entities, the Commissioner considers it reasonable to base the subsidy margins on the assumption that those entities may have received the highest level of subsidisation received by the cooperating exporters under each of the countervailable programs.

Based on the information available to the Commission, the Commission has calculated a subsidy margin for non-cooperating entities of **28.0 per cent**.

The Commission’s countervailable subsidy calculations for non-cooperating entities are contained in **Confidential Attachment 33**.

**8.11 Summary of subsidy margins**

<b>Exporter</b>	<b>Program</b>	<b>Subsidy Margin</b>
Cresheen	<ul style="list-style-type: none"> <li>• Program 3 - Grants for Export Activities (Foreign Trade Development Special Fund)</li> <li>• New Program 36 - High Growth Enterprise Award</li> </ul>	0.0% (less than 0.05%)
Rhine	<ul style="list-style-type: none"> <li>• Program 1 - Raw Materials Provided by the Government at Less than Fair Market Value</li> <li>• Program 8 - Tax preference available to companies that operate at a small profit</li> </ul>	17.1%
Zhuhai	<ul style="list-style-type: none"> <li>• Program 1 - Raw Materials Provided by the Government at Less than Fair Market Value</li> <li>• Program 20 - Development of market projects for SMEs in foreign trade</li> </ul>	2.4%

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<b>Exporter</b>	<b>Program</b>	<b>Subsidy Margin</b>
	<ul style="list-style-type: none"><li>• New program 31 - Jinwan technology transformation funds;</li><li>• New program 34 - Sci-tech 2017 innovation promotion fund;</li><li>• New program 35 - Post-technical transformation award; and</li><li>• New program 37 - Pre-tax deduction for enterprises of R&amp;D expenses.</li></ul>	
Residual Exporters	All programs found to be countervailable	20.2%
Non-cooperative entities	All programs found to be countervailable	28.0%

**Table 22: Subsidy Margin Summary**

## **9 LIKELIHOOD THAT DUMPING, SUBSIDISATION AND MATERIAL INJURY WILL CONTINUE OR RECUR**

### **9.1 Preliminary finding**

On the basis of the evidence currently available, the Commissioner is satisfied that the expiration of the current measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping, subsidisation and material injury that the current measures are intended to prevent.

### **9.2 Legislative framework**

Section 269ZHF(2) provides that the Commissioner must not recommend that the Minister take steps to secure the continuation of measures unless the Commissioner is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping or subsidisation and the material injury that the anti-dumping measure is intended to prevent.

The Commission notes that its assessment of the likelihood of certain events occurring and their anticipated effect, as is required in a continuation inquiry, necessarily requires an assessment of a hypothetical situation. This view has been supported by the Anti-Dumping Review Panel, which noted that the Commission must consider what will happen in the future should a certain event, being the expiry of the measures, occur. However, the Commissioner's conclusions and recommendation must nevertheless be based on facts.<sup>80</sup>

### **9.3 Australian industry'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.

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<sup>80</sup> [ADRP Report No. 44](#) (Clear Float Glass) refers.



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.

## **9.4 Will dumping and subsidisation continue or recur?**

### **9.4.1 The Commission's approach**

In assessing the likelihood of whether dumping and subsidisation will continue or recur, a number of factors are relevant as outlined in the Manual.

The Manual provides that the inquiry may gather facts relevant to whether dumping will resume, such as exporters' margins, the volume of exports before and after the measures were imposed, the effect of the measures, the level of dumping compared with the level of measures, and any change in those measures (e.g. as a result of a review).<sup>81</sup>

The Commission's view is that the relevance of each factor will vary depending on the nature of the goods being examined and the market into which the goods are being sold.<sup>82</sup> No one factor can necessarily provide decisive guidance. The following analysis therefore examines a range of factors that the Commission considers are relevant to this inquiry.

### **9.4.2 Analysis of dumping and subsidisation within inquiry period**

As noted previously, there has been no review of the anti-dumping and countervailing measures since they were first implemented in 2015. As shown in sections 7.1 and 8.1, the Commission has established that the positive dumping margins for the goods exported to Australia ranged between 10.2 and 58.9 per cent. The Commission also found that the level of countervailing subsidies received by exporters in relation to the goods to Australia ranged between 0.0 and 28.0 per cent.

### **9.4.3 Import volumes**

The Manual provides that in assessing the likelihood of continuing or recurring dumping [and subsidisation], the inquiry may gather facts relevant to whether exports are likely to continue or resume, such as the volume of exports before and after measures were imposed or exporters' supply chains.<sup>83</sup>

In section 5.5 the Commission's analysis of ABF import data established that imports of the goods from China increased in the year following the implementation of anti-dumping

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<sup>81</sup> The Manual, page 162 refers

<sup>82</sup> *Ibid.*

<sup>83</sup> *Ibid*

and countervailing measures and continue to represent a large proportion of total stainless steel sink imports into Australia.

In the inquiry period (FY19), sales of the goods from Chinese exporters represented approximately 45 per cent of the total market.<sup>84</sup> The number of exporters exporting the goods from China in the inquiry period was substantial and compared to the original investigation period the number of exporter of the goods does not appear to have changed.

#### **9.4.4 Surplus capacity**

The Manual provides that in assessing the likelihood of continuing or recurring dumping, the inquiry may gather facts relevant to whether exports are likely to continue or resume, such as exporters' production capacity.<sup>85</sup>

Information provided in the cooperating exporters' REQ shows surplus capacity ranging from 18 to 30 per cent during the inquiry period. Given that all cooperating exporters have excess capacity, it is reasonable to assume that this surplus capacity extends to all other exporters in China. The Commission considers that this excess capacity in China may result in increased exports volumes should the measures expire.

#### **9.4.5 Export focus of Chinese producers**

Comparing the supplier and importer relationships that existed in the original investigation period and the inquiry period, the Commission has found that the same parties continue to trade the goods in substantial quantities. The Commission also found during verification of importers and exporters that Chinese suppliers of the goods produce sinks which conform to the Australian customers specifications.

Having regard to the level of dumping and subsidisation that has been identified in relation to the goods exported to Australia from China the Commission also considers that in the absence of anti-dumping measures the price of those sinks from China will be cheaper for Australian importers who may pass on such cost reductions to Australian end users. In the absence of measures, the Commission considers that the potential exists for exporters to price goods at dumped levels in order to secure an increased share of the Australian market.

#### **9.4.6 Level of subsidisation**

The Commission has found that of the 37 identified programs, 10 were found to be operable for the selected exporters, half of which were newly identified programs. The levels of subsidisation for the selected exporters was also higher than found in REP 238.

The Commission considers that this indicates that deep drawn stainless steel sink manufacturers in China continue to receive subsidies from the GOC, and that these levels of subsidisation are likely to continue.

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<sup>84</sup> Confidential Attachment 1 – Australian Market “*Volume Analysis*”

<sup>85</sup> The Manual, page 176 refers

### **9.4.7 Summary**

In view of the above analysis, the Commission considers there is sufficient evidence to conclude that:

- deep drawn stainless steel sinks exported to Australia from China during the inquiry period, i.e. 1 July 2018 to 30 June 2019 were dumped and exporters had received a countervailable benefit in relation to those exports;
- Chinese exporters have maintained distribution links into the Australian market;
- Chinese producers are export oriented;
- export volumes as a share of the Australian market have not declined;
- surplus capacity exists in the Chinese deep drawn stainless steel sinks; and manufacturing sector which is likely to be a motivator to price goods at dumped levels in order to secure an increasing share of the Australian market.

As a result, the Commission considers that, if the anti-dumping measures are not continued, the dumping and subsidisation of deep drawn stainless steel sinks from China is likely to continue or recur.

### **9.5 Will material injury continue or recur?**

In its application for the continuation of the measures the Australian industry submitted that if the measures are not continued, the lower price of exports from China would lead to an increase in export volumes to Australia, resulting in a recurrence or continuation of material injury in terms of lost production volumes, lower revenue and lower profitability for Australian industry.<sup>86</sup>

The Australian industry further submitted that is already under pressure to reduce prices to maintain market share, directly contributing to injury in the form of price suppression and/or price depression.<sup>87</sup> The evidence provided by the Australian industry indicated it has maintained its market share over the three financial years prior to the application, as well as evidence demonstrating a reduction in the average selling price of the goods.<sup>88</sup>

In particular, the Australian industry has advised that its production and sales of sinks to OEM customers are priced having regard to sinks imported from China. Australian industry states that in order to retain sales of OEM sinks its prices need to be competitive with sinks from China that are similarly exported to Australian to importers at the OEM level of trade and in the event this is not the case Australian industry's OEM customers may switch sourcing their supply from Chinese producers.

The Australian industry has outlined that the OEM part of its business provides "valuable volume for the Australian industry production facility" and that if this volume was lost to imported competition, the viability of its production facility would be reviewed.<sup>89</sup> The

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<sup>86</sup> Application – EPR 517, No. 001, p.15

<sup>87</sup> Application – EPR 517, No. 001, p.15

<sup>88</sup> Application – EPR 517, No. 001, p.17-18

<sup>89</sup> Application – EPR 517, No. 001, p.15

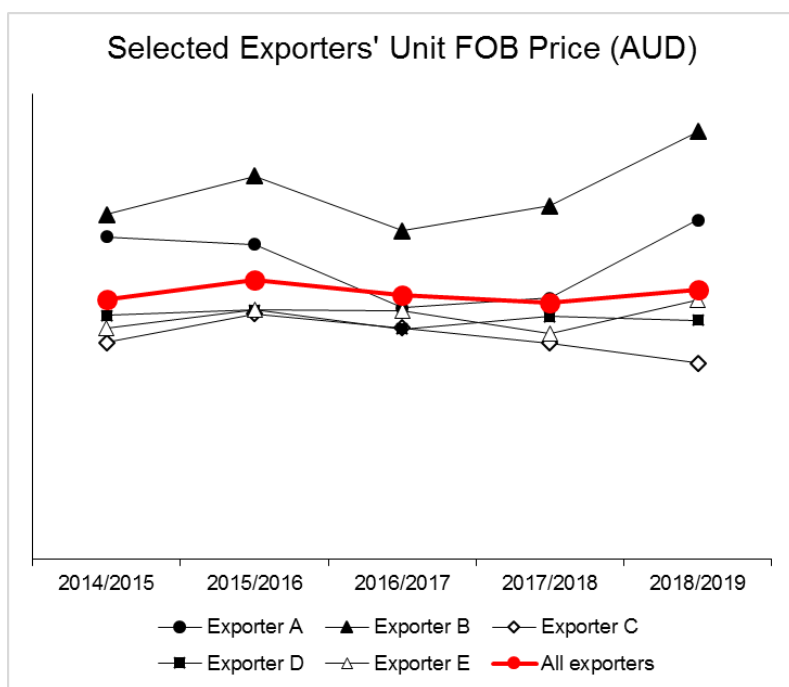
Commission’s analysis has therefore had specific regard to the Australian industry sales of OEM sinks in addition to the sinks its sells in other market segments.

**9.5.1 Likely effect on prices**

FOB Price Analysis

Shown in the chart below at Figure 12 are the unit FOB prices of sinks exported to Australia by the five selected exporters cooperating with the inquiry. Collectively, over the previous five years the volumes exported to Australia by these exporters represented approximately 75 per cent of all goods subject to measures from China.

Within the export price data price trends have differed however in the case of three exporters it does not appear that prices have increased since measures were imposed. In certain instances prices have actually decreased year on year in the lead up to the end of the 2019 financial year ended 30 June. For context the weighted average FOB price of all exports is also included. This shows there has been a decline in prices at times during the previous five years however more recently prices have increased slightly. The weighted average price of all exporters was at the lower end of the price range.



**Figure 12 – Selected Exporters Unit FOB Price (AUD)<sup>90</sup>**

Noting the FOB analysis above, and in the context of the Australian industry’s claims of price pressure brought about by cheaper Chinese exports of the goods, the Commission considers that the low prices of sinks from China would be factor relevant to the economic condition of the Australian industry in terms of its ability to increase prices or compete on price.

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<sup>90</sup> Confidential Attachment 34 – Price Undercutting Analysis “FOB Price and Volume”

OEM price undercutting

Within the selected exporters sales data the Commission was also able to identify the sales of goods to OEM customers in Australia. As noted by Australian industry, sales of its OEM sinks play an important role in the continued viability of its sinks production. Like Australian industry's OEM sinks customers, OEM sink importers on-sell their sinks to the plumbing, construction and retail market segments. In this manner, Australian industry is competing directly with Chinese sinks producers for sales to current and potential OEM customers.

To assess the impact of exports of sinks to Australian OEM customers relative to the price achieved by Australian industry, the Commission has compared the prices of Australian industry's OEM sinks sales to the duty inclusive Free Into Store (FIS) price paid by Australian importers who sourced the goods from the selected exporters.

The FIS prices of OEM sinks exported to Australia undercut Australian industry's prices of the same sinks by MCC and to the same level of trade by between 3 and 46 per cent and on average by 29 per cent. Sales by Australian industry to the OEM market segment represented approximately 30 per cent of its sales during the inquiry period.<sup>91</sup>

Other market segments price undercutting

In addition to the OEM market segment, the Commission also examined the level of price undercutting in the plumbing trade, retail and construction segments where the Australian industry, exporters and importers compete against each other. In these segments the Australian industry competes head to head with imports from China but mainly competes for business for goods sold by importers where those importers have sourced the goods from China.

Using the Australian selling prices of the goods reported by the importers who cooperated with the inquiry the Commission observed that importer's prices undercut Australian industry's prices in the range of between 23 to 48 per cent during the inquiry period and on average was 25 per cent.<sup>92</sup> Excluding sales to OEM customers, price undercutting was highest in the segment in which the Australian industry sold the most volume. In addition, even though importer's prices undercut Australian industry, the margins between the importer's Australian selling prices for the goods sourced from China and export prices at the FIS level were significant. The Commission considers this circumstance arises as a result of the lower export prices of the goods purchased by importers.

Given the low export prices of the goods exported from China and the degree of price undercutting found during the inquiry period, the Commission considers it reasonable that imports of the goods from China are having an effect, and will likely continue to have an effect the prices of sinks sold onto the Australian market, particularly since imports from China represent almost 30 per cent of the total stainless steel sinks market in Australia and over half of all stainless steel sink imports.

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<sup>91</sup> Confidential Attachment 34 – Price Undercutting Analysis “OEM Price Undercutting”

<sup>92</sup> Confidential Attachment 34 – Price Undercutting Analysis “Category Price Analysis”

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In an analysis of ABF database FOB prices for stainless steel sinks exported to Australia from Thailand and Vietnam, who are the next largest source countries by volume and make up approximately 15 per cent of imports, prices were found to be at comparable levels to the prices of sinks subject to measures from China. The Commission considers that this observation is a further indication of the effect of the lower prices of sinks imported from China.

### 9.5.2 Like effects on volumes

On average, over the last five years from 1 July 2014 to 30 June 2019, deep drawn stainless steel sinks subject to measures imported from China have made up approximately 45 per cent of the total Australian stainless steel sinks market. Having regard to the volume of imports from China which the Commission ascertains are not subject to measures, the market share of deep drawn stainless steel sinks subject to measures imported from China climbs to approximately 60 per cent.

At section 5.6.2 in relation to demand variability, the Commission refers to Australian industry's position which considers that demand for sinks is inelastic and that a change in price will not change demand for the product. Whilst the Commission does not disagree with Australian industry on this point, it does consider that the market share obtained by Chinese exporters of the goods would increase or decrease if a customer's purchasing decision was based on price.

Lower priced deep drawn stainless steel sinks subject to measures imported from China hold a significant share of the Australian deep drawn stainless steel sinks market. Therefore, it is likely that further reductions in prices would lead to increased demand for and market share in relation to these imported products. The Commission also considers this is particularly relevant to the OEM market segment whose likely objectives would be to protect existing margins over cost or seeking to increase those margins.

## 9.6 Is injury from dumping likely to be material?

Notwithstanding the acknowledgement that other factors are likely to influence the economic condition of the Australian industry if measures are removed, the *Ministerial Direction on Material Injury* (the Direction on Material Injury), dated 27 April 2012, provides that injury from dumping or subsidisation need not be the sole cause of injury to the industry, where injury caused by dumping or subsidisation is material in degree.

The Direction on Material Injury further provides that the materiality of injury caused by a given degree of dumping or subsidisation can be judged differently, depending on the economic condition of the Australian industry suffering the injury. In considering the circumstances of each case, the Commission must consider whether an industry that at one point in time is healthy and could shrug off the effects of the presence of dumped or subsidised products in the market, could at another time, weakened by other events, suffer material injury from the same amount and degree of dumping or subsidisation.

The Commission's analysis of the economic condition of the Australian industry in the inquiry period and in the period since measures were implemented, found that the Australian industry's:

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- prices in the inquiry period are overall the lowest observed since FY15 and represent a reduction of 32 percent compared to FY15;<sup>93</sup>
- CTMS since FY15 has generally decreased, however, the rate of decrease in the reduction in prices was greater;
- profit margins for key products have declined in each year since 2015 and profits in the inquiry period represent a five year low;
- share in the Australian market volume was 5 per cent in contrast to Chinese produced deep drawn stainless steel sinks, which have maintained on average a 60 per cent share of the Australian market since 2015<sup>94</sup>; and
- prices during the inquiry period were undercut by the prices of deep drawn stainless steel sinks imported from China.

The Commission considers that the Australian industry has suffered material injury in FY19 and that this injury coincides with the findings that deep drawn stainless steel sinks exported to Australia during the inquiry period was dumped and subsidised and the volumes of these imports were material, making up 60 percent of the Australian market for deep drawn stainless steel sinks. Based on this finding, the Commission considers that the Australian industry remains susceptible to injury from dumping.

The Commissioner is of the view that the past is a reliable indicator of its likely future conduct and that the above conclusions support a finding that material injury is likely to continue or recur, in the absence of measures.

### 9.7 Summary

Taking the above analysis into account, the Commissioner is satisfied that there is sufficient evidence to support a finding that:

- import volumes of the goods from China are likely to continue and, in the absence of anti-dumping measures, may increase;
- imports of deep drawn stainless steel sinks exported from China are being dumped;
- injury suffered by Australian industry in the inquiry period was material; and
- material injury has been caused by dumping.

As a result, the Commission is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of the material injury that the anti-dumping measures are intended to prevent.

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<sup>93</sup> Section 6.4.1 refers

<sup>94</sup> Confidential Attachment 1 – Australian Market



## 10 PROPOSED MEASURES

### 10.1 Preliminary finding

Having established that dumping, subsidisation and material injury is likely to continue or recur if the anti-dumping measures are not continued, the Commissioner proposes to recommend that the Minister secure the continuation of the measures applying to the goods exported to Australia from China.

Based on the information available at this stage of the inquiry, the Commissioner proposes to recommend that in continuing the anti-dumping measures and countervailing measures;

- in relation to Cresheen, interim dumping duty (IDD) be calculated based on floor price duty method and its interim countervailing duty (ICD) be calculated based on the *ad valorem* duty method; and
- in relation to all other exporters the IDD and ICD be calculated based on the *ad valorem* duty method.

### 10.2 Existing measures

The IDD and ICD are currently calculated based on an *ad valorem* duty rate. In calculating the *ad valorem* amount, importers are required to report the dumping export price (DXP) of the imported goods at an FOB level. An example of this is contained in the DCR on the Commission's website.

### 10.3 Forms of dumping and countervailing duty available

The forms of dumping duty available to the Minister when imposing anti-dumping measures are prescribed in the *Customs Tariff (Anti-Dumping) Regulation 2013* and include:

- fixed duty method (\$X per tonne);
- floor price duty method;
- combination duty method; or
- *ad valorem* duty method (i.e. a percentage of the export price).<sup>95</sup>

The various forms of dumping duty all have the purpose of removing the injurious effects of dumping. However, in achieving this purpose, certain forms of duty will better suit particular circumstances more so than others. In considering which form of duty to recommend to the Minister, the Commissioner will have regard to the published *Guidelines on the Application of Forms of Dumping Duty November 2013* (the Guidelines) and relevant factors in the market for the goods.<sup>96</sup>

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<sup>95</sup> Section 5 of the *Customs Tariff (Anti-Dumping) Regulation 2013*.

<sup>96</sup> [Available on the Commission website.](#)



### **10.3.1 Fixed duty method**

A fixed duty method operates to collect a fixed amount of duty – regardless of the actual export price of the goods. The fixed duty is determined when the Minister exercises her powers to ascertain an amount for the export price and the normal value.

### **10.3.2 Floor price duty method**

The floor price duty method sets a “floor” – for example a normal value of \$100 per tonne – and duty is collected when the actual export price is less than that normal value of \$100 per tonne. The floor price is either the normal value or the non-injurious price (NIP), whichever becomes applicable under the duty collection system.

This duty method does not use an ascertained export price as a form of “floor price” as occurs with the combination and fixed duty methods.

### **10.3.3 *Ad valorem* duty method**

The *ad valorem* duty method is applied as a proportion of the actual export price of the goods. An *ad valorem* dumping duty is determined for the product as a whole, meaning that a single ascertained export price is required when determining the dumping margin. The *ad valorem* duty method is the simplest and easiest form of duty to administer when delivering the intended protective effect.

### **10.3.4 Combination duty method**

The combination duty comprises two elements: the “fixed” element and the “variable” duty element. The fixed element is determined when the Minister exercises powers to “ascertain” an amount (i.e. set a value) for the export price and the normal value. This may take the form of either a fixed duty or an *ad valorem* on the ascertained export price.

The variable component stems from a feature of this form of duty whereby, having ascertained the export price for the purposes of imposing the dumping duty, if the actual export price of the shipment is lower than the ascertained export price, the variable component works to collect an additional duty amount (i.e. the difference between the ascertained export price and the actual export price). It is called a “variable” element because the amount of duty collected varies according to the extent the actual export price is beneath the ascertained export price.

## **10.4 Conclusion**

The Commission has not received any submissions on the most appropriate form of duty in continuing the measures.

Noting that Cresheen’s exports were not dumped, the Commission considered whether it was warranted that it be removed from the notice. As a result of the following circumstances, the Commission does not propose to recommend that Cresheen’s exports be no longer subject to measures;

- whilst overall, goods exported to Australia by Cresheen were not dumped, the Commission found that certain MCCs were dumped during the inquiry period; and

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- this inquiry represents the Commission’s only examination of the goods exported to Australia by Cresheen since measures were imposed.

Being satisfied that continuation of the measures in relation to Cresheen is warranted, the Commission considers it appropriate that the floor price form of measure be applied to its exports of the good to Australia. The floor price for Cresheen shall be set equal to the weighted average normal value in relation to its exports of the goods to Australia during the inquiry period.

For all other exporters the Commission has found dumping and subsidy margins that exceed those found in the original investigation. Consideration has been had as to whether the *ad valorem* form of duty continues to be the most appropriate. In considering this issue the Commission notes the following;

- deep drawn stainless steel sinks are not a homogeneous product where the many and various sinks styles and configurations have a wide range of prices;
- the Commission has found that deep drawn stainless steel sinks are imported by importers who operate at different levels of trade in the Australian supply chain.

On the basis of the above points, the Commission considers that implementing a form of measure other than the *ad valorem* form of duty, such as the combination method, is not suitable in this instance due to the complexity of the product and the way in which it is traded at different levels of trade. The Commission considers that this may give rise to a result whereby the collection of interim duties may not properly reflect the actual export price of the goods. For all other exporters, the Commission proposes to recommend that duties remain to be based on the *ad valorem* form of duty.

A summary of the proposed recommendations and effective rates of interim dumping duty and countervailing duty is shown in Table 23.

Exporter	Interim dumping duty		Interim countervailing duty	
	Proposed duty method	Effective IDD rate	Proposed duty method	Effective ICD rate
Cresheen	Floor price	negative 12.1%	Ad valorem	0.0%
Jiabaolu	Ad valorem	10.2%	Ad valorem	N/A
Primy	Ad valorem	58.9%	Ad valorem	N/A
Rhine	Ad valorem	8.1% <sup>97</sup>	Ad valorem	17.1%
Zhuhai Grand	Ad valorem	39.3%	Ad valorem	2.4%
Residual exporters	Ad valorem	21.6%	Ad valorem	20.2%
Uncooperative and all other exporters	Ad valorem	67.1%	Ad valorem	28.0%

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<sup>97</sup> The Commission has removed the effect of the substitution of stainless steel costs in order to avoid the double counting of the effects of the provision of stainless steel at LTAR in the subsidy margin calculation. The Commission has also removed the double count with respect to the residual and uncooperative and all other exporters.

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**Table 23: Summary of effective interim dumping and countervailing duty**

## 11 NON-INJURIOUS PRICE

### 11.1 Findings

The Commissioner found in REP 238 that:

- the goods had been in receipt of countervailable subsidies; and
- the GOC had not complied with its requirements under Article 25 of the Agreement on Subsidies and Countervailing Measures (SCM Agreement) for the compliance period.

The Commissioner recommended in REP 238 that regard should not be had to the desirability of fixing a lesser rate of duty due to the operation of section 8(5BAAA)(c)<sup>98</sup> of the *Customs Tariff (Anti-Dumping) Act 1975* (Dumping Duty Act).

The Commission understands that, in the time since REP 238, the GOC has complied with its requirements under Article 25 of the SCM Agreement for the compliance period.

The Commissioner proposes to recommend that regard should be had to the desirability of fixing a lesser rate of duty due the operation of section 8(5BA) and section 10(3D) of the Dumping Duty Act. However, the Commission has found that the NIP is higher than the normal values established, therefore the lesser duty rule does not come into effect.

### 11.2 Applicable legislation

When issuing a dumping duty notice and a countervailing duty notice, section 8(5BA) of the Dumping Duty Act requires the Minister to have regard to the desirability of specifying a method such that the amount of dumping and countervailing duty does not exceed the NIP of the goods.

### 11.3 Lesser duty rule

The calculation of the NIP is relevant for the purposes of the lesser duty rule under the Dumping Duty Act.

IDD may be applied where it is established that dumped imports have caused material injury to the Australian industry producing like goods. The level of IDD imposed by the Minister cannot exceed the margin of dumping.

Where the Minister is required to determine IDD, and the NIP of the goods is less than the normal value of the goods, the Parliamentary Secretary must have regard to the 'lesser duty rule' in accordance with subsection 8(5BA) of the Dumping Duty Act, unless one of the exceptions in subsection 8(5BAAA) of the Dumping Duty Act applies.

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<sup>98</sup> The Commission notes that REP 238 erroneously referred to section 8(5BAA)(a) of the Dumping Duty Act.

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As the Commissioner recommends that the dumping duty notice currently applying to exports of the goods from China be altered, subsections 8(5BA) of the Dumping Duty Act require the Minister to consider applying a lesser rate of duty if applicable.

### 11.4 Calculation of the non-injurious price

The method of calculating a NIP is not prescribed in the legislation, however there are several methods outlined in the Manual.<sup>99</sup>

The Commission generally derives the NIP by first establishing a price at which the Australian industry might reasonably sell its product in a market unaffected by dumping. This price is referred to as the unsuppressed selling price (USP).

The Commission's preferred approach to establishing the USP is set out in the Manual and observes the following hierarchy:

- industry selling prices at a time unaffected by dumping;
- constructed industry prices – industry cost to make and sell plus profit; or
- selling prices of un-dumped imports.

Having calculated the USP, the Commission then calculates the NIP by deducting the costs incurred in transitioning the goods from the export FOB point (or another point if appropriate) to the relevant level of trade in Australia. The deductions normally include overseas freight, insurance, into-store costs and amounts for importer expenses and profit.

As the Commissioner did not have regard to the USP or NIP in REP 238, and the lack of reviews in regards to the goods since the original measures were imposed, the Commission considers that it does not have accurate industry selling prices at a time unaffected by dumping.

The Commission considers that the second method, establishing the USP using the Australian industry cost to make and sell plus profit, is the preferable method, in this instance.

For the purpose of this inquiry, a weighted average USP has been determined based on a weighted average of Australian industry CTMS data reported during the inquiry period plus an amount of profit achieved by the Australian industry.

At section 6.6.2 the Commission found that Australian industry's profit was reasonably consistent throughout the period spanning 1 July 2014 to 30 June 2018. However, the profit in the inquiry period reduced compared to prior years and also coincided with the levels dumping and subsidisation outlined in chapters 7 and 8.

For the period between the end of the original investigation period and the inquiry period, the Commission does not have evidence of the level of dumping and subsidisation that may have occurred in relation to the export of the goods to Australia. However, the

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<sup>99</sup> Method for calculating non-injurious price, section 24.3, p.138 (November 2018).

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Commission has verified that during this time, the Australian industry achieved consistently similar annual profits that were higher than the inquiry period.

Under the above circumstances the Commission considers that the weighted average profit margin achieved in the period 1 July 2014 to 30 June 2018 period is indicative of an improved level of profitability compared to the original investigation, and the inquiry period and is therefore a reasonable amount for the purposes of establishing the USP.

The NIP has been calculated to FOB delivery terms by deducting from the USP amounts for:

- importer profit;
- importer expenses;
- Australian customs duty, port charges, delivery, commission, storage, and handling; and
- overseas freight and insurance.

### 11.5 Commission's assessment

The Commission has found that the NIP is higher than the normal values established, therefore the lesser duty rule does not come into effect. In continuing the measures, IDD is recommended to be collected as an *ad valorem* percentage representative of the full margins of dumping.

Details of the USP and NIP calculations are at **Confidential Attachment 35**.

**12 APPENDICES AND ATTACHMENTS**

<b>Confidential Attachment 1</b>	Australian Market Analysis
<b>Confidential Attachment 2</b>	Australian Industry Injury Analysis
<b>Confidential Attachment 3</b>	Stainless Steel Benchmark
<b>Confidential Attachment 4</b>	Cresheen Export Price
<b>Confidential Attachment 5</b>	Cresheen CTMS
<b>Confidential Attachment 6</b>	Cresheen Domestic Sales
<b>Confidential Attachment 7</b>	Cresheen Normal Value
<b>Confidential Attachment 8</b>	Cresheen Dumping Margin
<b>Confidential Attachment 9</b>	Jiabaolu Export Price
<b>Confidential Attachment 10</b>	Jiabaolu CTMS
<b>Confidential Attachment 11</b>	Jiabaolu Domestic Sales
<b>Confidential Attachment 12</b>	Jiabaolu Normal Value
<b>Confidential Attachment 13</b>	Jiabaolu Dumping Margin
<b>Confidential Attachment 14</b>	Primy Export Price
<b>Confidential Attachment 15</b>	Primy CTMS
<b>Confidential Attachment 16</b>	Primy Domestic Sales
<b>Confidential Attachment 17</b>	Primy Normal Value
<b>Confidential Attachment 18</b>	Primy Dumping Margin
<b>Confidential Attachment 19</b>	Rhine Export Price
<b>Confidential Attachment 20</b>	Rhine CTMS
<b>Confidential Attachment 21</b>	Rhine Domestic Sales
<b>Confidential Attachment 22</b>	Rhine Normal Value
<b>Confidential Attachment 23</b>	Rhine Dumping Margin
<b>Confidential Attachment 24</b>	Zhuhai Grand Export Price
<b>Confidential Attachment 25</b>	Zhuhai Grand CTMS
<b>Confidential Attachment 26</b>	Zhuhai Grand Domestic Sales
<b>Confidential Attachment 27</b>	Zhuhai Grand Normal Value
<b>Confidential Attachment 28</b>	Zhuhai Grand Dumping Margin
<b>Confidential Attachment 29</b>	Residual, Uncooperative and all other exporter dumping margin
<b>Confidential Attachment 30</b>	Cresheen Subsidy Margin
<b>Confidential Attachment 31</b>	Rhine Subsidy Margin

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<b>Confidential Attachment 32</b>	Zhuhai Grand Subsidy Margin
<b>Confidential Attachment 33</b>	Residual Exporters and Non-cooperative entities Subsidy Margin
<b>Confidential Attachment 34</b>	FOB and Price Undercutting Analysis
<b>Confidential Attachment 35</b>	USP and NIP Calculation



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## APPENDIX A ASSESSMENT OF NEW PROGRAMS

### A1 Introduction

#### A1.1 Definition of Government, public and private bodies

In its assessment of each program, the Commission has had regard to the entity responsible for providing the financial contribution (if any) under the relevant program, as part of the test under section 269T(1) for determining whether a financial contribution is a subsidy. Under section 269T(1), for a contribution to be a subsidy, the contribution must have been made by:

- a government of the country of export or country of origin of the goods; or
- a public body of that country or a public body of which that government is a member; or
- a private body entrusted or directed by that government or public body to carry out a governmental function.

##### A1.1.1 Government

As described in section 16.2 of the Manual, the Commission considers that the term “government” is taken to include government at all different levels, including at a national and sub-national level.

##### A1.1.2 Public bodies

The term “public body” is not defined in the Act. Determining whether an entity is a “public body” requires evaluation of all available evidence of the entity’s features and its relationship with government, including the following:

- (1) The objectives and functions performed by the body and whether the entity in question is pursuing public policy objectives. In this regard relevant factors include:
  - legislation and other legal instruments,
  - the degree of separation and independence of the entity from a government, including the appointment of directors, and
  - the contribution that an entity makes to the pursuit of government policies or interests, such as taking into account national or regional economic interests and the promotion of social objectives.
- (2) The body’s ownership and management structure, such as whether the body is wholly- or part-owned by the government or has a majority of shares in the body. A finding that a body is a public body may be supported through:
  - the government’s ability to make appointments,
  - the right of government to review results and determine the body’s objectives, and
  - the government’s involvement in investment or business decisions.

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The Commission considers this approach is consistent with the WTO Appellate Body decision of *United States – Countervailing Measures (China)*<sup>100</sup> In that case the Appellate body referred to the following three indicia which may assist in assessing whether an entity was a public body vested with or exercising government authority:

- Where a statute or other legal instrument expressly vests government authority in the entity concerned;
- Where there is evidence that an entity is, in fact, exercising governmental functions; and
- Where there is evidence that a government exercises meaning control over an entity and exercises governmental authority in the performance of government functions.

These principles have also previously been considered in the Federal Court of Australia.<sup>101</sup>

### **A1.1.3 Private bodies**

Where an entity is neither a government nor public body, the Commission will consider it a private body, in which case, a government direction to make a financial contribution in respect of the goods must be established in order for the contribution to be considered a subsidy, as defined by section 269T(1).

Pursuant to section 16.3 of the Manual, in determining the character of an entity which may have provided a financial contribution, the Commission will consider whether a private body has been:

- “entrusted” to carry out a government function, which occurs when a government gives responsibility to a private body; or
- “directed” to carry out a government function, which occurs in situations where the government exercises its authority over a private body.

Accordingly, not all government acts will be considered as entrusting or directing a private body. Encouragement or mere policy announcements by government of themselves are not sufficient to satisfy this test. However, threats and inducements may be evidence of entrustment or inducements. It is where the private body is considered a proxy by government to give effect to financial contributions will this test be satisfied.

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<sup>100</sup> DS379 United States – Definitive Anti-Dumping and Countervailing Duties on Certain Products from China.

<sup>101</sup> See; *Panasia Aluminium (China) Limited v Attorney-General of the Commonwealth* [2013] FCA 870, [27] - [70]; *Dalian Steelforce Hi Tech Co Ltd V Minister for Home Affairs* [2015] FCA 885, [50] - [73]

## A2 Assessment of Programs

Program	Background and WTO notification	Legal basis	Eligibility criteria	Is there a subsidy?	Is the subsidy countervailable?
<p><b>Program 31</b></p> <p><b>Jinwan technology transformation funds</b></p>	<p>Zhuhai Grand reported that it had received a benefit under this program in its REQ.</p> <p>The Commission is not aware of any WTO notification of this program.</p>	<p>Zhuhai Grand provided evidence in its REQ that this program is administered by the Bureau of Science, Technology, Industry and Information of Jinwan District for the provision of funds for technical renovations.</p>	<p>The evidence provided in Zhuhai Grand's REQ stated that this program is available to enterprises which complete an online application, formal examination, on-site inspection and project audit.</p> <p>This program is provided to enterprises for technical renovations which are situated within the Jinwan district.</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including the goods exported to Australia).</p> <p>The Commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>The Commission considers that this subsidy is limited to the Jinwan district.</p> <p>The Commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(b).</p> <p>As the GOC did not provide a response to the Commission's questionnaire, the Commission does not consider that section 269TAAC(3) applies.</p>
<p><b>Program 32</b></p> <p><b>Support post disaster recovery fund</b></p>	<p>Zhuhai Grand reported that it had received a benefit under this program in its REQ.</p> <p>The Commission is not aware of any WTO notification of this program.</p>	<p>Zhuhai Grand provided evidence that this program is provided under the "Policy and Measures of Jinwan District on Promoting Industrial Enterprises to Return to Production after Disasters".</p> <p>Zhuhai Grand provided evidence in its REQ that this program is administered by the Bureau of Science, Technology, Industry and</p>	<p>The evidence provided in Zhuhai Grand's REQ stated that this program is available to enterprises situated within the Jinwan district which are subject to an online declaration and third party on-site verification.</p>	<p>As Zhuhai Grand received a financial contribution under this program outside of the inquiry period, and that contribution was expensed outside of the inquiry period, the Commission considers that this program has not conferred a benefit.</p> <p>The Commission is satisfied that this program does not meet the definition of subsidy under section 269T.</p>	<p>Not applicable.</p>

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Program	Background and WTO notification	Legal basis	Eligibility criteria	Is there a subsidy?	Is the subsidy countervailable?
		Information of Jinwan District.			
<b>Development of market projects for SMEs in foreign trade (support SMEs in brand building)</b>	<p>Zhuhai Grand reported that it had received a benefit under this program in its REQ.</p> <p>This program is the district-level version of program 20.</p> <p>The Commission is not aware of any WTO notification of this program.</p>	<p>The Commission is not aware of any legal basis for this program.</p> <p>Zhuhai Grand provided evidence in its REQ that this program is administered by the Bureau of Science, Technology, Industry and Information of Jinwan District.</p>	<p>The Commission has found no evidence to suggest that the eligibility criteria differs from that of program 20, other than that it is limited to enterprises within the Jinwan district.</p>	<p>As Zhuhai Grand received a financial contribution under this program outside of the inquiry period, and that contribution was expensed outside of the inquiry period, the Commission considers that this program has not conferred a benefit.</p> <p>The Commission is satisfied that this program does not meet the definition of subsidy under section 269T.</p>	Not applicable.
<b>Program 33 Steady employment subsidy for 2017</b>	<p>Zhuhai Grand reported that it had received a benefit under this program in its REQ.</p> <p>The Commission is not aware of any WTO notification of this program.</p>	<p>The Commission is not aware of any legal basis for this program.</p> <p>Zhuhai Grand provided evidence in its REQ that this program is administered by the Human Resource and Social Security Bureau of Zhuhai.</p>	<p>Enterprises are eligible for this program where they have taken effective measures to reduce unemployment.</p>	<p>As Zhuhai Grand received a financial contribution under this program outside of the inquiry period, and that contribution was expensed outside of the inquiry period, the Commission considers that this program has not conferred a benefit.</p> <p>The Commission is satisfied that this program does not meet the definition of subsidy under section 269T.</p>	Not applicable.
<b>Technological transformation project (intelligent transformation) for 2018</b>	<p>Zhuhai Grand reported that it had received a benefit under this program in its REQ.</p> <p>Based on the evidence provided, the Commission considers that this is the same program as Jinwan technology transformation funds.</p>	<p>Refer to Jinwan technology transformation funds above.</p>	<p>Refer to Jinwan technology transformation funds above.</p>	<p>Refer to Jinwan technology transformation funds above.</p>	<p>Refer to Jinwan technology transformation funds above.</p>

**PUBLIC RECORD**

Program	Background and WTO notification	Legal basis	Eligibility criteria	Is there a subsidy?	Is the subsidy countervailable?
<p><b>Program 34</b></p> <p><b>Sci-tech 2017 innovation promotion fund</b></p>	<p>Zhuhai Grand reported that it had received a benefit under this program in its REQ.</p> <p>The Commission is not aware of any WTO notification of this program.</p>	<p>The Commission is not aware of any legal basis for this program.</p> <p>Zhuhai Grand provided evidence in its REQ that this program is administered by the Bureau of Science, Technology, Industry and Information of Jinwan District.</p>	<p>The evidence provided in Zhuhai Grand's REQ stated that this program is available to enterprises situated within the Jinwan district which complete an online application and undergo project review and publication, and bureau consideration.</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including the goods exported to Australia).</p> <p>The Commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>The Commission considers that this subsidy is limited to the Jinwan district and Zhuhai municipality.</p> <p>The Commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(b).</p> <p>As the GOC did not provide a response to the Commission's questionnaire, the Commission does not consider that section 269TAAC(3) applies.</p>
<p><b>Sci-tech 2017 innovation promotion fund (district level)</b></p>	<p>Zhuhai Grand reported that it had received a benefit under this program in its REQ.</p> <p>Based on the evidence provided, the Commission considers that grants received under this program are a subset of the program Sci-tech 2017 innovation promotion fund.</p>	<p>Refer to Sci-tech 2017 innovation promotion fund above.</p>	<p>Refer to Sci-tech 2017 innovation promotion fund above.</p>	<p>Refer to Sci-tech 2017 innovation promotion fund above.</p>	<p>Refer to Sci-tech 2017 innovation promotion fund above.</p>
<p><b>Program 35</b></p> <p><b>Post-technical transformation award</b></p>	<p>Zhuhai Grand reported that it had received a benefit under this program in its REQ.</p>	<p>The Commission is not aware of any legal basis for this program.</p>	<p>The evidence provided in Zhuhai Grand's REQ stated that this program is available to enterprises situated within the Jinwan district and</p>	<p>Grants provided under this program are financial contributions by a government which involve</p>	<p>The Commission considers that this subsidy is limited to the Jinwan district and Zhuhai municipality.</p>

**PUBLIC RECORD**

Program	Background and WTO notification	Legal basis	Eligibility criteria	Is there a subsidy?	Is the subsidy countervailable?
	<p>The Commission is not aware of any WTO notification of this program.</p>	<p>Zhuhai Grand provided evidence in its REQ that this program is administered by the Finance Bureau of Zhuhai City.</p>	<p>Zhuhai municipality which make an application and are approved through on-site verification, tax assessment and consideration by the municipal bureau.</p>	<p>the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including the goods exported to Australia).</p> <p>The Commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	<p>The Commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(b).</p> <p>As the GOC did not provide a response to the Commission's questionnaire, the Commission does not consider that section 269TAAC(3) applies.</p>
<p><b>Post-technical transformation award (provincial level)</b></p>	<p>Zhuhai Grand reported that it had received a benefit under this program in its REQ.</p> <p>Based on the evidence provided, the Commission considers that grants received under this program are a subset of the program Post-technical transformation award</p>	<p>Refer to Post-technical transformation award above.</p>	<p>Refer to Post-technical transformation award above.</p>	<p>Refer to Post-technical transformation award above.</p>	<p>Refer to Post-technical transformation award above.</p>
<p><b>Program 36</b></p> <p><b>High growth enterprise award</b></p>	<p>Cresheen reported that it had received a benefit under this program in its REQ.</p> <p>The Commission is not aware of any WTO notification of this program.</p>	<p>The Commission is not aware of any legal basis for this program.</p> <p>Cresheen provided evidence in its REQ that this program is administered by the</p>	<p>Cresheen reported in its REQ that this program was available to high growth enterprises.</p>	<p>Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government.</p> <p>Due to the nature of the grant it is considered that a</p>	<p>This program is limited to enterprises which experience high growth.</p> <p>The Commission is satisfied that this meets the criteria of section 269TAAC(2)(a).</p>

**PUBLIC RECORD**

Program	Background and WTO notification	Legal basis	Eligibility criteria	Is there a subsidy?	Is the subsidy countervailable?
		Zhongshan Nantou Finance Bureau.		<p>financial contribution would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including the goods exported to Australia).</p> <p>The Commission considers that this constitutes a benefit in relation to the goods exported to Australia.</p> <p>The financial contributions made under this program meet the definition of a subsidy under section 269T.</p>	As the GOC did not provide a response to the Commission's questionnaire, the Commission does not consider that section 269TAAC(3) applies.
<p><b>Program 37</b></p> <p><b>Pre-tax deduction for enterprises of R&amp;D expenses</b></p>	<p>Zhuhai Grand reported that it had received a benefit under this program in its REQ. It had reported that it had received a benefit under program 24, however the Commission has determined that this is a separate program.</p> <p>This program was categorised as a tax benefit in the verification report, however upon further examination the Commission has categorised it as a grant as per the Manual.<sup>102</sup></p>	Zhuhai Grand reported in its REQ that enterprises must conform to the National Key Supported High-Tech Areas.	Zhuhai Grand reported that this program is available to enterprises which conduct R&D projects, which are subject to audits.	<p>The deduction of R&amp;D expenses under this program is a financial contribution by a government which involves forgoing or non-collection of revenue by a government.</p> <p>Due to the nature of the deduction, it is considered that a financial contribution would be made in connection to the production, manufacture, or export of all goods of the recipient enterprise (include the goods exported to Australia).</p> <p>The Commission considers that this constitutes a benefit</p>	<p>This program is limited to enterprises which conform to the National Key Supported High-Tech Areas, per the <i>Guidelines for the Key Areas of High-tech Industrialization (2007)</i>.</p> <p>The Commission is satisfied that this meets the criteria of section 269TAAC(2)(a).</p> <p>As the GOC did not provide a response to the Commission's questionnaire, the Commission does not consider that section 269TAAC(3) applies.</p>

<sup>102</sup> Examples of grants, section 17.3, p.93 (November 2018).



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<b>Program</b>	<b>Background and WTO notification</b>	<b>Legal basis</b>	<b>Eligibility criteria</b>	<b>Is there a subsidy?</b>	<b>Is the subsidy countervailable?</b>
	The Commission is not aware of any WTO notification of this program.			in relation to the goods exported to Australia.  The financial contributions made under this program meet the definition of a subsidy under section 269T.	

## **A2.1 Method of subsidy determination**

### **A2.1.1 Selected exporters**

Where selected exporters reported that they had received a benefit under any of the new programs during the inquiry period, the Commission considers that this benefit has been made in respect to all sales.

The total applicable grant amount has been allocated to the goods using the total sales value.

The per unit amount was then calculated using the grant amount allocated to the goods and the total export sales volume.

The subsidisation rate was calculated using the weighted average export price.

### **A2.1.2 Residual exporters**

Residual exporters have been attributed the same rate of per unit subsidisation determined above for the selected exporters.

This was then calculated as a percentage of subsidisation by attributing this per unit amount over the weighted average export price of the selected exporters.

### **A2.1.3 Uncooperative exporters**

As neither the GOC nor uncooperative exporters provided information as to whether these exporters benefited from this program, the Commission has considered all relevant information to conclude that it is likely that uncooperative and all other exporters have had benefits conferred to them under this program during the inquiry period in the form of direct transfers of funds.

In calculating the amount of subsidy, the Commission:

- allocated the total grant amount received by the selected exporters by the highest proportion of the value of the goods by the total sales value of the selected exporters;
- determined the per unit subsidisation amount by reference to the lowest total export sales volume of the selected exporters; and
- determined a subsidisation rate by reference to the lowest weighted average export price amongst the selected exporters.