Australian Government
Anti-Dumping Review Panel

Application for review of a Ministerial decision

Customs Act 1901 s 269ZZE

This is the approved[1] form for applications made to the Anti-Dumping Review Panel (ADRP) on or after 19 February 2020 for a review of a reviewable decision of the Minister (or his or her Parliamentary Secretary).

Any interested party[2] may lodge an application to the ADRP for review of a Ministerial decision.

All sections of the application form must be completed unless otherwise expressly stated in this form.

Time
Applications must be made within 30 days after public notice of the reviewable decision is first published.

Conferences
The ADRP may request that you or your representative attend a conference for the purpose of obtaining further information in relation to your application or the review. The conference may be requested any time after the ADRP receives the application for review. Failure to attend this conference without reasonable excuse may lead to your application being rejected. See the ADRP website for more information.

Further application information
You or your representative may be asked by the Member to provide further information in relation to your answers provided to questions 9, 10, 11 and/or 12 of this application form (s269ZZG(1)). See the ADRP website for more information.

Withdrawal
You may withdraw your application at any time, by completing the withdrawal form on the ADRP website.

[1] By the Senior Member of the Anti-Dumping Review Panel under section 269ZY *Customs Act 1901*.
[2] As defined in section 269ZX *Customs Act 1901*.

Contact

If you have any questions about what is required in an application refer to the ADRP website. You can also call the ADRP Secretariat on (02) 6276 1781 or email adrp@industry.gov.au.

PART A: APPLICANT INFORMATION

1. Applicant's details

Applicant's name: **Primy Corporation Limited ("Primy Corporation")**
Address: **Primy Industrial Park, No.220, Dexiang Road, Pingsha, Zhuhai, China**
Type of entity (trade union, corporation, government etc.): **Corporation**

2. Contact person for applicant

Full name: **Ms. Huang Yali**
Position: **Sales Manager**
Email address: **lilya@primyonline.com**
Telephone number: **0086-756-7722222-808**

3. Set out the basis on which the applicant considers it is an interested party:

Primy is an exporter of deep drawn stainless steel sinks from the People's Republic of China ("China") being the goods the subject of the Minister of Industry, Science and Technology's ("Minister") decision of 27 February 2020 to continue the antidumping measures applying to such goods (the "reviewable decision"). Primy Corporation, therefore, is an "interested party" as defined in section 269ZX(c) of the Customs Act 1901 because it is directly concerned with the exportation to Australia of the goods the subject of the reviewable decision and, therefore. is entitled to make this application.

4. **Is the applicant represented?**

   Yes ☒ **No** ☐

If the application is being submitted by someone other than the applicant, please complete the attached representative's authority section at the end of this form.

It is the applicant's responsibility to notify the ADRP Secretariat if the nominated representative changes or if the applicant become self-represented during a review.*

PART B: REVIEWABLE DECISION TO WHICH THIS APPLICATION RELATES

5. Indicate the section(s) of the *Customs Act 1901* the reviewable decision was made under:

☐Subsection 269TG(1) or (2) – decision of the Minister to publish a dumping duty notice

☐Subsection 269TH(1) or (2) – decision of the Minister to publish a third country dumping duty notice

☐Subsection 269TJ(1) or (2) – decision of the Minister to publish a countervailing duty notice

☐Subsection 269TK(1) or (2) decision of the Minister to publish a third country countervailing duty notice

☐Subsection 269TL(1) – decision of the Minister not to publish duty notice

☐Subsection 269ZDB(1) – decision of the Minister following a review of anti-dumping measures

☐Subsection 269ZDBH(1) – decision of the Minister following an anti-circumvention enquiry

☒Subsection 269ZHG(1) – decision of the Minister in relation to the continuation of anti-dumping measures

Please only select **one** box. If you intend to select more than one box to seek review of more than one reviewable decision(s), **a separate application must be completed**.

6. Provide a full description of the goods which were the subject of the reviewable decision:

The goods the subject of the application (the goods) are:

Deep drawn stainless steel sinks with a single deep drawn bowl having a volume of between 7 and 70 litres (inclusive), or multiple drawn bowls having a combined volume of between 12 and 70 litres (inclusive), with or without integrated drain boards, whether finished or unfinished, regardless of type of finish, gauge, or grade of stainless steel and whether or not including accessories; 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.

7. Provide the tariff classifications/statistical codes of the imported goods:

The tariff classification of the goods the subject of the reviewable decision is:

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

8. Anti-Dumping Notice details:

Anti-Dumping Notice (ADN) number:

Anti-Dumping Notice (ADN) No. 2020/003. A copy of ADN No. 2020/003 and a copy of the Anti-Dumping Commission's report to the Minister, Report No. 517, are attached.
Date ADN was published: **The ADN was published on 28 February 2020.**

Attach a copy of the notice of the reviewable decision (as published on the Anti-Dumping Commission's website) to the application

PART C: GROUNDS FOR THE APPLICATION

If this application contains confidential or commercially sensitive information, the applicant must provide a non-confidential version of the application that contains sufficient detail to give other interested parties a clear and reasonable understanding of the information being put forward.

Confidential or commercially sensitive information must be marked '**CONFIDENTIAL**' (bold, capitals, red font) at the top of each page. Non-confidential versions should be marked '**NON-CONFIDENTIAL**' (bold, capitals, black font) at the top of each page.

- Personal information contained in a non-confidential application will be published unless otherwise redacted by the applicant/applicant's representative.

For lengthy submissions, responses to this part may be provided in a separate document attached to the application. Please check this box if you have done so: ☒

9. **Set out the grounds on which the applicant believes that the reviewable decision is not the correct or preferable decision:**

See Attachment A

10. **Identify what, in the applicant's opinion, the correct or preferable decision (or decisions) ought to be, resulting from the grounds raised in response to question 9:**

See Attachment A

11. **Set out how the grounds raised in question 9 support the making of the proposed correct or preferable decision:**

See Attachment A

12. **Set out the reasons why the proposed decision provided in response to question 10 is materially different from the reviewable decision:**

Do not answer question 11 if this application is in relation to a reviewable decision made under subsection 269TL(1) of the Customs Act 1901. **See Attachment A**

13. **Please list all attachments provided in support of this application:**

Annex 1 ADN 2020/003 Findings of the Continuation Inquiry No. 517 into Anti-Dumping Measures
Annex 2 Report No. 517 (Final Report)
Annex 3 Exhibit G-6-2 Cost Sheets in Primy's Exporter Questionnaire Response (confidential)
Annex 4 Primy's Comment on the SEF
Annex 5 Primy's Verification Report

PART D: DECLARATION

The applicant/the applicant's authorised representative *[delete inapplicable]* declares that:

- The applicant understands that the Panel may hold conferences in relation to this application, either before or during the conduct of a review. The applicant understands that if the Panel decides to hold a conference *before* it gives public notice of its intention to conduct a review, and the applicant (or the applicant's representative) does not attend the conference without reasonable excuse, this application may be rejected; and
- The information and documents provided in this application are true and correct. The applicant understands that providing false or misleading information or documents to the ADRP is an offence under the *Customs Act 1901* and *Criminal Code Act 1995.*

Signature: Huang Yali

(Applicant's authorised officer)
Name: **Ms. Huang Yali**

Position:**Sales Manager**

Organisation: **Primy Corporation**

Date: **26/March 2020**

PART E: AUTHORISED REPRESENTATIVE

This section must only be completed if you answered yes to question 4.

Provide details of the applicant's authorised representatives:

Full name of representative: **Andrew Percival**
Organisation: **Percival Legal**
Address: **1 Rickard Avenue. Mosman, NSW 2088**
Email address: **andrew.percival@percivallegal.com.au**
Telephone number: **0425 221 036**

Full name of representative: **LI Fayin**
Organisation: **JunZeJun Law Offices**
Address: **11F Jinbao Tower, 89 Jinbao St, Dongcheng District, Beijing, People's Republic of China**
Email address: **lifayin@junzejun.com**
Telephone number: **0086-13910985989**

Representative's authority to act

A separate letter of authority may be attached in lieu of the applicant signing this section

The individuals named above are authorised to act as the applicant's representatives in relation to this application and any review that may be conducted as a result of this application.

Signature: Huang Yali

(Applicant's authorised officer)
Name: **Ms. Huang Yali**

Position:**Sales Manager**

Organisation: **Primy Corporation**

Date**: 26/March 2020**

Attachment A
Application to Anti-Dumping Review Panel
Continuation Inquiry – Exports of Deep Drawn Stainless-Steel Sinks from China
Primy Corporation

Introduction:

The ground for the application is the adjustment by the Commission for the differences in accessories in the domestic sales price of like product and the export price failed to include the profit margin realized on domestic sales of like goods in OCOT, and thus is not in line with the requirements under section 269TAC(8) for the fair comparison between normal value and export price.

Question No. 9: Set out the grounds on which the applicant believes that the reviewable decision is not the correct or preferable decision:

1. **The relevant conducts by the Commission of adjustments for accessories costs in domestic and export prices for Primy under Section TAC (8) in the Final Report:**

(1) The Commission did make an adjustment for differences in accessories costs in domestic price and export price for fair comparison purpose

In subsection 3.4.2 of Report No. 517 (Final Report) (Annex 2), the Commission stated:

> "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."

In subsection 7.8.4 of the Final Report titled "Adjustments" for Primy, the Commission stated that:

> "In calculating normal values under sections 269TAC(1) 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 summarised in Table 17." The pertinent adjustments for accessories in the domestic price and export price are reflected in Table 17 as follows in page 68, 69 of the Final Report:

Adjustment Type	**Deduction/addition**

Domestic accessories	**Deduct** an amount for domestic accessories.
Export accessories	**Add** an amount for export accessories.

Therefore, it is not disputed, and Primy is not disputing, that the differences in accessories costs in normal value and export price is required to be adjusted for the purpose of fair comparison as required by section 269TAC(8).

(2) The Commission did not add Primy's profit margin realized on domestic sales of like goods in OCOT in the adjustment of accessories costs to account for the differences in prices of like product and exported products caused by the differences in accessories

In subsection 7.5 of the Final Report titled "Approach to adjustments for differences in product specification", the Commission explained that it has added profit margin in calculating the value of adjustment to the differences in costs of production between the prices of like goods and exported goods:

> "To account for differences in prices that are driven by the market specific product differences between equivalent domestic and Australian MCCs and to achieve a proper comparison between the price of like goods and exported goods, the Commission considers that an adjustment under section 269TAC(8) is warranted. The value of the adjustment has been worked out by calculating the difference in the weighted average unit cost of production (excluding accessory costs) between the two markets for each relevant MCC and then adding to this result each exporter's profit margin (as a percentage of cost) realised on domestic sales of like goods in OCOT." (*page 59 of the Final Report*)

However, in calculating the value of adjustment to the differences in costs of accessories between the prices of like goods and exported goods, the Commission did NOT add the profit margin:

> "The Commission notes that the treatment outlined above relates to differences arising from each exporters own production activities. Where a specification adjustment occurs due to features that relate to items which are sold with sinks, but are however sourced from third party suppliers, such as accessories, the adjustments do not recognise OCOT profit margin." (*page 59 of the Final Report*)

Based on the explanation by the Commission above, the reason for not including profit margin for calculation the value of adjustment for accessories seem to be the accessories are "sourced from third party suppliers".

2. **The grounds on which Primy believes that the non-addition of profit margin by the Commission to the accessories costs to account for the differences**

in prices of like products and exported products caused by the differences in accessories is not the correct or preferable decision

Primy submits that the non-addition of profit margin by the Commission to the accessories costs to account for the differences in prices of like products and exported products caused by the differences in accessories is not in line with the requirements in section 269TAC(8) and practice reflected in section 15.3 of the Dumping and Subsidy Manual, and does not reflect the facts in relation to Primy in this investigation.

(1) Relevant provisions in section 269TAC(8) and the Dumping and Subsidy Manual

(a) Relevant provision of section 269TAC(8) provides that:

> "(8) Where the normal value of goods exported to Australia is the price paid or payable for like goods and that price and the export price of the goods exported:
>
> ------
>
> (b) are not in respect of identical goods; or
>
> ------
>
> that ***price*** paid or payable ***for like goods*** is to be taken to be such a ***price adjusted*** in accordance with directions by the Minister so that those differences would not affect its comparison with that ***export price***" (emphasis added)

(b) Relevant part of section 15.3 of the Dumping and Subsidy Manual ("the Manual"), in relation to "Adjustments" for "Physical characteristics and quality", provides that:

> "However, there may be situations where direct evidence of price differences cannot be provided (e.g. models sold domestically and exported to Australia are different). In these situations, adjustments for differences in physical characteristics or quality, where it reasonably affects price comparability, may be based on production cost differences plus the addition of the gross margin (i.e. the administrative, selling and general costs and profit) to the production cost difference. This is a means for calculating an adjustment ***that reflects the market value*** of the production cost difference." (emphasis added)

Based on the legal requirements and practices above, it is clear that the adjustments is for the purpose of a fair comparison between the "price" of like goods and export "price", and the adjustment is "price adjustment", not the adjustment of the costs of production or costs *per se*. And the reason to add the profit margin to the production costs or costs for the adjustment, not to adjust the costs *per se*, is because only with such addition, the "market value" of the costs differences can be reflected, which is the effect of the costs differences on "prices".

(2) The non-addition of profit margin by the Commission in its adjustment based on the costs of accessories differences is not in line with section 269TAC(8) and section 15.3 of the Manual

(a) The accessories costs are part of production costs of Primy.

In the Primy's Verification Report (Annex 5), in Section 6 titled "VERIFICATION OF CTMS ACCURACY" and subsection 6.1 titled "Cost allocation method", "Accessories" is a verified "Cost Area". In Exhibit G-6-2 Cost Sheets in Primy's Exporter Questionnaire Response (Annex 3), Primy submits to the Commission its cost calculation sheets in the normal business and it is clear in the costs calculation sheets that "Accessories Costs" are part of Primy's total production costs.

Therefore, it is clearly on the record that the accessories costs are part of Primy's production costs. And as reflected in subsection 3.4.2 of Report No. 517, the Commission acknowledged that "the kinds of accessories offered with sinks was also found to be a price determinant ". Thus, according to the section 15.3 of the Manual, profit margin needs to be added to the accessories costs for the adjustment of accessories differences for prices for like products and export prices.

(b) The accessories, together with sinks, are part of a unified single product for the determination of a unified prices and profit margin, so the adjustment by the Commission is adjusting costs differences instead of "price" differences

In page 13 of Primy's Comment on the SEF (Annex 4), Primy commented on the deduction by the Commission of accessories "costs" from the domestic "price" that:

> "The deduction is based on a ***presumption*** that Primy is selling all the accessories at its costs without any markups, therefore, the accessories **costs** can be directly deducted from the total sales **price** of a product code which is for both and not distinguishable in-between the sinks and accessories because they are sold and priced together, to reach a selling price only for sinks. There is nothing on the record supporting this presumption that only sinks are sold with markup, not accessories. The sinks and accessories are sold together and priced together by Primy as one single product code and any markups would apply to both sink and accessories together." (*emphasis original*)

Also in page 16 of Primy's Comment on the SEF (Annex 4), Primy commented that:

> "Also, another unique situation with Primy's sinks sale is that sinks are always sold together with accessories as one single product and priced together. In the case of Primy, sinks and accessories are actually also treated as one single product in the cost accounting, and

the cost of production is calculated together as one single product."

Since the sinks and accessories are "sold together and priced together" "as one single product", and "any markups would apply to both sink and accessories together", the deduction by the Commission of only accessories cost from domestic price, without including in the adjustment of the profit margin, constituting adjustment of only "cost" *per se*, not "price" effect of the differences in accessories. Adjusting "costs" differences, not "price" differences is NOT in line with section 269TAC(8) and section 15.3 of the Manual.

(c) The reason of the Commission not to add the profit margin to adjustment of accessories because they are ''sources from third parties'' missed the points of the legal requirement for fair comparison

As explained above, the requirement under section 269TAC(8) for adjustments for the purpose of fair comparison is to adjust the difference in effects on the domestic sales price of like product and export price due to the differences in the accessories. Since it is not disputed that the differences in accessories lead to differences in domestic sales price and export price that warrant adjustment under section 269TAC(8), no matter whether the accessories are self-produced or "sourced from third parties", they are all sold with markup, and only when profit margin is added to the accessories costs, the adjustment is that for the price, not costs *per se*. The distinction made by the Commission in relation to accessories is missing the points of the legal criteria for adjustments. (Actually, Primy's accessories are not all "sourced from third parties". Primy has self-produced accessories as well, as verified by the Commission and reflected in subsection 6.1 of Primy's Verification Report.)

(d) The Commission's conduct is based on unsupported presumption, leads to unreasonable results and artificially overstated Primy's dumping margin

- The Commission's conduct is based on a presumption that for the sale of a single products containing sinks and accessories, all profits of the sale comes from sinks, and no profit markup comes with accessories. There is no record evidence for such presumption by the Commission. Actually, as discussed above, Primy sold and priced sinks together with accessories and the markups apply to sinks and accessories together.
- The Commission's conduct leads to unreasonable result and overstated Primy's dumping margin. The Commission has acknowledged that "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." (page 20 of the Final Report). Primy has commented in page 13 of Primy's Comment on the SEF (Annex 4) that:

  "The resulting effect of such a deduction by the Commission is that all the markups for both sinks and accessories in the combined domestic selling

> price would be left in the domestic selling price for sinks so calculated, which overstated and distorted the sinks selling price.
> The Commission acknowledged that the domestic sales has accessories "considerably larger than" the export to Australia. This is also clearly shown in Table 2-3 where the accessories costs in domestic sales are much higher than that in Australian sales. Therefore, in the Commission's calculation, the markup of significant accessories in the domestic sales would be left in the final domestic prices as part of the normal value to be compared with the export price which has very little accessories. This would inevitably distort and increase the dumping margin so calculated."

Based on all the above factual and legal analysis, Primy submits that the non-addition of profit margin in the Commission's calculation of adjustment of accessories differences in the prices of domestic sales of like product and export sales is not in line with Section 298TAC(8) and section 15.3 of the Manual, and therefore is NOT the correct or preferable decision.

Question No. 10: Identify what, in the applicant's opinion, the correct or preferable decision (or decisions) ought to be, resulting from the grounds raised in response to question 9:

Based on the discussions in response to question No.9 above, Primy submits that the correct and preferable decision for the calculation of the values of adjustment of accessories differences in the domestic sales price of like product and export price is to add Primy's profit margin realized on domestic sales of like goods in OCOT (【confidential, profit margin calculated】%) to the accessories costs adjustments, both in the "**Deduct** an amount for domestic accessories", and in "**Add** an amount for export accessories". Such adjustment is in line with, and required by, section 298TAC(8) and section 15.3 of the Manual.

For such correction of the adjustment, Primy submits that the Commission should revise its dumping margin calculation for Primy by adding respectively the 【confidential, profit margin calculated】% profit margin realized on domestic sales of like goods in OCOT in the following two steps of accessories adjustments as in subsection 7.8.4 of the Final Report:

Adjustment Type	**Deduction/addition**
Domestic accessories	**Deduct** an amount for domestic accessories.
Export accessories	**Add** an amount for export accessories.

Specifically, when "Deduct an amount for domestic accessories", the Commission should deduct the unit accessories CTM (RMB/pce) multiplying 【confidential, profit

margin calculated】% to include the profit margin of 【confidential, profit margin calculated】%, and when "Add an amount for export accessories", the Commission should add the unit cost of Australian export accessory pack costs multiplying 【confidential, profit margin calculated】% to include the profit margin of 【confidential, profit margin calculated】%.

As result of such a correction, the dumping margin of Primy would drop from 9.8% to 【confidential, dumping margin calculated】%.

Question No.11: Set out how the grounds raised in question 9 support the making of the proposed correct or preferable decision:

The ground raised in response to question No. 9 above, specifically that section 298TAC(8) and section 15.3 of the Manual require that the adjustments is for the purpose of a fair comparison between the "price" of like goods and export "price", and the adjustment is "price adjustment", not the adjustment of the costs of production or costs *per se*, together with the relevant factual records for Primy, supports the proposed or preferable decision to add profit margin to the accessories differences in the adjustment for the domestic sales price of like product and export prices. Such addition of profit margin would make the adjustment one that adjust the "price", instead of costs *per se*.

Question No. 12: Set out the reasons why the proposed decision provided in response to question 0 is materially different from the reviewable decision:

As discussed in response to question No. 9 and 10 above, the proposed decision provided in response to question No.10 is in line with section 298TAC(8) and section 15.3 of the Manual, and the reviewable decision is not. There is material difference in law between the proposed decision and reviewable decision.
As discussed in response to question No. 10 above, the dumping margin calculated for Primy drops from 9.8% as in the reviewable decision to 【confidential, dumping margin calculated】% as in the proposed decision. The difference for the dumping margin is materially different.

ANTI-DUMPING NOTICE NO. 2020/003

Customs Act 1901 – Part XVB

Deep Drawn Stainless Steel Sinks

Exported to Australia from the People's Republic of China

Findings of the Continuation Inquiry No. 517 into Anti-Dumping Measures

Public Notice under section 269ZHG(1) of the Customs Act 1901 and sections 8(5), 8(5BA), 10(3B), and 10(3D) of the Customs Tariff (Anti-Dumping) Act 1975

The Commissioner of the Anti-Dumping Commission (the Commissioner) has completed an inquiry, which commenced on 3 July 2019, into whether the continuation of the anti-dumping measures in the form of a dumping duty notice and countervailing duty notice applying to deep drawn stainless steel sinks exported to Australia from the People's Republic of China (China) is justified.

Recommendations resulting from that inquiry, reasons for the recommendations, and material findings of fact and law in relation to the inquiry are contained in *Anti-Dumping Commission Report No. 517* (REP 517).

I, KAREN ANDREWS, the Minister for Industry, Science and Technology, have considered REP 517 and have decided to accept the recommendation and reasons for the recommendation, including all the material findings of facts and law set out in REP 517.

Under section 269ZHG(1)(b) of the *Customs Act 1901* (the Act), I declare that I have decided to secure the continuation of the anti-dumping measures currently applying to deep drawn stainless steel sinks exported to Australia from China.

I determine that pursuant to section 269ZHG(4)(a)(iii) of the Act, the dumping duty notice continues in force after 26 March 2020 (the specified expiry date), but that after this day, the notice has effect as if different specified variable factors had been fixed in relation to all exporters generally relevant to the determination of duty as specified in REP 517.

I determine that in accordance with section 8(5) of the *Customs Tariff (Anti-Dumping) Act 1975* (Dumping Duty Act), and the *Customs Tariff (Anti-Dumping) Regulation 2013* (the Regulation), the amount of interim dumping duty payable on goods the subject of the dumping duty notice is an amount worked out in accordance with:

(i) for Guangdong Cresheen Smart Home Co Ltd and Zhongshan Jiabaolu Kitchen & Bathroom Products Co Ltd; the floor price duty method, as specified in section 5(4) of the Regulation; and

(ii) for all other exporters; the *ad valorem* duty method, as specified in section 5(7) of the Regulation.

I determine that pursuant to section 269ZHG(4)(a)(iii) of the Act, the countervailing duty notice continues in force after 26 March 2020 (the specified expiry date), but that after this day the notice has effect in relation to all exporters (excluding Primy Corporation Ltd and Zhongshan Jiabaolu Kitchen & Bathroom Products Co Ltd) as if different specified variable factors had been fixed relevant to the determination of duty as specified in REP 517.

I direct that pursuant to section 10(3B)(a) of the Dumping Duty Act, the interim countervailing duty referred to in section 10(3A) of the Dumping Duty Act in respect of certain deep drawn stainless steel sinks exported from the People's Republic of China by all exporters (excluding Primy Corporation Ltd and Zhongshan Jiabaolu Kitchen & Bathroom Products Co Ltd) be ascertained as a proportion of the export price of those particular goods.

Pursuant to section 8(5) of the Dumping Duty Act (for Primy Corporation Ltd and Zhongshan Jiabaolu Kitchen & Bathroom Products Co Ltd), and pursuant to sections 8(5BA) and 10(3D) of the Dumping Duty Act (for all other exporters), I have had regard to the desirability of fixing a lesser amount of duty. If the non-injurious price of goods of that kind as ascertained or last ascertained for the purposes of the dumping duty notice and countervailing duty notice is less than the normal value of goods of that kind as so ascertained, or last so ascertained, a lesser amount of interim dumping duty and interim countervailing duty is fixed such that the sum of:

(i) the export price of goods of that kind as so ascertained, or last so ascertained;
(ii) the amount of the interim countervailing duty as so fixed; and
(iii) the amount of interim dumping duty as fixed under section 8 of the Dumping Duty Act,

does not exceed that non-injurious price of goods of that kind as ascertained.

Particulars of the dumping and subsidy margins established for each of the exporters and the effective rates of duty are also set out in the following table.

Exporter	Dumping Margin	Subsidy Margin	Effective rate of interim countervailing duty and interim dumping duty*	Duty Method
Guangdong Cresheen Smart Home Co Ltd	negative 12.3%	0.0% (less than 0.05%)	0%	Floor price (Dumping)
Zhongshan Jiabaolu Kitchen & Bathroom Products Co Ltd	negative 6.8%	N/A	0%	Floor price (Dumping)
Primy Corporation Ltd	9.8%	N/A	9.8%	Ad valorem (Dumping)
Rhine Sinkwares Manufacturing Ltd Huizhou	18.0%	0.3%	18.3%	Ad valorem (Dumping) Proportion of export price (Countervailing)

Exporter	Dumping Margin	Subsidy Margin	Effective rate of interim countervailing duty and interim dumping duty*	Duty Method
Zhuhai Grand Kitchenware Co Ltd	13.4%	2.4%	15.8%	Ad valorem (Dumping) Proportion of export price (Countervailing)
Residual exporters[#]	7.4%	3.1%	10.5%	Ad valorem (Dumping) Proportion of export price (Countervailing)
Uncooperative, non-cooperative and all other exporters	53.9%	6.3%	60.2%	Ad valorem (Dumping) Proportion of export price (Countervailing)

* The calculation of combined dumping and countervailing duties is not simply a matter of adding the dumping and subsidy margins together for any given exporter, or group of exporters. Rather, the collective interim dumping duty and interim countervailing duty imposed in relation to the goods, is the sum of:

- the subsidy rate calculated for all countervailable programs, and
- the dumping rates calculated, less an amount for the subsidy rate applying to Program 1.

[#] As specified in REP 517. Ningbo Afa Kitchen and Bath Co Ltd; Jiangmen New Star Hi-Tech Enterprise Ltd; Franke (China) Kitchen System Co Ltd; Elkay (China) Kitchen Solutions Co Ltd; Xinhe Stainless Steel Products Co Ltd; Shengzhou Chunyi Electrical Appliances Co. Ltd; Guangdong Yingao Kitchen Utensils Co. Ltd; Guangdong Dongyuan Kitchenware Industrial Co Ltd; Taizhou Boland Kitchenware Co Ltd

Interested parties may seek a review of this decision by lodging an application with the Anti-Dumping Review Panel (www.adreviewpanel.gov.au), in accordance with the requirements in Division 9 of Part XVB of the Act, within 30 days of the publication of this notice.

REP 517 has been placed on the public record, which may be examined at the Anti-Dumping Commission Office by contacting the case manager on the details provided below. Alternatively, the public record.is available at www.adcommission.gov.au

Enquiries about this notice may be directed to the Case Manager on telephone number +61 3 8539 2418, fax number +61 3 8539 2499 or email investigations3@adcommission.gov.au.

Dated this 27th day of February 2020.

KAREN ANDREWS
Minister for Industry, Science and Technology

PUBLIC RECORD

Australian Government
Department of Industry, Science, Energy and Resources

Anti-Dumping Commission

CUSTOMS ACT 1901 - PART XVB

REPORT 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

February 2020

CONTENTS

ABBREVIATIONS

$	Australian dollars
ABF	Australian Border Force
ABS	Australian Bureau of Statistics
ADN	Anti-Dumping Notice
the Act	*Customs Act 1901*
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	*Customs Tariff (Anti-Dumping) Act 1975*
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	*Guidelines on the Application of Forms of Dumping Duty (November 2013)*
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	*Dumping and Subsidy Manual (November 2018)*
MCC	model control code
the Minister	the Minister for Industry, Science, and Technology
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	*Customs (International Obligations) Regulation 2015*
REP 238	*Anti-Dumping Commission Report No. 238*
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	*Agreement on Subsidies and Countervailing Measures*
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 report 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 report sets out the findings and conclusions on which the Commissioner of the Anti-Dumping Commission (the Commissioner) has based 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.[1]

The inquiry was initiated on 3 July 2019 following the Commissioner's consideration of an application by Oliveri Solutions Pty Ltd (Oliveri, the Australian industry) seeking continuation of the current measures. Oliveri (then trading as Tasman Sinkware Pty Ltd) was the person whose application under section 269TB of the *Customs Act 1901* (the Act)[2] resulted in the current 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 statement of essential facts (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.

Section 269ZHF(1)(a) requires that the Commissioner must, after the conduct of this inquiry, give the Minister a report which recommends:

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

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 the

[1] 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.
[2] All legislative references in this report are to the *Customs Act 1901* unless otherwise stated.

Commissioner is 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.

1.3 Findings

Based on the evidence 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.[3]

1.4 Recommendation

Based on the above findings, the Commissioner recommends to the Minister 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
- the variable factors for the dumping duty notice and countervailing duty notice be altered in relation to all exporters generally from China.

[3] 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.

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.[4] 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 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

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

[4] Refer to ADN No. 2015/41.

Exporter	Dumping Ad Valorem Rate	Countervailing Ad Valorem Rate
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.

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 from 1 July 2015 and financial data from the Australian industry from 1 July 2015 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. SEF 517 was placed on the public record on 27 November 2019.[5]

2.2.2 Australian industry

The Commissioner is satisfied that the Australian industry for the continuation of the measures, Oliveri (formally Tasman), 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 electronic public record (EPR).[6]

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;
- Shriro Australia Pty Ltd; and
- 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.[7]

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

[5] EPR 517, No. 026.
[6] EPR 517, No. 013.
[7] EPR 517, Nos. 005, 014, and 017.

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 found that there was a large number of exporters, such that it was not practicable to examine the exports of all of those exporters. Therefore, the inquiry 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,[8] the Commission selected five exporters which were requested to complete an exporter questionnaire. According to ABF data, the selected exporters represent over 83 per cent of the volume of the goods (measured by statistical quantity reported in units) exported to Australia from China during the inquiry period.

The Commission 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.

[8] EPR 517, No. 002.

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)[9]	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
Ningbo Afa Kitchen and Bath 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

Reece claimed that one of its manufacturing partners was not given an opportunity to participate in the continuation. The Commission refers to the explanation given in section 2.2.4 as to why this company was not chosen as a selected exporter, and notes that the company did cooperate with the Commission when requested to complete a PIR, and thus has received the same rate as all cooperating residual exporters. The Commission

[9] 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.

further notes that it has not received any submissions from this company in relation to this continuation inquiry.

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 in relation to goods exported from China where Guangzhou Komodo Kitchen Technology Co Ltd (Komodo) was the supplier listed on ABF importer declaration, the goods were produced by Guangdong Cresheen Smart Home Co Ltd (Cresheen).

With respect to determining the exporter of those 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, and who knowingly placed 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.[10]

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.[11] The Commission's

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[10] REP 238, section 6.3.5, p.34.
[11] EPR 517, No. 010

findings have been outlined in the Cresheen verification report[12] and are further detailed in this report at section 7.6.2.

2.2.9 Government of the People's 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 16 submissions during the course of the inquiry. Two submissions were considered as part of SEF 517, and the remaining submissions have been considered in this report where doing so would not prevent the timely preparation of this report to the Minister.

Zhuhai Grand lodged a submission on 5 February 2020[13] which has not been considered by the Commissioner in reaching the conclusions contained within this report on account that it was lodged outside of the 20 day period after the date of the publication of the SEF, and to do so would have prevented the timely preparation of this report to the Minister. All submissions received are available on the EPR.

EPR Item No.	Interested Party	Date lodged
3	Milena Australia Pty Ltd	7 August 2019
4	Caroma Industries Limited	23 August 2019
16	Zhuhai Grand Kitchenware Co. Ltd.	6 November 2019
18	Zhongshan Jia Bao Lu Kitchen and Bathroom Products Co Ltd	18 November 2019
20	Rhine Sinkwares Manufacturing Ltd Hui Zhou	25 November 2019
22	Zhuhai Grand Kitchenware Co. Ltd.	25 November 2019
27	Rhine Sinkwares Manufacturing Ltd Hui Zhou	12 December 2019

[12] EPR 517, No. 023.
[13] EPR 517, No. 036.

28	Hong Kong Komodo Limited and Guangzhou Komodo Kitchen Technology Co Ltd	16 December 2019
29	Reece Australia Pty Ltd	16 December 2019
30	Milena Australia Pty Ltd	17 December 2019
31	Caroma Industries Limited	17 December 2019
32	Primy Corporation Ltd	16 December 2019
33	Primy Corporation Ltd	16 December 2019
34	Zhongshan Jia Bao Lu Kitchen and Bathroom Products Co Ltd	16 December 2019
35	Zhuhai Grand Kitchenware Co Ltd	17 December 2019
36	Zhuhai Grand Kitchenware Co Ltd	5 February 2020

Table 5: Submissions received

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.

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

3 THE GOODS AND LIKE GOODS

3.1 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:

> "G*oods 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's submission claims that the goods description was overly broad, such that it captures an overly large sample of products.[14] 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 a model control code (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[15], the Commission did not propose a MCC structure at the outset of this inquiry. The Commission intended to use information gathered in responses from importers, exporters and the Australian industry, to assess whether an appropriate MCC structure could be developed.

To aid in its assessment of an appropriate MCC structure, the Commission requested the following information be provided for all products that the importers, exporters, 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
Capacity of Additional Bowl 3 ("Litre" or "L")	As named
Capacity of Additional Bowl 4 ("Litre" or "L")	As named

[14] EPR 517, No. 004, p.3-4.
[15] ADN No. 2019/86.

Category	Characteristics of category
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 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 exporter 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 claims that it considers certain products sold by Jiabaolu on the domestic Chinese market to be comparable to products exported to Australia[16] and thus it is not appropriate for the Commission to undertake a model matching analysis. The 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 domestic and exported products does 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 examining and

[16] EPR 517, No. 004, p.3.

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.

Submissions considered after publication of the SEF

The Commission received two submissions relating to the MCC structure prior to the publication of the SEF which were not considered in the SEF[17], as well as two submissions received within the 20 day submission period after the date of publication of the SEF.[18]

These submissions claimed that the MCC structure does not permit a proper comparison between export prices and normal values due to the distribution of individual products captured within each MCC.

In response to the submissions received after publication of SEF 517, the Commission refers to the assessment of the MCC structure at section 3.4.3 which sought to ensure that key features of the sinks exported to Australia and sold in China were comparable in relation to sink bowl volume and corner radius. Notwithstanding that the analysis in SEF 517 satisfied the Commission, further consideration has been given as to whether other sink design features, such as tap holes, drainer board patterns, mounting flange profile and variances in steel thickness can also be accounted for by adding more categories to the MCC structure.

The Commission recognises that outside of the three MCC categories, the range of design variations relating to the sinks the subject of this inquiry is very broad and the MCC structure relied on in SEF 517 may not capture the production cost and price variations brought about by market specific product differences between the goods exported to Australia and like goods sold in China.

Rather than expanding on the current MCC structure, the Commission considers that a suitable alternative to account for market specific product differences is to apply an adjustment to the normal value. The Commission's approach to these adjustments is detailed at section 7.5.

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:

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[17] EPR 517, Nos. 020 (Rhine) and 022 (Zhuhai Grand).
[18] EPR 517, Nos. 031 (Caroma) and 033 (Primy).

- 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
		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 the REQs;
- samples of sales invoices pertaining to domestic and export sales;
- 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.[19]

As noted at 2.2.2, the Australian industry for the continuation, Oliveri, is formerly known as Tasman. The Commission conducted an on-site visit to Oliveri and established 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.[20]

Having regard to the information provided in the application, information gathered as part of this inquiry, and the sales and costs data provided by exporters and importers in their questionnaire responses, the Commission has assessed 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

[19] REP 238 Section 3.5 refers.
[20] EPR 517 Item No.013.

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.

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

4.5 Conclusion

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 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 reported in the 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.

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 sinks sold by retailers in the hardware store or show room floor settings.

Another sales channel in which Australian industry competes with exporters is 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 Australia under their own brand names. In the OEM market level of trade Oliveri competes for business directly with Chinese producers of the goods.

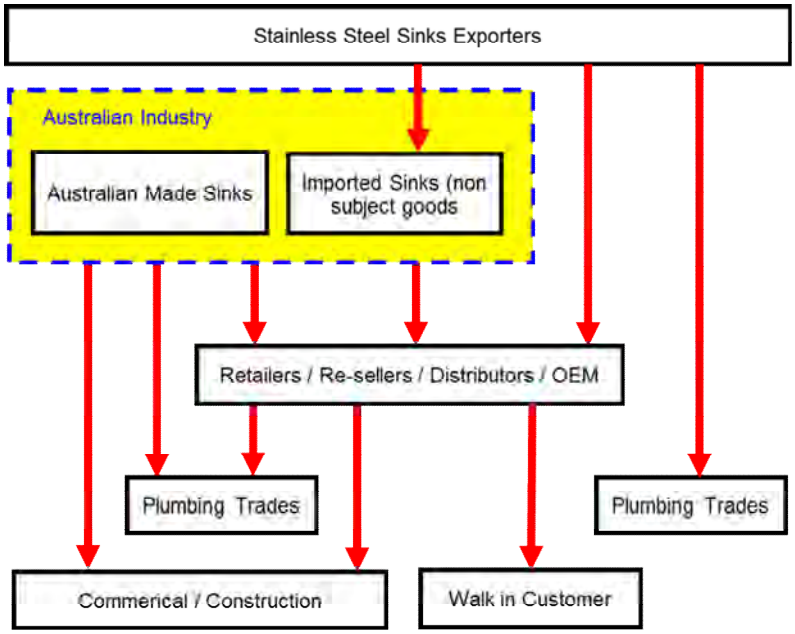

Figure 1 – Australian market structure[21]

[21] Confidential Attachment 1 -– Australian Market “Market Structure”.

5.3 Market size

In its application the Australian industry provided 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 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 and like goods.[22]

The Commission notes that the ABS data contained not only imports of the goods subject to measures, but also imports of all other stainless steel sinks into Australia, both deep drawn and fabricated. The Commission also found that the ABS data lacks sufficient detail to enable the separate identification of imports of sinks subject to measures from all other types of stainless steel sinks.

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

Similarly, stainless steel 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.[23] Although some of these imports may not be comparable to the goods, e.g. because they are not deep drawn, the ABF data can at least be relied on as an input into the Commission's estimate of the size of the Australian 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 whilst also providing an accurate means of calculating the import volume of sinks subject to measures.

Noting the above, the Commission has estimated the size of the Australian market for all stainless steel sinks 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 for all stainless steel sinks, regardless of whether they are deep drawn or fabricated, 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 the goods imported from China, and all other imported stainless steel sinks (which are not the goods).

[22] Confidential Attachment 1 - Australian Market – "Market Share".
[23] Table 6: Tariff classification of the goods refer.

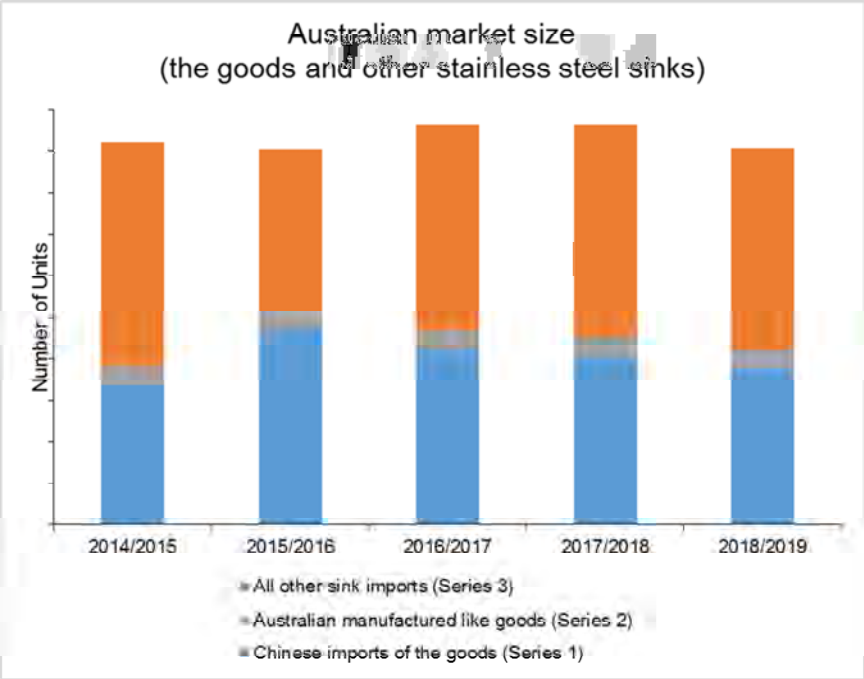

Figure 2 – Australian market size FY15 to FY19[24]

Figure 2 shows that the overall size of the Australian market for all stainless steel sinks remained relatively stable following the imposition of the measures in 2015, although the volume of the goods imported from China (Series 1) did increase after measures were imposed. The volume of the goods imported from China (Series 1) in the period 2018/19 remained at levels that are higher than that in the period (2014/15) 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 to 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 like goods[25]

Table 9 above indicates that relative to the year in in which measures were imposed (FY15) the Australian industry experienced increasing sales volume up to the FY18 period. However, in the 12 month period prior to making its application, the Australian industry's sales volume returned to the FY15 level. In addition to the trend shown above in Table 9, in 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 the Australian industry has seen a decline in the sales volume of its sinks ranges at higher

[24] Confidential Attachment 1 - Australian Market "Volume Analysis".
[25] Ibid.

price points and an increase in sales volumes of its sinks ranges at lower price points. The Commission considers that the change in the pattern of trade observed in relation to the Australian industry's sales of like goods may be symptomatic of a switch in customer preferences to lower priced sinks subject to measures which, as pointed out at section 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 of the goods and other types of stainless steel sinks. 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.[26] The chart below shows the trend for import volumes of the goods from China. In the year following the imposition of measures 2014/15 the volume of imports of the goods increased in 2015/16. Despite exhibiting a decline since 2015/16, in the period up to the inquiry period, import volumes have remained at levels which were higher than the year in which measures were imposed.

Figure 3 – Import volumes of the goods from China FY2014/15 to FY2018/19

5.6 Demand for 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 and like goods has remained consistent with the original investigation, being as fixtures in residential and non-residential installations such as kitchens, utility rooms and laundry rooms.

[26] Confidential Attachment 1 – Australian Market "Volume Analysis".

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

The Australian industry contends that demand for the goods and like 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 into Australia (including the goods) 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 stainless steel sink imports lagging slightly behind construction starts.

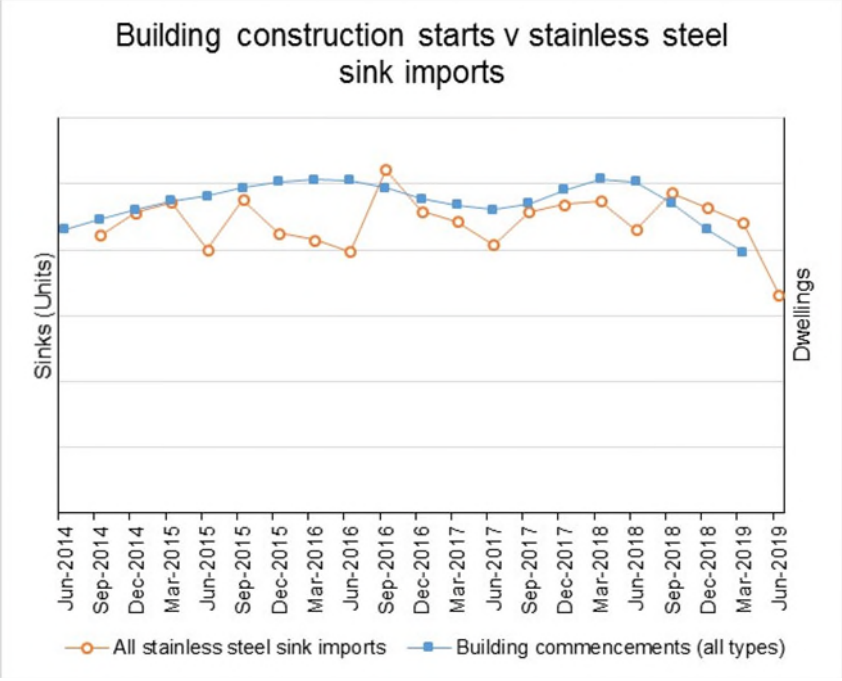

Figure 4 – Australian building construction and stainless steel sink market FY15 to FY19[27, 28]

Australian industry further submits that overall demand for stainless steel sinks is inelastic and that a change in price will have a limited effect in overall demand for the product. The Commission considers this position to be reasonable, given the limited uses for stainless steel sinks and that the primary drivers of demand (building construction and renovation)

[27] 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.
[28] Confidential Attachment 1 - Australian Market "Demand Analysis".

are based on overall construction costs and broader economic factors, rather than stainless steel sink prices. Price was found to have an influence on consumer choices within the overall Australian market for stainless steel sinks, which has a direct impact on the Australian industry's market share (section 6.5).

Caroma claimed that the use of building construction starts was inappropriate, and that as sinks are installed at the end of a build, it is more appropriate to use data relating to building completions.[29] The Commission considers that the use of the publically available construction starts data is appropriate, and has further highlighted the lag between imports of stainless steel sinks and building construction starts, which indicates that stainless steel sinks are installed at the end of a build.

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.[30] 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 their 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 section 5.3 the Commission found that contrary to Caroma's submission, the Australian market for stainless steel sinks, which includes deep drawn stainless steel sinks, is not growing and has rather shown signs of contraction in recent years (Figure 2).

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 stainless steel sink ranges. Based on these two factors alone, the Commission does not consider that all members of the Australian market for stainless steel sinks are "performing well" such that it could be concluded the current measures have served their purpose.

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.[31] 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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[29] EPR 517, No. 031, p.4.
[30] EPR 517, No. 004, p.4.
[31] Ibid, p.5.

In addition, from a review of publicly available information, e.g. online kitchen and bathroom retailers, the Commission found that numerous vendors of stainless steel sinks offer both the Australian industry's brand of sinks and the Australian importer's brand of sinks (such as Caroma's) which are produced by Chinese exporters. On the basis of the Commission's analysis of the Australian market structure for stainless steel sinks the Commission considers that Caroma competes against the Australian industry.

5.8 Summary

The Commission's analysis shows that the size of the Australian stainless steel sinks market, has remained relatively stable over the last five years, beginning to contract in 2018/2019. 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;
- the Australian manufacturer of like goods continues to supply the market at various levels of trade and competes 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 and ABF import data shows that demand variability for stainless steel 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 relating to sales of all types of stainless steel sinks (building construction and renovation) have remained the same 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 stainless steel sinks, including the goods. In particular, market trends observed over recent years suggest that the Australian market will continue to be predominantly composed of the goods sourced from China.

6 ECONOMIC CONDITION OF THE INDUSTRY

6.1 Finding

The Commission has found 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 of high profit ranges;
- 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 a large volume of dumped and subsidisation (as outlined at chapters 7 and 8) and the continued large volumes of imports of the goods from China, and price competition in the market, 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 largely remained unchanged since that time (refer to section 2.1).

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 provide context for the purposes of its injury analysis. Where relevant the analysis has identified discreet product lines sold by the 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 like goods 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.[32]

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.[33]

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[34]

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.

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

[32] Application – EPR 517, No. 001, p.15.
[33] Section 5.4 refers.
[34] Confidential Attachment 1 - Australian Market Analysis.

same time, sales of OEM sinks have increased each year since the commencement of production in FY17.

	FY15	FY16	FY17	FY18	FY19
Non-OEM ranges	100	105	95	90	82
OEM range	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[35]

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.

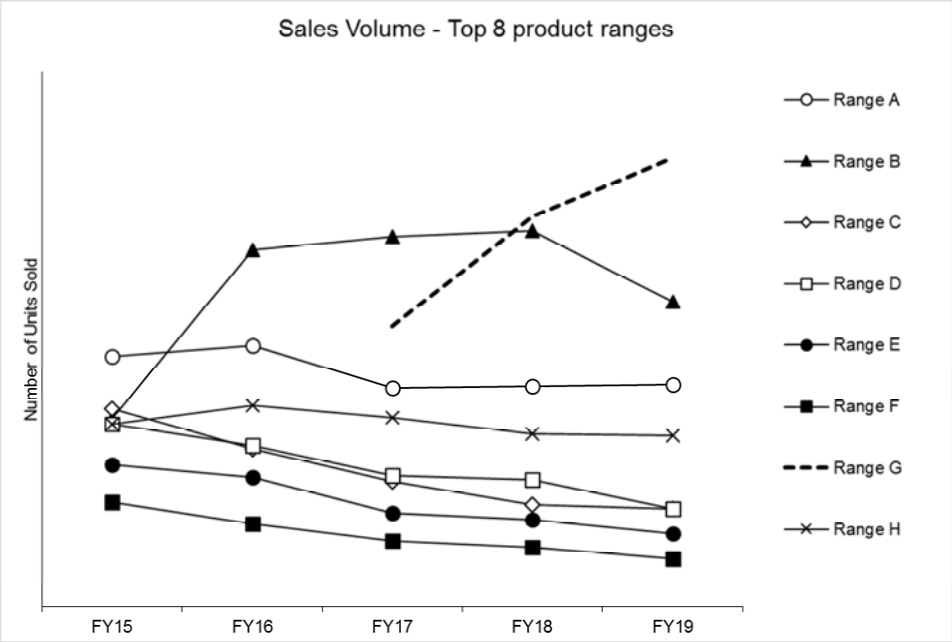

Figure 5 – Sales volume of Australian manufactured like goods (Top 8)[36]

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.

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

[35] Confidential Attachment 2 – Australian Industry Injury Analysis "*OEM vs non-OEM*".
[36] Confidential Attachment 2 – Australian Industry Injury Analysis "*Range Analysis*".

suppression and/or price depression.[37] 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.[38]

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.[39] 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.

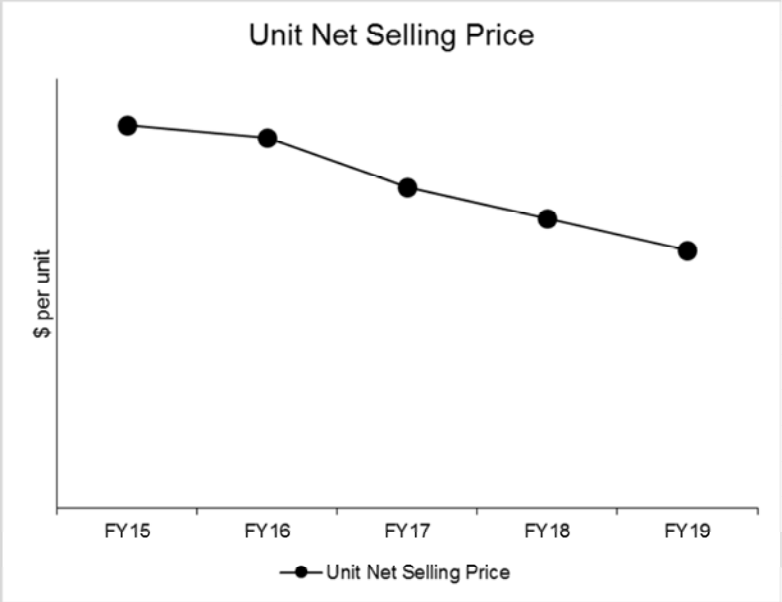

Figure 6 – Weighted average selling price for Australian manufactured like goods[40]

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.

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[37] Application – EPR 517, No. 001, p.15.
[38] Application – EPR 517, No. 001, p.17-18.
[39] Application – EPR 517, No. 001, p.17.
[40] Confidential Attachment 2 – Australian Industry Injury Analysis "*Range Analysis*".

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.[41] 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:

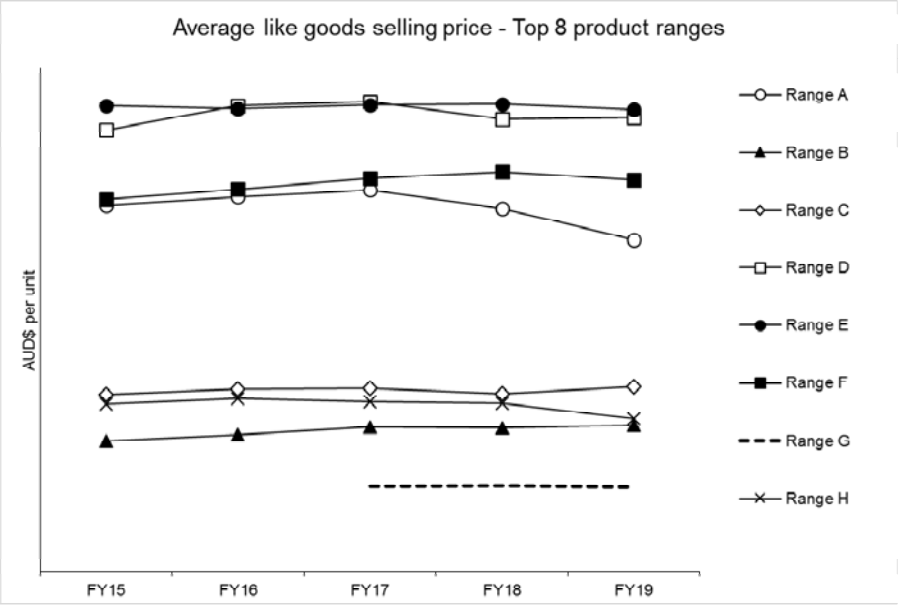

Figure 7 – Average selling price of Australian manufactured goods by product range[42]

[41] Ibid.

[42] 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.

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.

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.[43] “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.

[43] Confidential Attachment 2 – Australian Industry Injury Analysis “*OEM vs non-OEM*”.

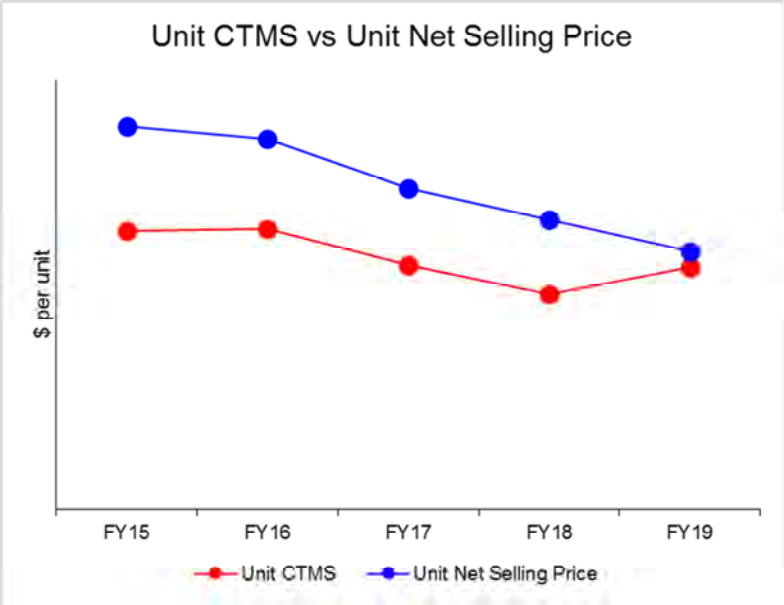

Figure 8 – Australian manufactured like goods – Unit CTMS v Unit Price[44]

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 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.[45]

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

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[44] Confidential Attachment 2 – Australian Industry Injury Analysis "*CTMS*".
[45] Application – EPR 517, No. 001, p.16.

the Australian industry's claim it has suffered price suppression in respect of Australian manufactured like goods.

Primy claimed in its submission that the relatively higher costs associated with production in Australia over China is a contributing factor to the injury experienced by the Australian industry.[46] The Commission notes that even with these supposed higher costs, the Australian industry has been able to remain profitable in the time that measures have been imposed, however as shown in Figure 8, prices have been supressed year on year. As discussed in section 9.5.1, the Commission considers that the Australian industry has reduced its prices in response to exports of sinks from China.

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.[47]

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. [48]

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.

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.

[46] EPR 517, No. 032, p.11-12.
[47] Application – EPR 517, No. 001, p.15.
[48] Confidential Attachment 2 – Australian Industry Injury Analysis "Profit and Profitability".

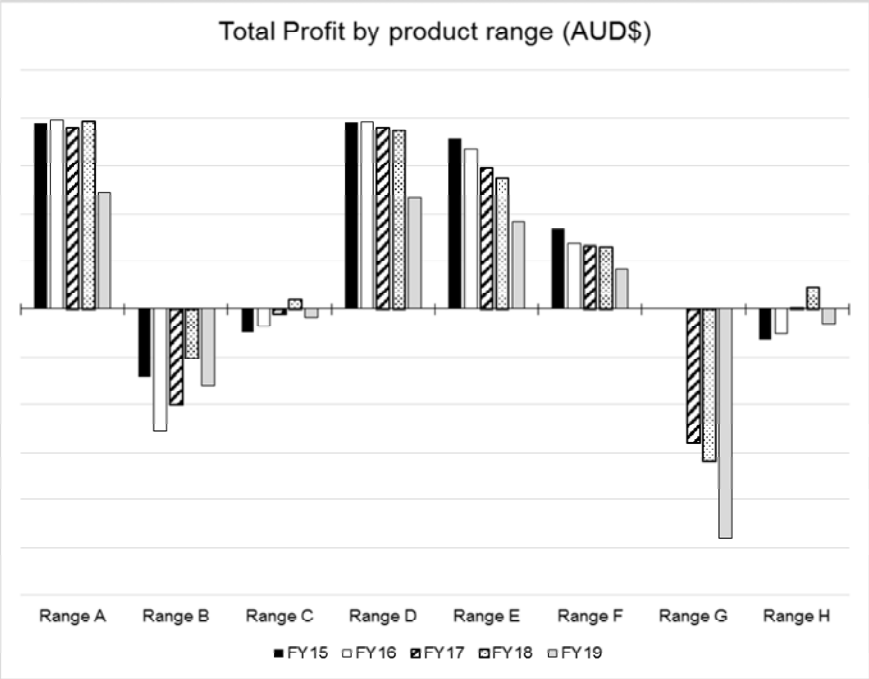

Figure 9 – Profit by product range FY15-FY19[49]

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. [50]

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).

[49] Confidential Attachment 2 – Australian Industry Injury Analysis "*Profit by Range*".
[50] Confidential Attachment 2 – Australian Industry Injury Analysis "*OEM vs non-OEM*".

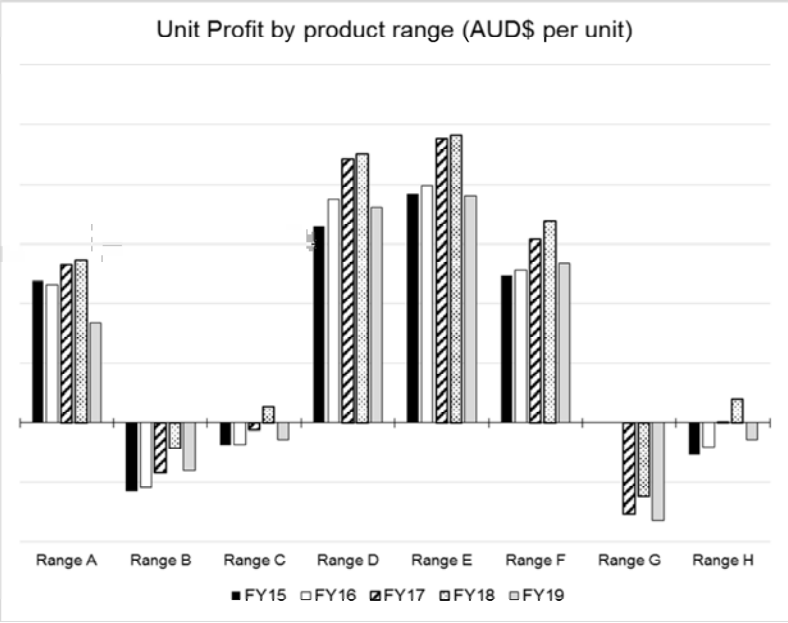

Figure 10 – Unit profit by product range[51]

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;
- capacity;
- capacity utilisation;
- employment;
- productivity;
- stocks;
- cash flow measures; and
- wages.[52]

[51] Confidential Attachment 2 – Australian Industry Injury Analysis "*Profit by Range*".
[52] Confidential Attachment 2 – Australian Industry Injury Analysis "*Other Injury Factors*".

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:[53]

- 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
ROI	100	98	88	73	58

Table 12: Index of assets, revenue and ROI FY15-FY19[54]

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

[53] Ibid.
[54] Ibid.

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.[55]

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 customer 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 producing 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[56]

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.[57]

[55] Application – EPR 517, No. 001, p.16.
[56] Confidential Attachment 2 – Australian Industry Injury Analysis "*Other Injury Factors*".
[57] ADN No. 2012/24 – New Ministerial Direction on Material Injury.

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.[58] 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.[59] 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 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.

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[58] ABS Report 8752.0 Building Activity, Australia, Mar 2019 – Summary.
[59] Ibid. Reported as “Alteration and additions to residential building data” by the ABS.

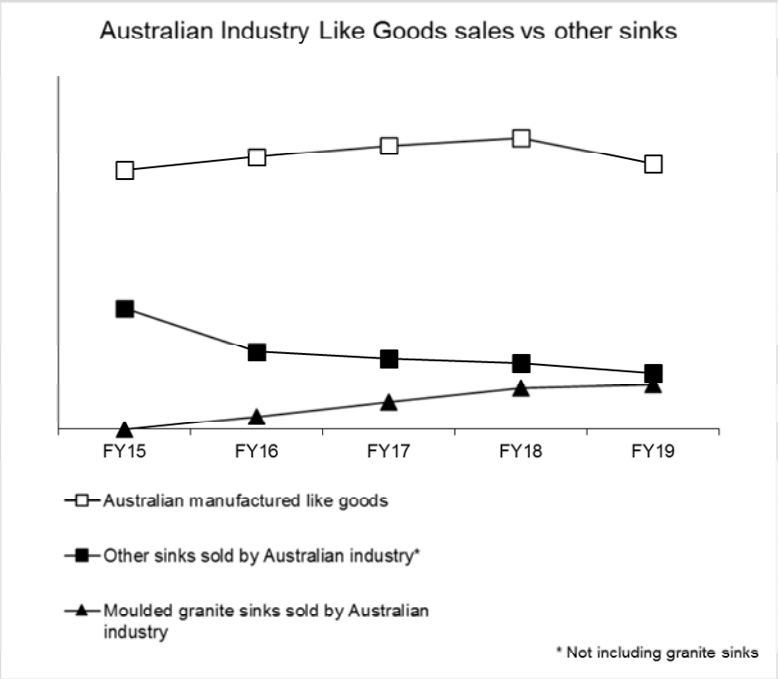

Figure 11 – Australian sales of the goods, fabricated sinks and moulded granite sinks[60]

In its submission, Reece highlighted the trend away from sink ranges traditionally supplied by the deep drawing process (e.g. round-edged sinks with large radius corners).[61] Reece claims that these trends have contributed to the injury experienced by the Australian industry and that it has failed to invest in updating its designs.

The Commission has noted above in Figure 11 that sales of deep drawn stainless steel sinks are dropping, whilst other sink types (moulded granite sinks in particular) are rising. The Commission considers that this further increases pricing pressures on the remaining market share of deep drawn stainless steel sinks in which the Australian industry competes with the Chinese exports.

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.

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

[60] Confidential Attachment 2 – Australian Industry Injury Analysis "*Range Analysis*".
[61] EPR 517, No. 029, p.1.

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.

In Caroma's submission in response to SEF 517, the confidential version of this submission broadly objects to the Commission's assessment of the impact of OEM sink sales to Australian industry's related customers. Caroma outlines its claim that the commercial relationship between Australian industry and its OEM customer prevent industry losing this customer in the event that measures were not continued.

The Commission disagrees with the proposition in Caroma's submission that the Australian industry's commercial relationships offer it protection in a market that is absent of anti-dumping measures. The Commission refers to the Australian industry's application, in which it states that prior to the imposition of the measures, it did not supply OEM sinks to Tradelink, which instead purchased OEM sinks from a Chinese supplier.[62] The Commission further notes that the Australian industry was not able to secure the supply of OEM sinks to Tradelink immediately after the imposition of measures, and was still subject to a bidding process. The Commission considers that this indicates that in the event that measures were to expire, the Australian industry may be forced to lower its prices to Tradelink to remain competitive, or lose its existing supply agreement.

In relation to Fletcher Building's 2019 AGM materials, the Commission considers Caroma's reliance on certain data within this report is somewhat selective and does not recognise that the available information the Commission has relied on in this inquiry, forms a much broader body of evidence when compared to high level market commentary on the Australian construction sector. Notwithstanding the Commission observations regarding the basis of its claims, the trends in the Australian building construction sector have nonetheless been examined as part of the Australian market analysis at section 5.6.

6.8.4 Submissions received regarding factors other than dumping

Caroma submitted that the injury experienced by the Australian industry due to dumping was not material, and that it was instead due to other factors.[63] One such factor that Caroma refers to is the Australian industry's parent company's (Fletcher Building) 2019 Annual General Meeting shareholder's materials which cites a slowing of the Australian residential building construction market. Caroma claimed that the Commission has not factored this event into the assessment of whether measures should be continued. As detailed in section 9.6, the Commission considers that whilst there are other factors which have contributed to the injury experienced by the Australian industry, the Australian industry is experiencing injury from dumping and this injury is material.

Caroma further claims that any injury that the Australian industry has experienced is not material as the Australian industry has maintained its market share and production volumes throughout the inquiry period.[64] In sections 6.4, 6.5, and 6.6 the Commission had found that whilst the Australian industry has maintained its sales volume overall, it has suffered injury in form of price depression and suppression, and profitability.

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[62] Application – EPR 517, No. 001, p.15.
[63] EPR 517, No. 031, p.5 & 7.
[64] Ibid, p.7.

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 of high profit ranges;
- price depression;
- price suppression;
- reduced profit and profitability;
- reduced revenue;
- reduced ROI; and
- reduced capacity utilisation.

7 ASCERTAINMENT OF VARIABLE FACTORS (DUMPING)

7.1 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[65] 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.

Exporter	Dumping Margin
Cresheen	negative 12.3%
Jiabaolu	negative 6.8%
Primy	9.8%
Rhine	18.0%
Zhuhai Grand	13.4%
Residual exporters	7.4%
Uncooperative and all other exporters	53.9%

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.

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

[65] The variable factors are export price and normal value (as examined in this chapter) and non-injurious price (as examined in chapter 11).

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.

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 269TAAD. 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) pursuant to section 269TAC(2)(a)(ii).

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*

For the purpose of this inquiry, the Commission is satisfied that the production records of all of the selected exporter complied with section 43(2)(b)(i) of the Regulation in so far that they were kept in accordance with generally accepted accounting principles in the country of export.

However, section 43(2) of the Regulations includes a second consideration relating to whether exporter's records reasonably reflect competitive market costs associated with the production or manufacture of like goods.[66]

In examining the production costs reported by the exporter in this inquiry, the Commission examined production cost data which contained amongst other things, the costs relating to the consumption of stainless steel. Through the verification of each exporter's production data, the Commission found that the stainless steel production costs in each exporter's production records were a reasonable reflection of the price paid to their stainless steel suppliers. To this extent, the Commission is satisfied that the cost of

[66] Section 43(2)(b)(ii) of the Regulation.

production records reasonably reflect the costs associated with the production of like goods.

However, in REP 238, the Commission found in several investigations and reviews that there had been, and continued to be, a significant GOC influence in the Chinese steel industry.[67]

To highlight the findings of prior cases relating to the issue of GOC influence on the Chinese steel industry, the Commission refers to the assessment contained in *Anti-Dumping Commission Report No.466 - Alleged Dumping of Certain Railway Wheels Exported from The People's Republic of China and France* (REP 466).

REP 466 was published in March 2019 and is considered to be the most relevant to this inquiry as it represents the Commission's most recent assessment of GOC influence on the Chinese steel market and relates to an investigation period which was six months prior to the period relied on for the assessment of variable factors in this inquiry. The Commission considers the assessment in REP 466 is particularly relevant as it was also complemented with data provided in a questionnaire response lodged by the GOC.

At section A-2.6.4 in non-confidential Appendix 2 to REP 466 the Commission re-evaluated the evidence relied on for the findings in prior cases as well as developments since those findings which were relevant to assessing whether the cost to produce steel reflected competitive market costs.

In REP 466 the Commission considered that "*the GOC's involvement within and influence over the steel industry to be a primary cause of the prevailing structural imbalances within the steel industry in China*".[68] The Commission's conclusion was based in part on observations reported in several publications which attributed this structural imbalance to issues such as the doubling of steelmaking capacity between 2006 and 2015, the need to address overcapacity through a shift to market oriented mechanisms and challenges faced by the GOC in relation to operationalising measures to eliminate capacity.

The Commission also refers to reform initiatives by the GOC aimed at influencing the manner in which production capacity might be achieved, competing interests between the goals of central, provincial and local levels of government and the reliance on administrative rather than market based measures to address capacity in the steel industry.

In summary, REP 466 cites the following four mechanisms through which the Commission considered the GOC had distorted conditions within the Chinese steel industry such that the costs incurred by producers cannot be said to have been determined in a competitive market;

- the role and operation of SOEs.
- industry planning guidelines and directives.
- the provision of direct and indirect financial support.

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[67] 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. 221 – Wind towers from China and Report No. 466 – Railway wheels from China.
[68] REP 466, p.82.

- taxation and tariff policies.

The Commission's assessment in REP 466 relating to the GOC influence on the Chinese steel market is well documented and cites numerous sources that refer to various observations and GOC administrative initiatives that cover a span of time which the Commission considers either overlap with the current inquiry period or relate to matters which, the Commission considers, would extend past the current inquiry period. Examples include, but are not limited to, the following;

- People's Republic of China 13th Five Year Plan (2016 – 2020)
- The Iron and Steel Industry Adjustment and Upgrade Plan (2016 - 2020)
- 13th Five Year Plan for Mineral Resources (2016 – 2020)
- The National Mineral Resource Plan (2016 - 2020)

The Commission further considers it reasonable that whilst implemented prior to the current inquiry period, the effects of other GOC reforms relating to the Chinese steel industry, are not short term in purpose and are likely to have at least had an ongoing influence on the Chinese steel market in the inquiry period. The Commission is therefore satisfied that the circumstances identified in REP 466 are also representative of the GOC influence on the Chinese steel market in the current inquiry period.

In the absence of a questionnaire response from the GOC, and on the available information, notably the findings in REP 466, the Commission is satisfied that the GOC has distorted conditions within the Chinese steel industry such that the costs incurred by producers of stainless steel sinks in the inquiry period, cannot be said to have been determined in a competitive market in relation to their purchases of stainless steel cold rolled coils.

Being satisfied that the costs incurred by producers of stainless steel sinks in the inquiry period, cannot be said to have been determined in a competitive market in relation to their purchases of stainless steel cold rolled coils, the Commission has had regard to prices of stainless steel cold rolled coil in markets outside of China.

In subsequent investigations undertaken by the Commission, which also involved the Chinese steel industry[69], the Commission has compared the prices of steel in China, North America and Europe published by Steel Business Briefing Ltd (SBB) during the inquiry period. For the purpose of this inquiry the Commission found that the average monthly market price of stainless steel outside 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 Chinese stainless steel pricing 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,

[69] For example, 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. 384 – Alloy round steel bar from China, Report No. 441 – Steel Pallet Racking from China and Report No. 466 – Railway wheels from China.

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 in this inquiry, and in particular;

- the result of the Commission's comparison of the price of stainless steel in the Chinese, North American and European markets; and
- the influence of the GOC on the Chinese steel market;

the Commission is not satisfied that the stainless steel costs contained within each exporter's production records reflect what the Commission considers to be a competitive market cost in terms of section 43(2)(b)(ii) of the Regulation.[70]

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.[71]

The Commission considers that the factors taken into account in selecting the benchmark in the original investigation remain applicable in this inquiry, including that the benchmark:

- includes only data related to prices of 304 CRC stainless steel; and
- does not include any Asian pricing data that may be unreasonable due to the influence of exported Chinese 304 CRC stainless steel in the region.

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.

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

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[70] *Customs (International Obligations) Regulations 2015*.

[71] 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.

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 as 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.[72] 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.[73] As discussed above (section 7.3.1) 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.[74] 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 (section 7.3.2).

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.[75] The Commission

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[72] EPR 517, No. 003, p.4-5.
[73] Ibid, p.6.
[74] Ibid, p.7.
[75] Ibid, p.8.

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.[76] 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 7.7.4 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 regarding to all of the circumstances of the exportation.

Submissions received after publication of the SEF

The Commission received three submissions which raised concerns regarding the Commission's use of a competitive market cost substitute for the exporter's stainless steel costs.[77]

Milena re-stated its claim in its original submission that the selection of a benchmark consisting of North American and European prices was inappropriate as they are not comparable with the Chinese market.[78] As discussed in section 7.3.2, the Commission has used the approach adopted in the original investigation. As detailed in REP 238, the selection of the North American and European benchmark was the result of the consideration that any adopted benchmark must be free of the influence of the Chinese market, which includes both the Chinese data, as well as the Asian region. In section 7.3.3 of this report, the Commission has also undertaken appropriate adjustments to ensure that the benchmark reflects the conditions of the product in the Chinese market.

Primy claimed that the Commission had made a finding that a particular market situation existed in relation to the supply of stainless steel.[79] Jiabaolu also claimed in its

[76] Ibid, p.8.
[77] EPR 517, No's 030, 032, 034.
[78] EPR 517, No. 030, p.1.
[79] EPR 517, No. 032, p.3.

submission that the Commission had determined that a particular market situation existed based on the reasoning explained in section 7.3.1.[80] The Commission notes that it has made no such finding of a particular market situation as described in section 269TAC(2)(a)(ii), and has found that the stainless steel costs for the exporters in this inquiry do not reflect competitive market costs as per section 43(2) of the Regulation as detailed in section 7.3.1.

A finding that the input costs do not reflect competitive market costs does not constitute a finding of a particular market situation for the purposes of section 269TAC(2)(a)(ii). The Commission considers that the claims raised in regards to this supposed finding of a particular market situation do not reflect the actual finding under section 7.3.1.

Notwithstanding that there was no finding of a particular market situation, the Commission considers that these submissions claim that such a finding was not based on facts. The Commission has had regard to the facts and findings in several cases relating to the GOC influence in the Chinese steel sector and has outlined these considerations in section 7.3.1.

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:

- sales and cost data and the variable factors ascertained for other cooperating exporters that were the subject of a verification visit;
- 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
- 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 low volumes of domestic sales of like goods with identical MCCs in OCOT or no sales in OCOT at all. Where domestic

[80] EPR 517, No. 034, p.4.

sales of like goods in OCOT for the relevant export MCC had occurred, the sales volumes of these sinks were low (below five per cent) when expressed as a proportion of the volume of exported sinks in the same MCC.

In such instances the Commission considers it appropriate to find that the sales of these MCCs in OCOT as unsuitable for the purpose of ascertaining 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)[81].

Accordingly, the Commission examined each exporter's domestic sales to identify suitable surrogate models based on the MCCs that *were* sold in sufficient volumes by considering models with the closest physical characteristics under the MCC hierarchy structure. In relying on surrogate models, the Commission considers that specification adjustments to the surrogate MCC normal value under section 269TAC(8) are warranted to ensure a proper 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 MCCs 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.

In SEF 517 the Commission only selected a surrogate model with one different sub-category and made adjustments for variations between the MCCs which related to adjacent MCC sub-categories, e.g. difference between MCC subcategory A and B, within the same MCC category. However, following receipt of submissions from various interested parties, the Commission has adopted an alternative approach by selecting a surrogate MCC that is the next available model within the MCC hierarchy which has OCOT sales volumes that exceeded five per cent of the volume of the export MCC. This approach is outlined in the Manual at 14.2.[82]

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 by the exporters in relation to the relevant 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 sold in OCOT. Differences in specification related to either one or more of the following;

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

[81] Suitability of Sales, Section 7.3, p.34 (November 2018). Available on the Commission website.
[82] Model Matching Practice, Section 14.2, p.62 (November 2018). Available on the Commission website.

The Commission's approach to adjustments to account for differences in specifications between the export MCC and the domestic surrogate MCC reflects the practice outlined in the Manual.[83]

In addition to the adjustments outlined above relating to the use of surrogate MCCs and in response to submissions on MCC structure outlined at 3.4.1, the Commission has also had regard to submission's received from Primy[84] and Zhuhai Grand[85] after publication of SEF 517. Primy and Zhuhai Grand both claimed that to ensure proper comparison between export prices and normal values it is necessary for the Commission to recognise differences in the amount of stainless steel used to produce domestic and exported sinks.

To test the claims made by Primy and Zhuhai Grand, the Commission conducted a further examination of the production cost records and product catalogues for all of the selected exporters. The Commission found that where the same MCCs were sold by the exporters in both their domestic and Australian export markets, the stainless steel costs for domestic sinks, and production costs generally, were materially different to the costs reported for their sinks exported to Australia. Differences were either higher or lower for a given MCC however domestic like goods production costs were generally higher.

During this inquiry, the Commission also verified in the case of several exporters that the allocation basis for production costs, e.g. direct labour and manufacturing overhead, was stainless steel cost as opposed to number of units produced for example. As a result of this allocation methodology, the variance in stainless steel consumption had an influence on the whole production cost base. Therefore, the Commission found that it is appropriate to recognise the whole production cost as the basis for any adjustments.

In order to ascertain why production costs as a whole were also different between the two markets, the Commission examined the product specification and production cost data further. In addition to differences in stainless steel cost, the Commission identified discreet variances in physical characteristics, such as the number of tap holes, sink mounting flange profiles and drainer board patterns, between the goods and like goods sold in each market. These differences may not have been captured in the MCC structure published in SEF 517.

In terms of quantifying the additional production costs and price variances relating to the above features not captured by the MCC structure, the Commission acknowledges that details relating to such features were not sought from exporters in questionnaires. However, the Commission is satisfied through the verification of each selected exporter's REQ, that the cost and price variations associated with these features are embedded within the production and sales data reported by exporters.

The Commission is also satisfied that outside of the categories covered by the MCC structure, these additional features, in combination with stainless steel cost variations, form a logical basis for explaining why domestic sinks and exported sinks of the same MCC have different production cost profiles and by reference, price. The Commission considers it reasonable to conclude that such features have a material impact on cost and price by;

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[83] Section 15.3, Physical Characteristics and Quality, p.67 (November 2018).
[84] EPR 517, No. 033.
[85] EPR 517, No. 035.

- influencing production costs in the form of tooling and manufacturing overheads whereby exporters would seek to recover such costs through selling price; and
- changing the value proposition for customers who may be willing to pay more or less for certain features.

On the basis of a further examination of production costs and product specifications, the Commission is satisfied that the claims made by Primy and Zhuhai Grand in relation to market specific production costs appear to have merit and the difference in such costs would have a material influence on prices to the extent that it would affect the proper comparison between the price paid for like goods and export prices.

To account for differences in prices that are driven by the market specific product differences between equivalent domestic and Australian MCCs and to achieve a proper comparison between the price of like goods and exported goods, the Commission considers that an adjustment under section 269TAC(8) is warranted. The value of the adjustment has been worked out by calculating the difference in the weighted average unit cost of production (excluding accessory costs) between the two markets for each relevant MCC and then adding to this result each exporter's profit margin (as a percentage of cost) realised on domestic sales of like goods in OCOT.

The Commission notes that the treatment outlined above relates to differences arising from each exporters own production activities. Where a specification adjustment occurs due to features that relate to items which are sold with sinks, but are however sourced from third party suppliers, such as accessories, the adjustments do not recognise OCOT profit margin.

The following discussion about each of the selected exporter's normal value notes where adjustments in relation to market specific product differences or surrogates have been applied.

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.[86]

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.[87] At the time of the original

[86] EPR 517, No. 023.
[87] Ibid.

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 in 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 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).[88]

7.6.3 Submissions received in relation to determination of the exporter

In its submission of 16 December 2019[89] Komodo argues that Cresheen and Komodo should be jointly recognised for the purpose of implementing the measures determined for Cresheen. In support of its position Komodo highlights the role it plays in the provision of the sinks it sells to its Australian customers.

Specifically, Komodo proposes that either;

- the measures determined for Cresheen only apply to its goods when those goods are exported to Australia by Cresheen through Komodo; or
- Komodo's sales of the goods to Australia, are subject to the measures determined for Cresheen when Komodo has sourced those goods from Cresheen.

On the first point above, the Commission is satisfied that the available information and the findings in SEF 517 continue to support the finding that Cresheen is the exporter of the goods to Australia. The rate of interim dumping duty collected on Cresheen's exports will apply whether it exports the goods directly or through an intermediary. The rate of interim duty collected in relation to the goods exported by Cresheen is not contingent on those goods being exported through a specific intermediary.

Based on Komodo's description of its role in the exportation of the goods being related to the design, quality control and sourcing accessories, the Commission interprets that Komodo is seeking that Komodo and Cresheen are treated as a single entity for the

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[88] 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)".
[89] EPR 517, No. 028.

purpose of implementation of measures. Whilst it may be the case that Komodo has input into the design process of the sinks it purchases from Cresheen, and likely incurs a cost in doing so, the Commission does not consider that this alters the finding at section 7.6.2 that Cresheen is the exporter. Further, as it has not been established by Komodo that the costs it incurred somehow affected the proper comparison between Cresheen's export price and normal value. Therefore the Commission remains satisfied the adjustments applied to Cresheen's normal value at section 7.6.5 are appropriate.[90]

7.6.4 Normal value

As detailed in Cresheen's verification report, the Commission was satisfied that 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 the 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(2)(a)(i), 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, 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 other 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, 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 7.6.5.

[90] Section 269TAC(8) refers.

7.6.5 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 15.

Adjustment Type	Deduction/addition
Domestic inland freight expenses	**Deduct** an amount for domestic inland freight.
Domestic credit term expenses	**Deduct** an amount for domestic credit terms.
Domestic accessories	**Deduct** an amount for domestic accessories.
Export inland freight expenses	**Add** an amount for export inland freight.
Export bank charges	**Add** an amount for export bank charges.
Export port handling charges	**Add** an amount for export port handling charges.
Export customs fees	**Add** an amount for export customs fees.
Export accessories	**Add** an amount for export accessories.
Export credit term expenses	**Add** an amount for export credit terms.
Non-refundable VAT expenses	**Add** an amount for non-refundable VAT expenses incurred on exports of the goods to Australia.
Specification differences (relating to use of surrogate normal values)	**Add** or **deduct** an amount for differences in product specifications for normal values based on a surrogate model

Table 15: Summary of Cresheen's adjustments

7.6.6 Dumping margin

The dumping margin in respect of the goods exported to Australia by Cresheen for the inquiry period is **negative 12.3 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. The Commission's verification of Jiabaolu also

established that Jiabaolu should be considered the exporter of the goods and those goods were exported through an intermediary, Flowtech Co., Ltd (Flowtech).[91]

A report detailing the verification findings relating to the variable factors determined for Jiabaolu is available on the public record.[92]

7.7.2 Export price

Being satisfied that Jiabaolu should be considered the exporter of the goods, in respect of Australian sales of the goods by the exporter, the Commission is also satisfied that the importer has not purchased the goods from the exporter and had rather purchased those goods from an intermediary who first 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.[93]

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.

7.7.3 Submissions received in relation to determination of export price

In its submission of 16 December 2019[94] Jiabaolu indicated it does not object to its export price being determined under section 269TAB(1)(c). However, Jiabaolu contends that

- its export price should be determined based on the price received by the intermediary (Flowtech) through which its goods exported to Australia are sold;
- the Commission's failure to take into account all of the circumstances of the transactions understates the price at with the goods enter the commerce of Australia and results in an overstated dumping margin;
- the approach relied on in SEF 517 is a departure from the approach relied on for the original investigation in REP 238[95]; and
- the level of trade adjustment made to Jiabaolu's normal value in SEF 517 does not account for the mark up that Flowtech applies to the price it receives on the goods exported to the Australian importer.

Jiabaolu's submission also refers to its earlier submission which argues that the supply arrangement it has with tis Australian customer would prevent its exports from causing injury. The Commission's review of the supply agreement referred to by Jiabaolu confirms

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[91] EPR 517, No. 024, Jiabaolu Verification Report, section 7.2, p.18.
[92] EPR 517, No. 024.
[93] 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)".
[94] EPR 517, No. 034.
[95] EPR 238, No. 102, REP 238 at section 6.12.2 "Export Price", p.46.

the existence of non-compete provisions. The agreement was also found to have been in force during and prior to the inquiry period. In its 16 December 2019 submission, Jiabaolu also provided further information regarding Flowtech's role in the sale of the goods to Jiabaolu's Australian customer.

The Commission's Manual contemplates the role of intermediaries, such as Flowtech, who undertake a range of services, such as those outlined in Jiabaolu's submission, and how these activities are taken into consideration when establishing the identity of the exporter of the goods.[96] The Manual further outlines the Commission's policy that states "*the exporter must have been the owner of the goods at one time but…ownership at the time the goods left for Australia is not treated as conclusive when identifying the exporter.*"[97]

In addition to the supply agreement provide with Flowtech's REQ, both Jiabaolu and Flowtech submitted sales data which allowed the Commission to;

- trace consignments of the goods sold to the Australian customer by Jiabaolu through Flowtech;
- determine the invoice value of the goods sold by Jiabaolu to Flowtech;
- confirm that Jiabaolu transported the goods to the port of export;
- establish that the goods were not warehoused by Flowtech after being produced by Jiabaolu;
- conclude that Jiabaolu knew the goods were being exported to Australia due to the presence of the Australian customer's product codes in Jiabaolu Australian sales data being listed adjacent to Jiabaolu's own internal product codes.

Having regard to the available information as outlined in the above discussion, and contrary to Jiabaolu's opinion, the Commission is satisfied that the circumstances relating to the sales of the goods exported to Australia have been identified to a level which has permitted consideration of matters such as which party in the sale should be identified as the exporter of the goods and how the export price should be calculated.

To the point in Jiabaolu's submission regarding the approach in the original investigation, the Commission refers to section 6.12.2 on page 46 of REP 238. In determining export price the Commission considered that '*the goods have not been purchased by the importer from the exporter (**being purchased by the importer from Flowtech which is not considered to be the exporter**)' [Emphasis added]*.

The Commission notes that in REP 238 the export price was also established under section 269TAB(1)(c) however it does not necessarily follow that the circumstances in REP 238 apply to this inquiry. Accordingly, after having regard to the circumstances relevant to this inquiry, the export price has been determined to be the price received by the exporter [Jiabaolu] when selling to the intermediary [Flowtech].

Lastly, regarding the point at which the export price and normal value has been compared. As noted by Jiabaolu, and confirmed by the Commission, Flowtech applies a mark-up on the price it pays Jiabaolu in its sales of the goods to the Australian customer. On the basis that the Commission has established that Jiabaolu is the exporter of the goods, and sufficient information is available regarding the circumstances of the exports

[96] The Manual, p. 29.
[97] Ibid.

by Jiabaolu, the Commission does not consider it necessary to use the price received by Flowtech.

The level of trade adjustments referred to by Jiabaolu in its submission were applied to Jiabaolu's normal value to account for differences in domestic selling prices where the sale was to a level of trade that was not identical to the level of trade of Jiabaolu's Australian customer. This adjustment was not designed to account for the mark-up applied by Flowtech. Since the point of comparison between normal value and export price occurs at the point at which the goods and like goods are sold by Jiabaolu, the mark-up applied by Flowtech is not considered relevant to work out whether Jiabaolu's exports of the goods are dumped.

7.7.4 Normal value

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(2)(a)(i), 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, 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 other 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 however 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.

With respect to one particular model which was based on a surrogate normal value, the Commission found that in SEF 517 the surrogate normal value relied on for this model was itself based on a surrogate normal value. For the affected model, the Commission has recalculated the normal value for this model based on the next available normal value in the MCC hierarchy that is based on sales in OCOT in sufficient volumes rather than a surrogate normal value.

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 7.7.5.

7.7.5 Adjustments

In addition to the adjustments outlined in SEF 517 in relation to Jiabaolu, the Commission considered whether further adjustments under section 269TAC(8) are warranted to account for the effect on prices brought about by the difference in the amount of stainless steel and other market specific product differences between domestic and export MCCs.[98] Having regard to the available sales, production cost and product information reported by Jiabaolu, the Commission does not consider that the circumstances identified in relation to the other exporters, who have received a similar adjustment, are present in relation to Jiabaolu.

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.

Adjustment Type	Deduction/addition
Domestic credit term expenses	**Deduct** an amount for domestic credit expense.
Domestic inland freight expenses	**Deduct** an amount for domestic inland freight expenses.
Domestic accessories	**Deduct** an amount for domestic accessories.
Export inland freight expenses	**Add** an amount for export inland freight.
Export port handling charges	**Add** an amount for export port handling charges.
Level of trade	**Add** or **deduct** amounts for sales that were not of a level of trade that is comparable to the level of trade for export customers.
Non-refundable VAT expenses	**Add** an amount for non-refundable VAT expenses incurred on exports of the goods to Australia.
Export accessories	**Add** an amount for export accessories.
Specification differences (relating to use of surrogate normal values)	**Add** or **deduct** an amount for differences in product specifications for normal values based on a surrogate model

Table 16: Summary of Jiabaolu's adjustments

7.7.6 Dumping margin

The dumping margin in respect of the goods exported to Australia by Jiabaolu for the inquiry period is **negative 6.8 per cent**.[99]

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

[98] Sections 3.4.1 and 7.5 refer.

[99] The dumping margin determined for Jiabaolu in this report represents a change to the margin determined in SEF 517. The Commission notes that the basis for the change is the result of the change to the basis of the normal value for the model discussed at section 7.7.4.

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.[100]

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 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 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(2)(a)(i), there continued to be 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, 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.

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[100] EPR 517, No. 025.

For seven other 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.[101]

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.

7.8.4 Adjustments

In addition to the adjustments outlined in SEF 517 in relation to Primy, the Commission also considers that further adjustments under section 269TAC(8) are warranted to account for the effect on prices brought about by the difference in the amount of stainless steel and other market specific product differences between domestic and export MCCs.[102]

In calculating normal values under sections 269TAC(1) 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 summarised in Table 17.

Adjustment Type	Deduction/addition
Domestic accessories	**Deduct** an amount for domestic accessories.
Domestic credit term expenses	**Deduct** an amount for domestic credit expense.
Domestic inland transport expenses	**Deduct** an amount for domestic inland transport expense.
Domestic packaging expenses	**Deduct** an amount for domestic packaging expense.
Export inland freight expenses	**Add** an amount for export inland freight expense.
Export packaging expenses	**Add** an amount for export packaging.
Export commissions	**Add** an amount for export commissions.
Export port handling charges	**Add** an amount for export port handling charges.
Level of trade	**Add** or **deduct** amounts for sales that were not of a level of trade that is comparable to the level of trade for export customers
Export credit term expenses	**Add** an amount for export credit expense.

[101] The Commission notes that in SEF 517, the normal value for certain MCCs was based on a construction pursuant to section 269TAC(2)(c). However, have regard to the submissions from Primy relating to a range of issues relevant to proper comparison between export price and normal value, the Commission considers that sufficient information is available about the exporter's domestic sales that constructing normal value is not necessary.

[102] Sections 3.4.1 and 7.5 refer.

Adjustment Type	Deduction/addition
Non-refundable VAT expenses	**Add** an amount for non-refundable VAT expenses incurred on exports of the goods to Australia.
Timing adjustment	**Add** an amount to quarters where domestic sales were not available in the quarters relevant to exportations.
Export accessories	**Add** an amount for export accessories.
Specification differences (relating to use of surrogate normal values)	**Add** or **deduct** an amount for differences in product specifications for normal values based on a surrogate model
Specification differences (relating to market specific product differences)	**Add** or **deduct** an amount for market specific product differences.

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 **9.8 per cent**.[103]

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.[104]

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.

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[103] The dumping margin determined for Primy in this report represents a change to the margin determined in SEF 517. The Commission notes that the basis for the change is the combined effect of the reassessment of Primy's normal values and additional adjustments made in response to submission concerning stainless steel and other market specific product differences.
[104] EPR 517, No. 019.

7.9.3 Normal value

As detailed in Rhine's verification report, the Commission was satisfied that 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 considers that pursuant to section 269TAC(2)(a)(i), there were not sufficient domestic sales of like goods in OCOT during the inquiry period. For the purpose of assessing a low volume the Commission relies on the approach outlined in the Manual whereby a low volume is when sales in OCOT, when expressed as a proportion of the volume of the goods exported to Australia, do not exceed five per cent.

Notwithstanding that sales of like goods in OCOT by Rhine are considered to be low in volume, the Commission has re-examined the approach to normal value determination undertaken in SEF 517 to further evaluate if the available like goods sales data relevant to Rhine may still be suitable to determine normal values under section 269TAC(1).

The Commission considers that a review of the findings in SEF 517 relating to Rhine's normal value is warranted as a result of the submissions received from Rhine and other selected exporters which raised issues relating to product specification differences and led to a revised level of dumping by some of the selected exporters. The Commission's re-examination of the available sales by Rhine is detailed as follows.

Out of 14 MCCs exported to Australia, only three models in Rhine's domestic sales data had sufficient sales in the OCOT, which represented 3.4 per cent of Rhine's volume of the goods exported to Australia. The Manual states that where a low volume of sales is found, there may be instances where the Commission may be satisfied that the volume of sales is still large enough to permit a proper comparison for the purposes of assessing a dumping margin.[105]

In recognition of the low volume of sales in OCOT and the relatively large number of surrogate based normal values, the Commission has compared Rhine's normal values to the other selected exporters whose sales in OCOT were not found to be low in volume within the context of section 269TAC(2)(a)(i). The Commission considers this additional step necessary to ensure the circumstances relating to Rhine have not rendered its normal values unsuitable for the comparison to export prices.

In the analysis at **Confidential Attachment 38** the Commission observed that Rhine's normal values trended in a manner that were consistent with those determined for the other selected exporters and were at levels that were within a reasonable range. The Commission therefore considers that despite Rhine's low volume of domestic sales in

[105] Suitability of Sales, Section 7.3, p. 35 (November 2018). Available on the Commission website.

OCOT, the normal values for Rhine that are derived from this low volume are suitable for the comparison to export prices.

Having determined that Rhine's overall domestic sales volume in OCOT was suitable, the Commission has had regard to the Commission's policy set out in the Manual[106] relating to the sufficiency of sales at the model level. The Commission found that each of the three MCCs in OCOT were sold in quantities that exceeded five per cent of the export volume of the MCC.

For the remaining 11 MCCs exported to Australia there were no domestic sales of like goods in OCOT. As a result the Commission has turned to the MCCs that were in OCOT and in sufficient volumes to determine if these MCCs could be utilised as a surrogate model. The Commission found that in conjunction with specification adjustments applied under section 269TAC(8), two of the MCCs in OCOT were suitable surrogates upon which to base a normal value for the remaining 11 MCCs exported to Australia. With the exception of one model, the volume of sales in OCOT observed for the surrogates exceeded five per cent of the export volume of the relevant MCC.

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.

7.9.4 Adjustments

In addition to the adjustments outlined in SEF 517 in relation to Rhine, the Commission also considers that further adjustments under section 269TAC(8) are warranted to account for the effect on prices brought about by the difference in the amount of stainless steel and other market specific product differences between domestic and export MCCs.[107]

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

Adjustment Type	Deduction/addition
Domestic accessories	**Deduct** an amount for domestic accessories.
Export inland freight expenses	**Add** an amount for export inland freight expenses.
Export port handling charges	**Add** an amount for export port handling charges.
Export accessories	**Add** an amount for export accessories.
Non-refundable VAT expenses	**Add** an amount for non-refundable VAT expenses incurred on exports of the goods to Australia.
Timing adjustment	**Add** an amount to quarters where domestic sales were not available in the quarters relevant to exportations.
Specification differences (relating to use of surrogate normal values)	**Add** or **deduct** an amount for differences in product specifications for normal values based on a surrogate model
Specification differences (relating to market specific product differences)	**Add** or **deduct** an amount for market specific product differences.

[106] Ibid, p. 34.
[107] Sections 3.4.1 and 7.5 refer.

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 **18.0 per cent**.[108]

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.

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.[109]

7.10.2 Submissions in relation to variable factors

Zhuhai Grand submitted that there was a clerical error relating to the SG&A listing provided in its REQ. The Commission reviewed the claimed error and has amended the variable factor calculations accordingly.

Zhuhai Grand also submitted that there were errors in the Commission's variable factor calculations. The Commission has reviewed the variable factor calculations and amended them where applicable.

7.10.3 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.

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[108] The dumping margin determined for Rhine in this report represents a change to the margin determined in SEF 517. The Commission notes that the basis for the change is the combined effect of the reassessment of Rhine normal values and the additional adjustments made in response to submissions concerns stainless steel and other market specific product differences.
[109] EPR 517, No. 021.

7.10.4 Normal value

As detailed in Zhuhai Grand's verification report, the Commission was satisfied that pursuant to section 269TAC(2)(a), 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 and correcting for the error in Zhuhai Grand SG&A costs, the Commission found that pursuant to section 269TAC(2)(a)(i), there were sufficient domestic sales of like goods in OCOT during the inquiry period because the volume of these sales as a proportion of the volume of the goods exported to Australia exceeded five per cent.

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, 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 six MCCs of stainless steel sinks exported to Australia there were suitable sales of like goods in the OCOT.

For four other 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.[110]

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 7.10.5.

7.10.5 Adjustments

In addition to the adjustments outlined in SEF 517 in relation to Zhuhai Grand, the Commission also considers that further adjustments under section 269TAC(8) are warranted to account for the effect on prices brought about by the difference in the amount of stainless steel and other market specific product differences between domestic and export MCCs.[111]

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[110] The Commission notes that in SEF 517, the normal value for certain MCCs was based on a construction pursuant to section 269TAC(2)(c). However, as Zhuhai Grand's domestic sales in OCOT are not found to be a low volume, the Commission considers that sufficient information is available about the exporter's domestic sales that constructing normal values is not necessary.

[111] Sections 3.4.1 and 7.5 refer.

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 19.

Adjustment Type	Deduction/addition
Domestic accessories	**Deduct** an amount for domestic accessories.
Export inland freight expenses	**Add** an amount for export inland freight expenses.
Export port handling charges	**Add** an amount for export port handling charges.
Export accessories	**Add** an amount for export accessories.
Non-refundable VAT expenses	**Add** an amount for non-refundable VAT expenses incurred on exports of the goods to Australia.
Timing adjustment	**Add** an amount to quarters where domestic sales were not available in the quarters relevant to exportations.
Specification differences (relating to use of surrogate normal values)	**Add** or **deduct** an amount for differences in product specifications for normal values based on a surrogate model
Specification differences (relating to market specific product differences)	**Add** or **deduct** an amount for market specific product differences.

Table 19: Summary of Zhuhai's adjustments

7.10.6 Dumping margin

The dumping margin in respect of the goods exported to Australia by Zhuhai Grand for the inquiry period is **13.4 per cent**.[112]

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) as outlined in the following chapter.

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

Section 269TACAB(2(d) requires that the normal value for residual exporters must not exceed the weighted average of normal values for like goods of selected cooperative exporters.

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

[112] The dumping margin determined for Zhuhai Grand in this report represents a change to the margin determined in SEF 517. The Commission notes that the basis for the change is the combined effect of the reassessment of Zhuhai Grand's normal values and the additional adjustments made in response to submissions concerning stainless steel and other market specific product differences.

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 **7.4 per cent.**[113]

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)(d), 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 selected exporters in the inquiry period.

7.12.2 Normal values

Pursuant to section 269TACAB(1)(e), 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 selected exporters in the inquiry period.

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[113] The dumping margin determined for category of residual exporters in this report represents a change to the margin determined in SEF 517. The Commission notes that the basis for the change is the combined effect of changes applied to the normal values for all selected exporters.

7.12.3 Dumping margin

The dumping margin for uncooperative and all other exporters of stainless sinks from China is **53.9 per cent**.[114]

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

7.13 Summary of dumping margins

Exporter	Dumping Margin
Cresheen	negative 12.3%
Jiabaolu	negative 6.8%
Primy	9.8%
Rhine	18.0%
Zhuhai Grand	13.4%
Residual exporters	7.4%
Uncooperative and all other exporters	53.9%

Table 20: Dumping margin summary

[114] The dumping margin determined for category of uncooperative and all other exporters in this report represents a change to the margin determined in SEF 517. The Commission notes that the basis for the change is the combined effect of changes applied to the normal values for all selected exporters.

8 ASCERTAINMENT OF VARIABLE FACTORS (COUNTERVAILING)

8.1 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.[115]

Section 269TAAC defines a 'countervailable subsidy' as follows:

> (1) For the purposes of this Part, a subsidy is a countervailable subsidy if it is specific.
>
> (2) Without limiting the generality of the circumstances in which a subsidy is specific, a subsidy is specific:
>
> (a) if, subject to subsection (3), access to the subsidy is explicitly limited to particular enterprises; or
>
> (b) if, subject to subsection (3), access is limited to particular enterprises carrying on business within a designated geographical region that is within the jurisdiction of the subsidising authority; or

[115] Section 269TACC sets out the steps for working out whether a financial contribution or income or price support confers a benefit.

(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 Commission 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.

In *Review of Measures No. 461* (REP 461)[116] 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.

[116] REP 461 can be found on the Commission's website at www.industry.gov.au.

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[117]	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
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

[117] 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 Number[117]	Program Name	Program type
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);
- 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 **Non-confidential 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.[118] The Commission notes that consideration of Australian subsidies is not a requirement of the legislation and accordingly, 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 had 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.

8.6.2 New Program 36 High Growth Enterprise Award

In Cresheen's verification report, the Commission noted that Cresheen had 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.

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[118] EPR 517, No. 003, p.9.

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 under **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 benefit received under this program in relation to exports of the goods to Australia were countervailable subsidies.

In SEF 517, the case team was unable to rule out whether Rhine had purchased stainless steel from a public body, and applied a subsidy margin in relation to this program.[119]

Rhine made a submission[120] in which it provided an updated stainless steel purchase ledger which listed the stainless steel supplier name for purchases which were originally described as "*Goods received but not invoiced*", as well as providing the business licences for these companies. The Commission cross-checked the provided business licences against publically available information to ascertain the ownership status of each supplier. In particular the Commission had regard to information available on the GOC National Enterprise Credit Information Publicity System (NECIPS).[121] For each of Rhine's stainless steel suppliers, the Commission entered the unified social credit code stated on the licence for each supplier into the NECIPS. The information which was produced in the NECIPS search result reconciled to the licence documents Rhine provided in its submission. The NECIPS provided information of particular relevance such as each supplier's enterprise status, shareholder and investment information, and company address. After examination of this information, the Commission was satisfied that none of Rhine's suppliers of stainless steel are public bodies.

The NECIPS also allowed for interrogation of the ownership structure of the suppliers and the Commission was able to establish that none of the owners or shareholders/investors were public bodies.

The Commission considers that Rhine has not received a benefit under this program.

The information provided by Rhine in its submission is provided in **Confidential Attachments 36 and 37**.

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[119] SEF 517, p.75.
[120] EPR 517, No. 027.
[121] www.gsxt.gov.cn.

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 had 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 **0.3 per cent**. The figure determined in this report has changed from the figure reported in SEF 517 on account of the further information received from the exporter in relation to Program 1.

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 tis 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 had 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.[122]

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 **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 **3.1 per cent**.

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[122] https://www.industry.gov.au/data-and-publications/anti-dumping-commission-subsidies-register

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 Commission 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 Commission 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 **6.3 per cent**.

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

8.11 Summary of subsidy margins

Exporter	Program	Subsidy Margin
Cresheen	• Program 3 - Grants for Export Activities (Foreign Trade Development Special Fund • New Program 36 - High Growth Enterprise Award	0.0% (less than 0.05%)
Rhine	• Program 8 - Tax preference available to companies that operate at a small profit	0.3%
Zhuhai	• Program 20 - Development of market projects for SMEs in foreign trade (encourage SMEs in foreign trade to hold exhibition in overseas countries) • 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.	2.4%[123]
Residual Exporters	All programs found to be countervailable	3.1%
Non-cooperative entities	All programs found to be countervailable	6.3%

Table 22: Subsidy margin summary

[123] The Commission confirms that despite noting it in the subsidy margin summary table, the subsidy margin calculation for Zhuhai Grand in SEF 517 did not include amounts for Program 1 as per the findings relating to Zhuhai Grand. The correction is reflected in Table 22.

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

9.1 Finding

On the basis of the evidence 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 and subsidisation and the 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.[124]

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 supressed, by the price of imported goods;
- Following the imposition of measures, certain parties have sought to have the measures reviewed. Oliveri claims that this signals that exports of the goods will continue to Australia. Notably:
    - an importer sought a review of measures on two occasions, the latter being within the last 18 months;
    - an exporter sought a review of measures within the last 16 months;
    - another exporter sought an accelerated review of measures; and
- If the measures were not to be continued, the exporters would reduce their prices and the Australian industry would suffer material injury as a result.

As part of its application, Oliveri provided sales and cost data in relation to its sales of like goods and export data for the goods. This data was used to demonstrate that Chinese

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124 ADRP Report No. 44 (Clear Float Glass) refers.

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).[125]

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.[126] 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.

The Commission review of the variable factors in sections 7.8, 7.9 and 7.10 found that the goods exported to Australia by three exporters, Primy, Rhine, and Zhuhai Grand, were dumped, and the Commission has examined the facts relevant to assessing the likelihood that these exporters will continue to export the goods at dumped prices. The Commission found that the levels of dumping in relation to these three exporters have increased since the original investigation (Chapter 7). As discussed in section 9.4.3, these exporters have continued exporting in significant volumes since the measures were fist implemented. The Commission considers that this indicates, *inter alia*, that these exporters will continue to export the goods at dumped prices.

However, in the case of Cresheen and Jiabaolu, whose goods were found not to be dumped during the inquiry period (sections 7.6 and 7.7), the Commission has examined the facts relevant to assessing the likelihood that these exporters will resume exporting the goods at dumped prices in the future.

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[125] The Manual, page 176 refers.
[126] *Ibid*.

In the index of export price movements in Table 23 below, Commission found that relative to their prices in the inquiry period, the prices for the goods exported by Cresheen and Jiabaolu in prior periods were lower.[127]

Export Price	FY19 (INQUIRY PERIOD)	FY18	FY17	FY16	FY15
Cresheen	100	83	77	90	81
Jiabaolu	100	77	74	93	95

Table 23: Index of changes in the Cresheen and Jiabaolu prices[128]

The Commission considers that the previously low prices of exports by Cresheen and Jiabaolu are an indicator of the price level that these exporters may sell at in the future and should their export of the goods return to those prices levels, dumping is likely to recur in relation to exports by Cresheen and Jiabaolu, all other things being equal.

The Commission also found that the price of goods exported by Cresheen and Jiabaolu were not the lowest in the period since measures were imposed or during the inquiry period. The Commission considers it reasonable that in a competitive market the prices of the goods sold by Cresheen and Jiabaolu would reduce in line with other sellers. Having regard to the prices observed in this inquiry period, exports at the lower price level would likely lead to a recurrence of dumping in relation to the goods exported by Jiabaolu and Cresheen.

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.[129]

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 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 for all stainless steel sinks, i.e. both deep drawn and fabricated.[130] 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 exporters does not appear to have changed.

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[127] Confidential Attachment 34 – Price Undercutting Analysis "FOB Price and Volume".
[128] Confidential Attachment 34 – Price Undercutting Analysis *"FOB Price and Volume".*
[129] The Manual, page 176 refers.
[130] Confidential Attachment 1 – Australian Market "*Volume Analysis*".

The volume of exports for the selected exporters has also remained significant since the measures were imposed, and the Commission considers that it is likely that they will continue exporting at these levels.

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.[131]

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 export volumes should the measures expire.

Caroma claimed that the finding that all exporters in China have excess capacity due to the data from cooperating exporters is not reasonable.[132] The Commission disagrees with this claim, and considers the finding in SEF 517 to have a reasonable basis as the cooperating exporters (both selected and residual) represent over 90 per cent of imports of deep drawn stainless steel sinks to Australia from China.

The Commission considers that rather than being a driver of increases in exports of the goods subject to measures from China, if the measures were to expire, the level of capacity available to Chinese exporters would not be an impediment to their ability to respond to such changes in the Australian market and contribute to a continuation or recurrence of injury to the Australian industry.

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 subject to measures 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 subject to measures 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.

Even if prices are not reduced if measures were to expire, importers of the goods and their downstream customers will enjoy increased profits due to not having to pay duties on dumped products. This will further increase pressure on the Australian industry to

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[131] The Manual, page 176 refers.
[132] EPR 517, No. 031, para 5.3.

reduce its prices to its downstream customers in order to compete with these increased profit margins.

In Caroma's submission at paragraph 5.5 it disputes the Commission's statements relating to potential for importers to pass on price cuts or for exporters to reduce prices in order to secure increased market share. The Commission notes that the price effects leading from the expiration of measures, within the context of the discussion in this particular section of the report, was one potential outcome to explain why exporters would continue to maintain an export focus.

In terms of the focus of exporters, the Commission considers that the most relevant indicator for exporters to maintain an export focus are the findings relating to the supplier and importer relationships that existed in the original investigation period and the inquiry period and the finding that the same parties continue to trade the goods subject to measures in substantial quantities. The Commission's discussion relating to the focus of exporters and the potential impact on prices if measures expired is merely designed to illustrate the kind of factors which may motivate exporters to continue to have a focus on export markets, and particularly Australia.

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.

9.4.7 Summary

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

- for a significant volume of deep drawn stainless steel sinks (the goods) exported to Australia from China during the inquiry period, i.e. 1 July 2018 to 30 June 2019 were dumped and all exporters examine had received a countervailable benefit in relation to those exports. For the exporters whose goods weren't dumped on a weighted average basis in the inquiry period, it is likely that, if the measures were not continued, dumping would recur;
- Chinese exporters of the goods have maintained distribution links into the Australian market;
- Chinese producers of the goods maintain an export market focus;
- export volumes of the goods as a share of the Australian market have not declined;
- surplus capacity exists in the Chinese deep drawn stainless steel sinks manufacturing sector which would not prevent exporters from China increasing their share of the Australian market should conditions, such as the expiration of anti-dumping measures, in the Australian market change.

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 the Australian industry submitted that if the measures are not continued, the lower price of exports subject to measures 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.[133]

The Australian industry further submitted that it 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.[134] 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 subject to measures.[135]

In particular, the Australian industry has advised that its production and sales of like goods sinks to OEM customers are priced having regard to sinks subject to measures 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 Australia to importers at the OEM level of trade. In the event that this is not the case, Australian industry claims that its current OEM customers may switch sourcing their supply to 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.[136] The 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 YE 2019. 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. Being a weighted average calculation,

[133] Application – EPR 517, No. 001, p.15.
[134] Application – EPR 517, No. 001, p.15.
[135] Application – EPR 517, No. 001, p.17-18.
[136] Application – EPR 517, No. 001, p.15.

the weighted average FOB prices suggests that the predominant volume of sinks exported to Australia were also at this level.

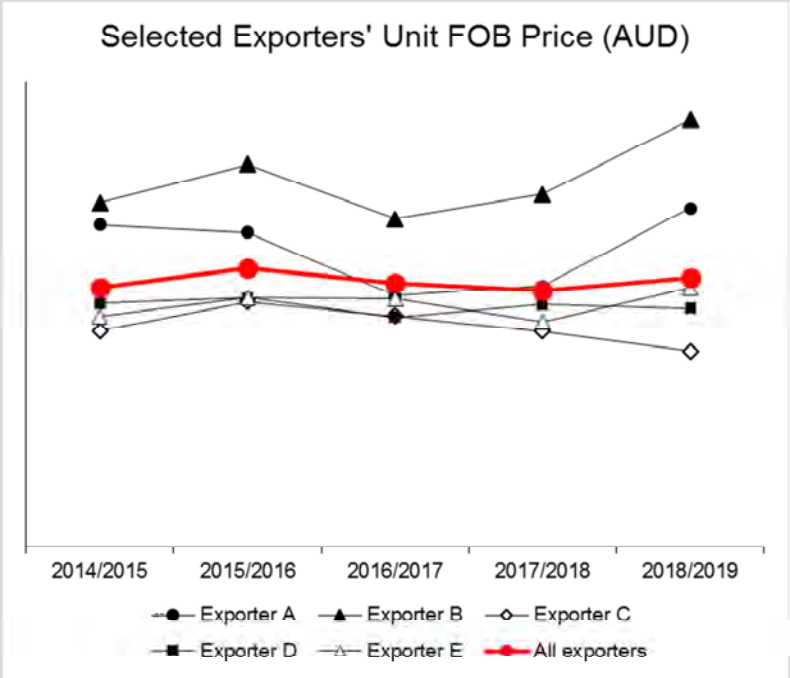

Figure 12 – Selected exporters unit FOB price (AUD)[137]

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 is currently a relevant factor to the economic condition of the Australian industry in terms of its ability to increase prices or compete on price in a price sensitive market. If the measures were to be removed, the impact on the Australian industry would be exacerbated.

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 the 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, the Australian industry is competing directly with Chinese sinks producers for sales to current and potential OEM customers.

To assess the impact arising due to exports of sinks to Australian OEM customers 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 sinks in the same MCC and to the same level of trade by between 5 and 23 per cent and

[137] Confidential Attachment 34 – Price Undercutting Analysis *"FOB Price and Volume".*

on average by 16 per cent.[138] Sales by Australian industry to the OEM market segment represented approximately 30 per cent of its sales during the inquiry period.[139]

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 by approximately 25 per cent.[140] Excluding sales to OEM customers, price undercutting was highest in the customer category 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 low export prices of the goods purchased by importers, irrespective of whether they were dumped or subsidised.

In the price injury analysis at section 6.5 the Commission found that Australian industry had experienced injury in the form of price depression and suppression broadly as a result of the year on year price decreases identified within its sales records at both the whole of like goods level and within specific product ranges of like goods.

Given that the prices of the goods exported from China have produced the price undercutting found during the inquiry period, the Commission considers it reasonable that imports of the goods from China are having an effect, will likely continue to have an effect on the prices of sinks sold onto the Australian market, and particularly effect the price that Australian industry would be able to achieve. The Commission also considers it reasonable to attribute this effect to imports of the goods from China on the basis that these imports represented approximately 40 per cent[141] of the total Australian stainless steel sinks market during the inquiry period and represented a similar proportion of all stainless steel sink imports.[142]

In an extension of the analysis in SEF 517, the Commission notes the mark up between the Australian selling prices obtained by importers over the FIS anti-dumping duty inclusive import price. The Commission considers that if the measures were allowed to expire, the mark-up applied by importers provides scope for an increase in the levels of

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[138] After taking account of the price mark-up applied by intermediaries involved in the export of the goods, the level of price undercutting has changed from that found in SEF 517.
[139] Confidential Attachment 34 – Price Undercutting Analysis *"OEM Price Undercutting".*
[140] Confidential Attachment 34 – Price Undercutting Analysis *"Category Price Analysis".*
[141] Confidential Attachment 1 – Australian Market *"Volume Analysis".*
[142] The figures reported in SEF 517 in relation to the market share of the goods from China and share of total imports were further examined for the purpose of this report and have been revised accordingly.

price undercutting by providing importers an opportunity to reduce importation costs and pass on these savings to customers.

A further indicator on the price effects that are likely caused by imports of the goods from China was identified in the Commission's analysis of ABF database FOB prices for stainless steel sinks exported to Australia from Thailand and Vietnam. Sinks from Thailand and Vietnam, who are the next largest source countries by volume, and make up approximately 15 per cent of imports[143], were found to be at price levels comparable to the prices of sinks subject to measures from China.[144] The Commission considers that this observation is an indication of the influence that the goods imported from China have had on the price of these products in the Australian market and furthers highlight the influence of lower priced Chinese goods.

Having regard to the pattern of FOB prices of Chinese exports over the injury analysis period, the level of price undercutting observed in relation to these exports, the scope for this price undercutting to increase absent of measures, and the price of sinks imported from Thailand and Vietnam, the Commission is satisfied that the expiration of the measures would likely lead to further price suppression and/or depression of Australian industry's prices. That is, the Commission is satisfied that material price injury will likely continue or recur.

9.5.2 Likely effect 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.[145] 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 overall demand for the product. Whilst the Commission does not disagree with Australian industry on this point, it does consider that the market share held by Chinese exporters of the goods would increase if export prices are lowered.

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.

Caroma claimed that the above finding contradicts the finding in section 5.6.2 that demand for the goods is inelastic.[146] The Commission disagrees. The Commission's reference to '*further reductions in prices*' in the previous paragraph is based on the situation where the absence of costs relating to payment of anti-dumping duties on imports of the goods from China could present a saving to importers.

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[143] Ibid.
[144] Confidential Attachment 1 – Australian Market *"TH and VN Export Price".*
[145] Confidential Attachment 1 – Australian Market *"Volume Analysis".*
[146] EPR 517 No. 031, section 4.4.

The Commission considers it likely that importers would seek to pass on such savings to their Australian customers and by doing so making these imported goods more desirable than like goods offered by Australian industry. Further, if the measures are not continued, the Commission considers it likely that additional Chinese suppliers will seek to enter the Australian market leading which is likely to lead to a reduction in Australian industry sales volumes and market share.

The Commission is therefore satisfied that these outcomes would likely lead to a continuation or recurrence of injury, in the form of reduced market share and reduced sales volume, caused by dumping and subsidisation.

9.6 Is injury from dumping and subsidisation likely to be material?

Notwithstanding the acknowledgement that other factors are likely to influence the economic condition of the Australian industry irrespective of whether the measures are continued or not, 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:

- prices in the inquiry period are overall the lowest observed since FY15 and represent a reduction of 32 percent compared to FY15;[147]
- 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;
- prices during the inquiry period were undercut by the prices of deep drawn stainless steel sinks imported from China.

The Commission considers that the injury experienced by Australian industry is material and coincides with the findings that the goods exported to Australia during the inquiry period were dumped and subsidised. Should the measures be allowed to expire the Commission considers it likely that this would lead to a continuation of material injury caused by dumping and subsidisation.

Recognising that exports to Australia by Cresheen and Jiabaolu were not dumped or subsidised, the Commission has had regard to whether material injury is likely to recur in

[147] Section 6.5.2 refers.

relation to these exporters. The Commission's analysis of Cresheen's and Jiabaolu's exports highlighted the following characteristics;

- in the price undercutting analysis discussed at section 9.5.1 the Commission established that the price of Australian industry's sales of like goods were either undercut by the prices of the goods imported from Cresheen and Jiabaolu or were sold at similar price levels[148];
- the FOB prices for goods exported by Cresheen and Jiabaolu are not the lowest when compared to the other three selected exporters or the weighted average prices at Figure 12;
- in the case of exports by Cresheen and Jiabaolu, FOB prices of their goods before the inquiry period have been lower than the prices upon which their dumping margins in chapter 7 are based;
- in the period since measures were imposed, the volume of goods exported to Australia by Cresheen via Komodo in the inquiry period represent an increase of approximately 60 per cent and the volume of goods sold by Jiabaolu via Flowtech in the inquiry period were comparable to Australian industry; and
- the volume of goods exported by Cresheen and Jiabaolu during the inquiry period either exceeded or were similar to Australian industry's sales volumes.

At section 9.5.1 the Commission was satisfied that it was likely that imports of the goods from China would affect prices on the Australian market generally and in particular the prices achieved by Australian industry. As noted above, the Commission found that the price of goods exported to Australia by Cresheen and Jiabaolu had also undercut Australian industry's prices or would have been a factor in its pricing decisions.

The Commission therefore considers it reasonable that in the volumes in which Cresheen and Jiabaolu have exported the goods to Australia, their exports are significant enough to have a material impact on Australian industry's economic performance. In this regard exports by Cresheen and Jiabaolu would have been a factor in the deterioration of Australian industry's prices which led to injury in the form of price depression (section 6.5.2) and reduced profits on key sink ranges (section 6.6 refers).

The Commission's analysis found that the pre-conditions for material injury to be caused by dumping and subsidisation appear to be present in relation to the exports by Cresheen and Jiabaolu. Notwithstanding the finding that in the current inquiry period their exports were not dumped, at section 9.4.2 the Commission considers it likely that dumping in relation to these exporter's goods would recur, in the absence of measures. Based on the nature of competition between Australian industry, Cresheen and Jiabaolu, the Commission is satisfied that if dumping was to recur in relation to Cresheen and Jiabaolu, and subsidisation in relation to Cresheen, the injury caused by that dumping and subsidisation would be material.

9.6.1 Submissions received in response to injury

Jiabaolu claimed in its submissions[149] that due to its existing long term exclusive supply agreement with its only Australian customer, it could not have contributed to the injury

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[148] Confidential Attachment 34 – Price Undercutting Analysis *'Cresheen and Jiabaolu Analysis'.*
[149] EPR 517, No. 018 and No. 034.

experience by the Australian industry. Jiabaolu states that this agreement has been in place since 2007 and as it is exclusive it could not result in competition with the Australian industry. Caroma has also made similar claims regarding exclusive supplier arrangements in its submission in response to SEF 517.[150]

As detailed in Figure 1, the Commission considers that whilst the Australian industry competes with stainless steel sinks exporters, it also competes with distributors and re-sellers which purchase stainless steel sinks from these exporters.

The Commission considers that even if Jiabaolu's Australian customer was prevented from sourcing stainless steel sinks from the Australian industry due the existence of an exclusive supply arrangement, Jiabaolu's customer could nevertheless sell its stainless steel sinks at a lower price in competing with the sinks sold by Australian industry.

The Commission considers it reasonable that the existence of exclusive arrangements between parties does not necessarily mean that the effects brought about by such arrangements are limited to the parties the subject of the arrangement. The Commission considers that export prices of goods exported from Jiabaolu are likely to influence price negotiations between other participants in the market. These price are particularly relevant given that the Commission has established that Australian industry uses the prices of imports from China as a benchmark for setting prices of like goods to its related party customer.

Caroma also submits[151] that the injury caused by factors other than dumping are significantly more prevalent than any dumping that may be occurring. Caroma explains that the Commission attribution of injury due to dumping is erroneous and fails to take into account the significance of factors such as the performance of the Australian building construction sector and the trend towards fabricated stainless steel sinks.

In relation to Caroma's submission regarding the performance of the Australian building construction sector, the Commission makes the following comments. The Commission's assessment of the Australian market found that import volume of goods from China remained steady since 2015, as did the Australian industry's sales volume. This is despite fluctuations in the Australian building construction sector.[152] The Commission also found that during the same injury analysis period, FOB prices of the goods from China generally remained steady and at levels which undercut Australian industry's prices.

Given that FOB export prices of the goods have not fluctuated and continue to undercut Australian industry's prices, regardless of changes in the Australian building construction sector, the Commission does not accept Caroma's assertion that injury brought about by changes in that sector, if any, are more prevalent than those which relate to competition between dumped and subsidised goods exported from China.

Further, given the steady state of the sales volume of deep drawn stainless steel sinks, it does not appear that sales of these sinks declined due to a switch in consumer preference to fabricated sinks.[153]

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[150] EPR 517, No. 031.
[151] EPR 517, No. 031.
[152] Section 5.6.2 refers.
[153] Section 6.8.1 and Figure 4 refer.

With reference to Caroma's submission claiming that the Commission's finding of material injury was not accurate or appropriate, and within the context that the Commission does not consider that the performance of the Australian building construction sector is the most prevalent source of injury, the Commission refers to the findings at section 6.9 which found that Australian industry has suffered injury in numerous forms. Within Australian industry's sales data the Commission found that Australian industry had seen price reductions in several profit generating products, the effect of which has been exacerbated by the reduction in sales volume of these products in exchange with lower priced sinks in sold in larger sales volumes.

In addition to the findings in chapter 6, the Commission also considers that several injury factors, such as price depression, reduced profit, ROI and capacity utilisation, stem from the price competition between Australian industry's like goods and dumped imports of the goods from China over recent years. When put together, the Commission considers that the injury suffered by Australian industry was material and it is likely that this injury will continue if the measures were to expire.

9.7 Summary

Taking the above analysis into account, the Commissioner is satisfied that there is sufficient evidence to support a finding that in relation to those goods which were dumped and subsidised during the inquiry period:

- 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 in the inquiry period were dumped and subsidised;
- injury suffered by Australian industry in the inquiry period was material; and
- material injury suffered by the Australian industry in the inquiry period is attributable to dumping and subsidisation.

In relation to goods exported by Cresheen and Jiabaolu, whose goods were not dumped during the inquiry period, the Commission is further satisfied that;

- as prices of the goods exported by Cresheen and Jiabaolu were higher than the prices of goods dumped by other exporters in the inquiry period, the Commission considers it likely that the price of the goods from Cresheen and Jiabaolu could reduce to similar levels and likely lead to a recurrence of dumping;
- on the basis that dumping in relation to the goods exported by Cresheen and Jiabaolu is likely to recur, Australian industry would experience injury in relation to those exports; and
- the injury caused by the recurrence of dumping by Cresheen and Jiabaolu would be material on the basis that;
    - the volume of goods exported by Cresheen and Jiabaolu were individually comparable to the volume of like goods sold by the Australian industry in the inquiry period;
    - the price of the goods exported by Cresheen and Jiabaolu were observed to undercut the Australian industry's prices in the inquiry period; and

- the price undercutting relating to the goods exported by Cresheen and Jiabaolu were factors in the price and profit injury experienced by Australian industry and in the event that dumping is likely to recur, the recurrence of injury in relation to these factors would be material.

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

10 RECOMMENDED FORM OF MEASURES

10.1 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 recommends 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 recommends that in continuing the anti-dumping measures and countervailing measures;

- in relation to Cresheen and Jiabaolu, interim dumping duty (IDD) be calculated based on floor price duty method and 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).[154]

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.[155]

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.

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[154] Section 5 of the *Customs Tariff (Anti- Dumping) Regulation 2013*.
[155] Available on the Commission's website at www.industry.gov.au.

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

Noting that the Commission has found that Cresheen and Jiabaolu’s exports were not dumped in the inquiry period, the Commission considered whether the dumping duty notice should cease to apply to these particular exporters. As discussed in chapter 9, the Commission considers that it is likely that dumping and subsidisation, and the resulting injury will continue or recur. Additionally, as this inquiry represents the Commission’s only examination of the goods exported to Australia by Cresheen and Jiabaolu since measures were imposed, the Commission considers that there is an increased risk that removing these two exporters from the notice would lead to a recurrence of dumping.

Being satisfied that the dumping duty notice should be continued in relation to Cresheen and Jiabaolu (section 9.7 refers) the Commission considers that interim dumping duty payable on goods exported by these exporters should be worked out in accordance with the floor price duty method. The floor price for Cresheen and Jiabaolu 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.

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

A summary of the recommended form of measures and effective rates of interim dumping duty and countervailing duty is summarised below in Table 24.

Exporter	Interim dumping duty		Interim countervailing duty	
	Recommended duty method	**Effective IDD rate**	**Recommended duty method**	**Effective ICD rate**
Cresheen	Floor price	negative 12.3%	Proportion of export price	0.0% (less than 0.05%)
Jiabaolu	Floor price	negative 6.8%	[redacted]	N/A
Primy	Ad valorem	9.8%		N/A
Rhine	Ad valorem	18.0%	Proportion of export price	0.3%
Zhuhai Grand	Ad valorem	13.4%	Proportion of export price	2.4%
Residual exporters	Ad valorem	7.4%	Proportion of export price	3.1%
Uncooperative and all other exporters	Ad valorem	53.9%	Proportion of export price	6.3%

Table 24: 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)[156] 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 therefore recommends 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 section 8(5BA) of the Dumping Duty Act, unless one of the exceptions in section 8(5BAAA) of the Dumping Duty Act applies.

[156] The Commission notes that REP 238 erroneously referred to section 8(5BAA)(a) of the Dumping Duty Act.

As the Commissioner recommends that the dumping duty notice currently applying to exports of the goods from China be altered, sections 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.[157]

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

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[157] Method for calculating non-injurious price, section 24.3, p.138 (November 2018).

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 Submissions regarding non-injurious price and lesser duty rule

Primy claimed that the Commission did not have consideration of the lesser duty rule in SEF 517 due to the operation of section 269TAC(2)(a)(iii) and the existence of a particular market situation.[158] The Commission notes that it did not make any finding of a particular market situation in SEF 517, nor has it made a finding in this report.

The Commission has recommended that the Minister have regard to the lesser duty rule, as required in section 8(5BA) of the Dumping Duty Act. In having such regard to the lesser duty rule, the Commission has calculated the NIP for the Australian industry and compared this to the normal values calculated for all categories of exporter.

The Commission agrees with Primy that the amount of duty paid should be an amount adequate to remove injury, however in this case it has been found that the NIP is higher than the normal values established in this inquiry.

11.6 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**.

[158] EPR 517, No. 032, p.12.

12 RECOMMENDATIONS

On the basis of the reasons contained in this report, and in accordance with section 269ZHF(2), the Commissioner is satisfied that the expiration of the anti-dumping measures applicable to deep drawn stainless steel sinks exported to Australia from China would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and material injury that the anti-dumping measures are intended to prevent.

The Commissioner recommends the Minister declare:

- in accordance with section 269ZHG(1)(b), that she has decided to secure the continuation of the anti-dumping measures relating to deep drawn stainless steel sinks exported to Australia from China.

The Commissioner recommends the Minister determine:

- in accordance with section 269ZHG(4)(a)(iii), that the dumping duty notice continues in force after 26 March 2020 (the specified expiry day), but that, after that day the notice has effect, in relation to exporters generally from **China**, as if the Minister had fixed different specified variable factors relevant to the determination of duty, as specified in **Confidential Attachments 4 to 33 and 35**, and **Chapter 7** of this report;
- in accordance with section 269ZHG(4)(a)(iii), that the countervailing duty notice continues in force after 26 March 2020 (the specified expiry day), but that, after that day, the notice has effect, in relation to all exporters from **China** (other than **Jiabaolu** and **Primy**), as if the Minister had fixed different specified variable factors, relevant to the determination of duty, as specified in **Confidential Attachments 30 to 33**, and **Chapter 8** of this report;
- in accordance with section 269TAAD(4), and for the purpose of working out the cost of goods and determining whether the price paid for like goods sold in the country of export in sales that are arms length transactions are taken to have been in the ordinary course of trade, the amounts for the cost of production or manufacture of the goods produced by **Cresheen**, **Jiabaolu**, **Primy**, **Rhine** and **Zhuhai Grand** in **China** and the administrative, selling and general costs associated with the sale of those goods are as set out in **Confidential Attachments 5, 10, 15, 20 and 25**;
- being satisfied that section 269TAB(1)(a) applies, the **export prices** of the goods exported to Australia from **China** by **Primy**, **Rhine** and **Zhuhai Grand** as the price paid or payable for the goods by the importer, less transport and other costs arising after exportation, as set out in **Confidential Attachments 14, 19 and 24** and **Chapter 7** of this report;
- being satisfied that section 269TAB(1)(c) applies, the **export prices** of the goods exported to Australia from **China** by **Cresheen** and **Jiabaolu** having regard to all the circumstances of the exportation, as set out in **Confidential Attachments 4 and 9** and **Chapter 7** of this report;
- in accordance with section 269TAB(3), **export prices** for the category of '**uncooperative and all other exporters**' from **China** having regard to all relevant information, as set out in **Confidential Attachment 29** of this report;

- in accordance with section 269TAC(1), being satisfied that like goods are sold in the ordinary course of trade for home consumption in **China** in sales that are arms length transactions by **Cresheen**, **Jiabaolu**, **Primy**, **Rhine**, and **Zhuhai Grand**, that the **normal value** of the goods exported to Australia from China by these exporters, is the price paid or payable for like goods, as adjusted in accordance with section 269TAC(8) to ensure that the normal value of the goods so ascertained is properly comparable to the export price of the goods, as set out in **Confidential Attachments 7, 12, 17, 22 and 27** and **Chapter 7** of this report;
- in accordance with section 269TAC(6), **normal values** for the category of '**uncooperative and all other exporters**' from China having regard to all relevant information, as set out in **Confidential Attachment 29** and **Chapter 7** of this report of this report;
- in accordance with section 269TACC(1), that, having regard to all relevant information and sections 269TACC(2) and (3), the financial contributions as set out in **Confidential Attachments 30, 31 and 32** confer a benefit;
- in accordance with sections 269TAAC(4) and (5) and having had regard to sections 269TAAC(2) and (3), that Programs 1, 3, 8, 20, and new Programs 31, 34, 35, 37 are specific, on the basis that the subsidies are limited to particular enterprises, or particular enterprises carrying on business within a designated geographical region that is within the jurisdiction of the subsidising authority as set out in **Chapter 8** and **Appendix A** of this report;
- in accordance with section 269TACD(1) and (2), the amount of **countervailable subsidy** received in respect of the goods by:
    - **Cresheen**, as the amount set out in **Confidential Attachment 30**, which when expressed as a percentage of the export price as specified in Confidential Attachment 4, is 0.0 per cent (less than 0.05);
    - **Rhine**, as the amount set out in **Confidential Attachment 31**, which when expressed as a percentage of the export price as specified in Confidential Attachment 19, is 0.3 per cent; and
    - **Zhuhai Grand**, as the amount set out in **Confidential Attachment 32**, which when expressed as a percentage of the export price as specified in Confidential Attachment 24, is 2.4 per cent;
    - '**residual exporters**' as the amount set out in **Confidential Attachment 33**, which when expressed as a percentage of the weighted average of selected exporters, is 3.1 per cent;
    - '**non-cooperative exporters**' as the amount set out in **Confidential Attachment 33**, which when expressed as a percentage of the lowest export price of selected exporters, is 6.3 per cent by assuming, in accordance with 269TAACA(1), that the non-cooperative exporters received the highest level of subsidisation as set out in **Chapter 8** of this report;
- in accordance with section 8(5) of the Dumping Duty Act, that the IDD payable on the goods exported to Australia from **China** by **all exporters other than Cresheen and Jiabaolu** is an amount which will be worked out in accordance with the *ad valorem* duty method pursuant to section 5(7) of the *Customs Tariff (Anti-Dumping) Regulation 2013*;

- in accordance with section 8(5) of the Dumping Duty Act, that the IDD payable on the goods exported to Australia from **China** by **Cresheen** and **Jiabaolu** is an amount which will be worked out in accordance with the *floor price* duty method pursuant to section 5(4) of the *Customs Tariff (Anti-Dumping) Regulation 2013*. .

The Commissioner recommends the Minister be satisfied:

- in accordance with sections 269TAAD(1) and for the purpose of determining normal value, as set out in **Confidential Attachments 6, 11, 16, 21 and 26** and **Chapter 7** of this report;
    - like goods were sold by **Cresheen**, **Rhine**, **Zhuhai Grand**, **Jiabaolu** and **Primy** in **China** in sales that were arms length transactions in substantial quantities during an extended period for home consumption in **China** at a price less than the cost of such goods; and
    - that the exporters were unable to recover the cost of such goods within a reasonable period.

  The price paid for these goods has been taken not to have been paid in the ordinary course of trade for the purpose of determining normal value.
- in accordance with section 269TACD(1), that **Cresheen** received countervailable subsidies under programs 3 and 36 in respect of the goods exported to Australia by Cresheen in the inquiry period, as set out in **Confidential Attachment 30** and **Chapter 8** of this report;
- in accordance with section 269TACD(1), that **Rhine** received countervailable subsidies under program 8 in respect of the goods exported to Australia by Rhine in the inquiry period, as set out in **Confidential Attachment 31** and **Chapter 8** of this report; and
- in accordance with section 269TACD(1), that **Zhuhai Grand** received countervailable subsidies under programs 20, 31, 34, 35 and 37 in respect of the goods exported to Australia by Zhuhai Grand in the inquiry period, as set out in **Confidential Attachment** 32 and **Chapter 8** of this report.

The Commissioner recommends that the Minister direct:

- pursuant to section 269TAC(8), that, as the **normal value** of the goods exported to Australia is the price paid or payable for like goods sold in **China**, the **normal value** for **Cresheen**, **Jiabaolu**, **Primy**, **Rhine** and **Zhuhai Grand** is to be adjusted for specified differences between like goods and the export price of the goods exported to Australia, as set out in **Confidential Attachments 7, 12, 17, 22 and 27** and **Chapter 7** of this report; and
- in accordance with section 10(3B) of the Dumping Duty Act, that the ICD payable on the goods exported to Australia from **China** is an amount to be ascertained as a proportion of the export price of those particular goods.

13 APPENDICES AND ATTACHMENTS

Confidential Attachment 1	Australian Market Analysis
Confidential Attachment 2	Australian Industry Injury Analysis
Confidential Attachment 3	Stainless Steel Benchmark
Confidential Attachment 4	Cresheen Export Price
Confidential Attachment 5	Cresheen CTMS
Confidential Attachment 6	Cresheen Domestic Sales
Confidential Attachment 7	Cresheen Normal Value
Confidential Attachment 8	Cresheen Dumping Margin
Confidential Attachment 9	Jiabaolu Export Price
Confidential Attachment 10	Jiabaolu CTMS
Confidential Attachment 11	Jiabaolu Domestic Sales
Confidential Attachment 12	Jiabaolu Normal Value
Confidential Attachment 13	Jiabaolu Dumping Margin
Confidential Attachment 14	Primy Export Price
Confidential Attachment 15	Primy CTMS
Confidential Attachment 16	Primy Domestic Sales
Confidential Attachment 17	Primy Normal Value
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Confidential Attachment 19	Rhine Export Price
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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:
   - o legislation and other legal instruments,
   - o the degree of separation and independence of the entity from a government, including the appointment of directors, and
   - o 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:
   - o the government's ability to make appointments,
   - o the right of government to review results and determine the body's objectives, and
   - o the government's involvement in investment or business decisions.

The Commission considers this approach is consistent with the WTO Appellate Body decision of *United States – Countervailing Measures (China)* [159] 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.[160]

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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[159] DS379 United States – Definitive Anti-Dumping and Countervailing Duties on Certain Products from China.

[160] 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?
Program 31 **Jinwan technology transformation funds**	Zhuhai Grand reported that it had received a benefit under this program in its REQ. The Commission is not aware of any WTO notification of this program.	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 rennovations.	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. This program is provided to enterprises for technical renovations which are situated within the Jinwan district.	Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government. 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). The Commission considers that this constitutes a benefit in relation to the goods exported to Australia. The financial contributions made under this program meet the definition of a subsidy under section 269T.	The Commission considers that this subsidy is limited to the Jinwan district. The Commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(b). As the GOC did not provide a response to the Commission's questionnaire, the Commission does not consider that section 269TAAC(3) applies.
Program 32 **Support post disaster recovery fund**	Zhuhai Grand reported that it had received a benefit under this program in its REQ. The Commission is not aware of any WTO notification of this program.	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". Zhuhai Grand provided evidence in its REQ that this program is administered by the Bureau of Science, Technology, Industry and	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.	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. The Commission is satisfied that this program does not meet the definition of subsidy under section 269T.	Not applicable.

Program	Background and WTO notification	Legal basis	Eligibility criteria	Is there a subsidy?	Is the subsidy countervailable?
		Information of Jinwan District.			
Development of market projects for SMEs in foreign trade (support SMEs in brand building)	Zhuhai Grand reported that it had received a benefit under this program in its REQ. This program is the district-level version of program 20. The Commission is not aware of any WTO notification of this program.	The Commission is not aware of any legal basis for this program. Zhuhai Grand provided evidence in its REQ that this program is administered by the Bureau of Science, Technology, Industry and Information of Jinwan District.	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.	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. The Commission is satisfied that this program does not meet the definition of subsidy under section 269T.	Not applicable.
Program 33 **Steady employment subsidy for 2017**	Zhuhai Grand reported that it had received a benefit under this program in its REQ. The Commission is not aware of any WTO notification of this program.	The Commission is not aware of any legal basis for this program. Zhuhai Grand provided evidence in its REQ that this program is administered by the Human Resource and Social Security Bureau of Zhuhai.	Enterprises are eligible for this program where they have taken effective measures to reduce unemployment.	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. The Commission is satisfied that this program does not meet the definition of subsidy under section 269T.	Not applicable.
Technological transformation project (intelligent transformation) for 2018	Zhuhai Grand reported that it had received a benefit under this program in its REQ. Based on the evidence provided, the Commission considers that this is the same program as Jinwan technology transformation funds.	Refer to Jinwan technology transformation funds above.	Refer to Jinwan technology transformation funds above.	Refer to Jinwan technology transformation funds above.	Refer to Jinwan technology transformation funds above.

Program	Background and WTO notification	Legal basis	Eligibility criteria	Is there a subsidy?	Is the subsidy countervailable?
Program 34 **Sci-tech 2017 innovation promotion fund**	Zhuhai Grand reported that it had received a benefit under this program in its REQ. The Commission is not aware of any WTO notification of this program.	The Commission is not aware of any legal basis for this program. Zhuhai Grand provided evidence in its REQ that this program is administered by the Bureau of Science, Technology, Industry and Information of Jinwan District.	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.	Grants provided under this program are financial contributions by a government which involve the direct transfer of funds from that government. 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). The Commission considers that this constitutes a benefit in relation to the goods exported to Australia. The financial contributions made under this program meet the definition of a subsidy under section 269T.	The Commission considers that this subsidy is limited to the Jinwan district and Zhuhai municipality. The Commission is satisfied that this meets the criteria of a countervailable subsidy under section 269TAAC(2)(b). As the GOC did not provide a response to the Commission's questionnaire, the Commission does not consider that section 269TAAC(3) applies.
Sci-tech 2017 innovation promotion fund (district level)	Zhuhai Grand reported that it had received a benefit under this program in its REQ. 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.	Refer to Sci-tech 2017 innovation promotion fund above.	Refer to Sci-tech 2017 innovation promotion fund above.	Refer to Sci-tech 2017 innovation promotion fund above.	Refer to Sci-tech 2017 innovation promotion fund above.
Program 35 **Post-technical transformation award**	Zhuhai Grand reported that it had received a benefit under this program in its REQ.	The Commission is not aware of any legal basis for this program. Zhuhai Grand provided evidence in its REQ that this	The evidence provided in Zhuhai Grand's REQ stated that this program is available to enterprises situated within the Jinwan district and Zhuhai municipality which	Grants provided under this program are financial contributions by a government which involve	The Commission considers that this subsidy is limited to the Jinwan district and Zhuhai municipality.

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

Program	Background and WTO notification	Legal basis	Eligibility criteria	Is there a subsidy?	Is the subsidy countervailable?
		Zhongshan Nantou Finance Bureau.		be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including the goods exported to Australia). The Commission considers that this constitutes a benefit in relation to the goods exported to Australia. The financial contributions made under this program meet the definition of a subsidy under section 269T.	As the GOC did not provide a response to the Commission's questionnaire, the Commission does not consider that section 269TAAC(3) applies.
Program 37 **Pre-tax deduction for enterprises of R&D expenses**	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. 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.[161] The Commission is not aware of any WTO notification of this program.	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.	The deduction of R&D expenses under this program is a financial contribution by a government which involves forgoing or non-collection of revenue by a government. 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). The Commission considers that this constitutes a benefit in relation to the goods exported to Australia.	This program is limited to enterprises which conform to the National Key Supported High-Tech Areas, per the *Guidelines for the Key Areas of High-tech Industrialization (2007)*. The Commission is satisfied that this meets the criteria of section 269TAAC(2)(a). As the GOC did not provide a response to the Commission's questionnaire, the Commission does not consider that section 269TAAC(3) applies.

[161] Examples of grants, section 17.3, p.93 (November 2018).

Program	Background and WTO notification	Legal basis	Eligibility criteria	Is there a subsidy?	Is the subsidy countervailable?
				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.

(Business Non-Confidential)

Response to the Statement of Essential Facts

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

Primy Corporation Ltd (hereinafter "Primy") was in receipt of the SEF in the said inquiry dated 27 November 2019 from the Commission. Interested parties were provided until December 17th 2019 to provide response to the SEF. Primy is submitting this response to the SEF by the deadline set by the Commission. Since the detailed calculation concerning the dumping margin for Primy was contained in its Verification Report and relevant calculation disclosure, and Primy is entitled to comment on issues concerning calculation methodology, the Verification Report and calculation disclosure are also implicated in this response.

Please note that all Tables and Exhibits are Confidential to Primy.

I. General Comment

As a general and initial observation, the Commission calculated a dumping margin for Primy at ***58.9%***, fully based on the sales and costs data of Primy which have been fully verified, except for the steel cost uplifting. Primy was one of the sampled exporters in the original investigation and a ***5%*** antidumping margin was calculated by the Commission also based on the verified data submitted by Primy. As verified by the Commission in this inquiry and in the original investigation, the basic sales and costs structure and channels of Primy has not changed with any significance from the original investigation period and period for this enquiry. It is even against common sense that the actual dumping margin could change so significantly for the same company in different periods, let alone in any real business sense, any company could dump at such a high rate (for the MCC with the largest IP export to Australia by Primy, dumping margin even as high as ***108%*** was calculated).

By carefully examining the SEF, Verification Report and margin calculation disclosure for Primy, it became very clear to Primy that the significant change of dumping margins did not come from any specific change in Primy's business or pricing policies in different markets, but all came from a specific change in the calculation methodology by the Commission in this inquiry in comparison with the that in the original investigation, specifically., inappropriate assignment of Model Control Codes (MCC) to Primy's product codes and all calculation steps based on such MCCs. In fact, the high dumping margin for Primy was artificially "created" by such inappropriate MCCs used in the margin calculation, and it is no longer a proper reflection of whether the product exported by Primy from China to Australia "is less than the ***comparable***

price, ***in the ordinary course of trade***, for ***the like product*** when destined for consumption in the exporting country,"[1] i.e., whether Primy has been engaged in dumping, and if so, what is the margin of dumping.

The general observations of the problems in margin calculation by Primy are:

(1) the Commission has grouped Primy's product codes with significantly different costs and prices into the same MCC, and the MCC is not appropriate to identify most directly comparable products between domestic sales and export models for a proper comparison between export price;

(2) because of the inclusion of product codes with vastly different costs and prices into the same MCC, the ordinary course of trade determination by the Commission by comparing the domestic sales transaction price of various product codes with MCC average unit costs/SGA distorted the identification of the profitable domestic sale transactions;

(3) because of the inclusion of product codes with vastly different accessories costs into the same MCC, the deduction by the Commission of MCC average unit accessories costs from the domestic selling prices for each transaction distorted the normal values;

(4) in the specification adjustment for the use of surrogate MCC in the determination of normal values, the calculation by the Commission for the cost differences between the MCC and surrogate MCC did not reflect the differences in costs for the difference in characteristics between MCC and surrogate MCC;

(5) in the construction of normal value for certain MCC, the Commission has added accessories costs which is based on the purchase price of various categories of accessories the prices of which differed significantly within each categories of accessories;

(6) in the construction of normal value, packing costs are double counted by first being included in the Export CTMS and added again as part of the Export Direct Selling Expenses.

Primy will elaborate on each of these issues below in this response.

II. The Commission has not appropriately assigned MCCs for Primy

Primy will elaborated on the inappropriateness of the MCCs assigned and used for Primy by the Commission below. At the outset, Primy recalls that, in the Initiation Notice of this inquiry, the Commission has stated that "If an MCC structure is developed, interested parties will have an opportunity to discuss the structure and propose modifications. Any changes to the MCC structure will be considered by the Commission and reported in verification reports or in the statement of essential facts (SEF)."[2] Therefore, even though the Commission has not disclosed the MCC structure prior to the verification reports or the SEF, Primy should be provided with this opportunity to discuss and comment on the issue of MCCs.

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[1] WTO Anti-Dumping Agreement, Article 2.1

[2] ADN No. 2019/86

II.1 Policy and practice guidelines on MCCs

The policy and practice in regards to model control code (MCC) structures was announced via ADN No. 2018/128.

It is provided therein that the purpose of the MCC is to "allow(s) for ***a proper comparison*** between the normal value and export price of the goods for the purposes of working out the dumping margin", "to select the domestically sold models that are ***most directly comparable*** to the particular models exported to Australia."[3] Therefore, the MCC POLICY does not require or warrant the establishment of MCC for any comparison between normal value and export price, but it has to be ***"proper comparison"***, which could only be achieved by identifying the domestically sold models that are ***"most directly comparable"*** to the export models. If the MCC structure established in a particular case for a particular respondent failed to make the comparison ***"proper"***, or failed to identify ***"most directly comparable"*** domestic models with export models, such MCC structure is not in line with the MCC POLICY announced.

It is also provided therein the factors to be considered in establishing MCC structure. "In determining the MCC structure, the Commission will have regard to differences in physical characteristics that give rise to ***distinguishable and material differences in price***. ***Unit costs may also be taken into account*** in assessing differences in physical characteristics where the Commission is reasonably satisfied that ***those cost differences affect price comparability***."[4] Therefore, the differences of models that lead to differences "***in price and costs"*** that are "***distinguishable and material"*** are required to be captured in the MCC structures. This is to ensure that models with differences "***in price and costs"*** that are "***distinguishable and material"*** are not categorized or captured in one MCC, which, if occurred due to the inappropriate MCC structure established, would no longer serve to identify the ***"most directly comparable"*** domestic models with export models, and no longer serve for a ***"proper comparison"*** between the normal value and export price for the proper calculation of dumping margin.

It is also noted that ADN No. 2018/128 does not require a mandatory application of MCC structure in all cases, which is for the determination of the Commission on case-specific basis. "There may be specific cases where the Commission considers that a MCC structure is not meaningful or cannot be established for the goods under consideration (for example power transformers where each sale is a unique model which is not comparable to any other sale). The Commission will make this determination on a case by case basis."[5]

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[3] ADN No. 2018/128, POLICY, emphasis added
[4] ADN No. 2018/128, POLICY, emphasis added
[5] ADN No. 2018/128, POLICY

In addition, the Commission could make its MCC decision for specific exporter based on its particular situation. “Modifications to the MCC structure may be considered based on the facts and evidence pertaining to a particular exporter.”[6]

Based on the above provisions in relation to the MCC structure in the ADN No. 2018/128, Primy proceeds to comment on the MCC structure applied by the Commission in relation to the situation of Primy in this case.

II.2 Significant problems of the MCC structure established for Primy which are not in line with the requirements in ADN No. 2018/128

II.2.1 The MCC structure established for Primy grouped models of Primy with “distinguishable and material” differences in “price and costs” into one MCC

The Commission has determined to use the following physical characteristics to classify different models of Primy into MCC groupings: Number of Bowls, Number of Drainer Boards, and Total Sink Capacity. The reason for the Commission to establish the MCC structure based on these physical characteristics, for Primy, is:
“the verification team considers that the consumption of 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.”[7]

It is also stated that such a finding in respect of Primy is “(R)elying on an analysis of Primy’s sales and production of sinks sold into the domestic market and Australian export market, and feedback received from the verification teams who attended on-site verifications in China.”[8]

While Primy agrees that “the consumption of stainless steel required to produce sinks is the main driver of both cost and price in relation to the goods and like goods”, it is bewildering how “(R)elying on an analysis of Primy’s sales and production of sinks sold into the domestic market and Australian export market”, the Commission could reach a conclusion that the MCC structure for Primy is appropriate to identify similar or comparable products into the same MCC.

Data speaks for itself.

There are full set of costs (segregated into cost of stainless steel, other raw materials, direct labor, manufacturing overheads, scrap, and accessories) and price (both

[6] ADN No. 2018/128, POLICY
[7] Exporter Verification Report for Primy, Section 2.3
[8] Exporter Verification Report for Primy, Section 2.3

domestic sales and export to Australia) specific to each individual product codes of Primy on the record with the Commission in this inquiry, and all these data have been verified by the Commission to its satisfaction for both completeness and accuracy.[9] The Commission relied on the price and costs data of Primy for its calculation of dumping margins for Primy. Primy relies on these price and costs data to demonstrate how the MCC structure of the Commission applied to Primy grouped product codes of Primy with "distinguishable and material" differences in "price and costs" into one MCC, and product codes in domestic sales and product codes in export to Australia grouped in one MCC are not ***"directly comparable products"*** and do not allow for ***"proper comparison"*** between normal value and export price for Primy.

Step I: The MCC unit costs for domestic sales products and export to Australia products within the same MCC are significantly different and not comparable

For the ease and clarity of presentation, Primy used the MCC with the largest export quantity to Australia during the IP for presentation, 1BWL0DBB. The export quantity of this MCC to Australia during the IP accounted for around XX% of the total export quantity to Australia by Primy, and therefore is most representative. Primy relied on the dumping margin calculation disclosure released by the Commission to Primy on November 18th, 2019 for its analysis and presentation.

The Commission calculated a dumping margin of around ***108%*** for this MCC for Primy. (note: Primy filtered this MCC in the document release by the Commission titled "517-Primy-Appendix 5-Dumping Margin" to get this margin). Therefore, this MCC, both with super high and unrealistic margin and significant percentage in Primy's IP export to Australia, contributes the most to the overall high margin for Primy.

Primy compiled **Table 1** of the MCC-wise total costs, segregated costs items and sales prices for both domestic sales and export to Australia for MCC 1BWL0DBB for IP and each quarters of IP, both in total values/quantities, and average unit costs and price. This table is based on the data from various tables in the Commission's calculation disclosure released to Primy, and the sources of data are identified in the table.

Several observations can be easily made from Table 1 (again, Primy wishes to emphasize that these data are all verified by the Commission):

(1) There is significant difference in average unit stainless steel costs for the MCC 1BWL0DBB between product codes for domestic sales and product codes for export sales within this MCC. The average unit stainless steel costs for domestic product codes within this MCC is XXXXXXXXXXX and XXX***%*** higher than that of product codes of export to Australia for quarter 1, 2, 3, 4 and IP. This means, for stainless steel alone, on IP average, the Commission has categorized into the same MCC domestic products that consumed XX% more steel per piece than that

[9] Exporter Verification Report for Primy, Section 3.2, 4.2, 5.2 and 6.5

consumed by products exported to Australia. The Commission has stated that "the consumption of stainless steel required to produce sinks is the main driver of both cost and price in relation to the goods and like goods". It is beyond doubt that product codes for domestic sales and export sales within this MCC are so different in steel consumption that they are not identical, or similar or comparable products and should not be grouped into one MCC.

(2) There is also significant difference in average unit accessory costs for the MCC 1BWL0DBB between product codes for domestic sales and product codes for export sales within this MCC. The average unit accessory costs for domestic product codes within this MCC is XXXXXXXXXXXXX and XXXX*%* higher than that of product codes of export to Australia for quarter 1, 2, 3, 4 and IP. Since accessories are priced together with the sinks in a single price, it is an integral part of the overall price. It is beyond doubt that product models for domestic sales and export sales within this MCC are so different in accessory costs that they are not identical, or similar or comparable products and should not be grouped into one MCC.

(3) Besides the difference in unit stainless steel costs and accessories costs, there are also significant difference in the costs for other raw materials, direct labor, manufacturing overheads for the MCC 1BWL0DBB between product codes for domestic sales and product codes for export sales within this MCC. The average unit cost of these cost items for domestic product codes within this MCC is XXXXXXXXXXXXXXXXX and XXXX*%* higher than that of product codes of export to Australia for quarter 1, 2, 3, 4 and IP. The data in Table 1 for average unit cost shows that the sum of these other cost items are very significant part of the overall costs for products. It is beyond doubt that product models for domestic sales and export sales within this MCC are so different in these other costs items that they are not identical, or similar or comparable products and should not be grouped into one MCC.

(4) With the significant differences in unit costs in all the above segregated cost items, there is significant difference in average unit total costs for the MCC 1BWL0DBB between product codes for domestic sales and product codes for export sales within this MCC. The average unit total costs for domestic product codes within this MCC is XXXXXXXXXXXXX and XXXX*%* higher than that of product codes of export to Australia for quarter 1, 2, 3, 4 and IP.

(5) To compare the difference in costs for domestic market and for Australia market for this MCC in absolute figures, for the IP, as shown in Table 1, the unit total cost is different by XXXXXXXXXXXXXXX, which is composed of XXXXXXXXXXXXXX for difference in stainless steel cost, XXXXXXXXXXXXXX for difference in accessories costs, and XXXXXXXXXXXXXX for difference in other cost items.

(6) There is also close correlation in between the costs and selling prices both in domestic market and export to Australia. Column titled "Unit Price/Unit Total costs" in Table 1 demonstrated such close correlation.

Table 1 clearly shows (1) the product codes for domestic sales and product codes for export to Australia grouped together in one MCC by the Commission are significantly

different products both in terms of costs (the overall costs and each cost items) and prices, and (2) the average costs and prices for the IP and each quarters for the product codes for domestic market in this MCC is significantly higher than those for the product codes for export to Australia in this MCC, actually more than doubled. And also there is close correlation between the prices and costs in both domestic and export to Australia. Therefore, the price differences between the domestic sales and export to Australia of this MCC is not due to the discriminatory pricing strategy of Primy in different markets, i.e., dumping practice of Primy, but due to the significant different costs of different product codes within this MCC for domestic and export market. This alone explains why there is over 100% super high dumping margin calculated for this MCC, because the Commission has compared prices of high-cost product codes for domestic sales with low-cost product codes for export to Australia as the same or similar products for calculation of dumping margin. This inevitably would lead to artificially super high dumping margin.

Step II: Product-code-specific cost data within and in-between the same MCC shows significant variance and wide ranges among different product codes

Primy further compiled **Table 2-1 and Table 2-2** the product-code-specific unit costs (both total costs and segregated cost items) under the MCC 1BWL0DBB for all product codes for each quarter for product codes for domestic sales in **Table 2-1** and for product codes for Australia sales in **Table 2-2**. The figures in **Table 2-1** is calculated from document titled "(a) Domestic CTMS" of "517 - Primy - Appendix 2 - CTMS" in the margin calculation disclosure of the Commission and **Table 2-2** is calculated from document titled "(a) Export sales " of "“(b) Australian CTM” of “517 - Primy - Appendix 2 - CTMS”" in the margin calculation disclosure of the Commission.

Easy observations can be made from **Table 2-1 and Table 2-2**:

There is wide range of unit costs for product codes within and in-between domestic market and Australia market, for both overall unit cost and each cost items. In order to present this clearly, Primy has compiled **Table 2-3** summarizing and comparing the ranges for each quarter for different cost items and total costs from **Table 2-1 and Table 2-2**. It is clear from **Table 2-3** that (a) there is significant variance and wide range in costs among product codes for domestic market within this MCC, always doubled from the lowest to the highest in each quarter for all cost items. This situation is the same for product codes for Australia sales. and (b) the range for domestic product codes are always much higher than those for product codes for Australia sales. This clearly demonstrated product models with “distinguishable and material” “difference in costs and prices” are grouped together in one MCC for both product codes for domestic sales and product codes for Australia sales, and such differences also exist in-between domestic and Australia sales product codes in the MCC. Neither the product models within the MCC for each market are comparable products, nor the product models between domestic and Australia markets are comparable products.

Step III: Demonstration of the cost differences with sample products within the same MCC

In order to demonstrate how the MCC structure developed by the Commission for Primy resulted in such a distorted result of grouping of significantly different products into one MCC, Primy selected some sample product codes within the same MCCs for the demonstration.

1. MCC 1BWL0DBB

This is the MCC with the largest IP export to Australia by Primy. Primy has demonstrated the product codes with vast different costs included in this MCC and the domestic product codes costs are much higher than that of the export product codes. Primy selected three product codes with the largest IP domestic sales (XXXXXXXXXXXXXXXXXXXXXXXXXXXXX) and three product codes with the largest IP export to Australia (XXXXXXXXXXXXXXXXXXXXXXX).

(1) steel

The stainless cost for the three domestic products range from XXXXX to XXXXX; and the stainless steel cost for the three export products range from XXXXXX to XXXXX, i.e., significantly lower than the domestic products, i.e., the domestic product codes consumed much more steel than the export product codes. This can be seen by filtering these product codes in **Table 2-1 and Table 2-2.** Primy submits **Exhibit 1** which include the product pictures comparison of these six product codes (XXXXXXXXXXXXXXXXXXX are the same sink with different accessories).

It can be seen from the picture that domestic products are larger than the export products in the full size of the sink, with broader rim and with some irregular shape and all these factors leading to more steel consumption than the export products in the same MCC. The domestic products are with overflow holes, so with the same or similar capacity as export products (which in general does not have overflow holes), the overall size of the sink would be much larger and therefore consuming much more steel. (note: the impact of the overflow holes in the calculation of capacity has been verified by the Commission, see for example Verification Exhibit concerning Domestic Sales Traces on the product diagram with formula for capacity calculation for products with overflow).

(2) other costs:

The costs other than stainless steel and accessories for the three domestic products range from XXXXX to XXXXXX; and the costs other than stainless steel and accessories costs for the export products range from XXXXX to XXXXX, i.e., the domestic product

consumed much more other cost items than the export product codes. This can be seen by filtering these product codes in **Table 2-1 and Table 2-2.** Primy submits **Exhibit 2** the production process chart (the chart for selected products has been verified by the Commission during the verification, see Verification Exhibit GP-14) with product standard labor cost used by Primy in its normal business for one of the domestic product code and one of the export product code. The other cost items are mostly calculated based on the product-code-specific standard labor cost. It can be seen the total unit labor costs for the domestic product code is much higher than that of the export product code. This is because, which can also be seem from the standard labor costs sheets, there are more processing steps for domestic product code than for the export product code, and processing requirement difference also lead to difference of time required for different processing stages.

(3) accessories:

Primy also provides in Exhibit 3 the pictures of accessories for an export product code XXXXXXXXXXXX which is very limited and simple, and for a domestic product code XXXXXXXXXXXXX which are more extensive and complicated.

The same types of differences in other cost items and accessories also exist in relation to the various product codes grouped together in other MCCs. Since the above MCC is with the largest IP exports to Australia, Primy uses this MCC as sample for most cost items. Pirmy did not take the tremendous efforts to do the same demonstration for each other MCCs. For the selected MCCs below, Primy only demonstrate the steel consumption differences among different product codes within one MCC.

Primy has provided in **Exhibit 1 the** product pictures comparison of the comparison of different product codes within each MCC. Primy also compiled **Exhibit 4**of product drawings of sample product codes in each of the selected MCC.

2. MCC 1BWL0DBA

XXXXXXXXXXX and XXXXXXXXXXX are circular bowls, and in between them, XXXXXXXXXXX is with wider rims and consumed more steel. XXXXXXXXXXX and XXXXXXXXXXX are rectangular bowls, among which XXXXXXXXXXX is a normal drawn bowl, and XXXXXXXXXXX is with extra-long flank and irregular bowl shape and would consume more steel. For the same capacity, the rectangular bowl could consume more steel than circular bowl, and sink with wider rims would also consume more steel, and sink with additional flank would also consume more steel. For all these product codes, even if the capacity is the same or similar and all with no draining board, the steel consumption would vary significantly. For the big difference in steel costs for each of these product codes, please refer to Table 2-1 or Table 2-2.

3. MCC 1BWL1DBA

XXXXXXXXXXX is circular bowl with circular draining board, welded sink; XXXXXXXXXXX is with smaller bowl but larger draining board, welded sink; 1059S0838001 is with larger bowl but smaller draining board, welded sink; XXXXXXXXXXX is with stainless steel and glass draining board. For sinks of the same or similar capacity, the welded sink would require much more steel, and product with bigger board would also consume much more steel. For all these product codes, even if the capacity is the same or similar and all with one draining board, the steel consumption would vary significantly. For steel costs for each of these product codes, please refer to Table 2-1 or Table 2-2. For the big difference in steel costs for each of these product codes, please refer to Table 2-1 or Table 2-2.

4. MCC 2BWL1DBA

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX are welded sinks, consuming much more steel than non-welded sinks, and the draining boards are of different sizes; XXXXXXXXXXX is non-welded drawn sink so consumes much less steel than welded sink. For all these product codes, even if the capacity is the same or similar and all with one draining board, the steel consumption would vary significantly due to the difference in size of draining boards and/or production techniques. For the big difference in steel costs for each of these product codes, please refer to Table 2-1 or Table 2-2.

5. MCC 2BWL0DBA

XXXXXXXXXXX is circular bowl with additional rims, welded; XXXXXXXXXXX is just normal non-welded bowl; XXXXXXXXXXX is normal welded bowl and also with thick gauges (XXX vs. XXXX for other products here) (please refer to Exhibit 4-1 photos showing the measuring of the thickness of steel for these two product codes), XXXXXXXXXXX is of irregular shape. For sinks with the same or similar capacity, the sink with thicker gauges will consume much more steel. For the big difference in steel costs for each of these product codes, please refer to Table 2-1 or Table 2-2.

It can be seen from these samples from these MCCs that there are many factors, many more than these identified by the Commission that cause costs differences among products, including the difference in cost in stainless steel and other cost items which are equally important. Primy noticed that the Commission intended to justify its MCC structure for Primy in Section 2.3.1 of Primy's Verification Report by comparing trends of domestic and export products in the same MCC etc. However, a simple look at the verified costs of these product codes within the same MCC and the average and range of domestic products vs. export products in the MCC would leave no uncertainty that the domestic products and export products in one MCC are not comparable.

Such defects in the MCC would lead to further distortion in the subsequent steps of

margin calculation.

III. Problem in the determination for ordinary course of trade

For the determination for whether the individual domestic sales transactions are in the ordinary course of trade, the Commission calculated a quarterly weighted-average MCC-specific unit cost in "Sum of WA Unit CTMS", i.e., weighted-average MCC-specific unit cost of the production plus SGA. (see "(b) Summary DOM CTMS" in "517 - Primy - Appendix 3 - Domestic Sales").

Because the serious problem existed for the MCC structure established by the Commission for Primy, product models with significant differences in costs and prices are grouped into one MCC. The weighted-average MCC-specific unit cost is the average of various product codes with vast different and wide range of product-specific costs. In **Table 2-3**, also using the MCC with the largest IP exports to Australia, 1BWL0DBB, Primy added a column titled "Total cost to make plus Unit SGA(RMB)" which shows the range of cost plus SGA for product codes included in this MCC, and another column titled "Total cost to make plus Unit SGA for ordinary course of trade test by the Commission(RMB)", which are the "Sum of WA Unit CTMS" calculated by the Commission for the use of profitability test for this MCC. It is evident by comparing figures in these two columns that there are product codes with actual costs plus SGA well above or well below the average MCC-specific Unit CTMS used by the Commission.

Primy further prepared a **Table 3**, showing the production quantities within narrower ranges of unit cost and SGA for MCC 1BWL0DBB. It can be seen that more than XXX% of the production quantity of various product codes of Primy are with unit cost and SGA at least XXX% away from the MCC average developed by the Commission, either lower than the MCC average or higher.

The resulting effect is simply and clear, i.e., the distortion of ordinary course of trade determination. In the normal business of Primy, there is no concept of MCC-specific CTMS. Every product code is sold and priced based on its specific actual cost and SGA. For the product codes with actual cost and SGA at the lower end of the range in **Table 2-3 and Table 3**, even Primy actually sold them with profit in the normal business, they would be found by the Commission at loss because the Commission is comparing their prices with the artificial MCC average CTMS developed by the Commission higher than their actual cost/SGA, and thus disregarded as not in the ordinary course of trade. On the other hand, for those product codes with actual cost plus SGA at the higher end of the range in **Table 2-3 and Table 3**, even Primy actually sold them at loss in the normal business, they would be found by the Commission with profit because the Commission is comparing their price with the artificial MCC average CTMS developed by the Commission lower than their actual cost/SGA, and thus kept in the normal value calculation as in the ordinary course of trade.

In order to present this clearly, Primy made its own profitability test calculation for this MCC by substituting the quarterly MCC CTMC used by the Commission with the product-code-specific CTMC for the product codes within this MCC. There are significant difference in the result of such calculation from that of the Commission. **Table 4** shows there are many domestic sales transactions calculated as sold at loss by the Commission when MCC unit cost is used, but would be calculated as profitable if its own actual product-code-specific costs are used. The quantity of such transactions account for XXX% of total IP domestic sales of this MCC, therefore, very significant. A closer look at the unit cost of such sales shows that all of them are with unit cost below the MCC average cost. This correlates to and supports Primy's argument above that the MCC grouping of the Commission would lead to distortive OCOT test result.

In addition, the Commission used quarterly average faucet costs to add to sink price for OCOT test. Primy submits that there are cost for each specific faucet on the record, and there is significant difference between different types of faucet. In such situation, using average faucet costs instead of product-code-specific faucet. would distort the profitability test.

IV. Normal Value Calculation

The next step of margin calculation by the Commission is the calculation of normal value, as reflected in the document titled "517 - Primy - Appendix 4 - Normal Value" disclosed by the Commission to Primy.

IV.1 Deduction of MCC average accessories costs from domestic prices

In sheet titled "(a) OCOT Sales" in this document, in column titled "Deduct Dom Accessories Price(RMB/Unit)", the Commission deducted the quarterly average of unit accessories costs for each MCC from the selling prices of all product codes within this MCC. In the Verification Report Section 9 Adjustment, the Commission stated, for "Accessories (Domestic)", it is "Working out the unit accessory costs per MCC by relying on the cost of production data reported by the exporter at G-3.1 to the REQ."
There are serious problems with the way the Commission adjusted the accessories costs for domestic sales.

1. The Commission deducted MCC average unit accessory cost from each sales transaction for various product codes within each MCC. Because the unit accessories costs for each product code within one MCC are vastly different, such deduction of MCC average unit accessories costs would distort the resulting calculated sinks price without accessories. Primy, again for the MCC with the largest IP sales to Australia, 1BWL0DBB, prepared **Table 5** showing the production quantities within narrower ranges of accessories costsfor product codes within MCC 1BWL0DBB. It can be seen that more than XXX% of the production quantity of various product codes of Primy are with unit accessories costs at least XXX%

away from the MCC average developed by the Commission, either lower than the MCC average or higher.

For The resulting effect is simply and clear. For the product codes with actual accessories costs at the lower end of the range in **Table 5**, the Commission has significantly over-deducted accessories costs from the selling prices, and on the other hand, for those product codes with actual accessories costs at the higher end of the range in **Table 5**, the Commission has significantly under-deducted accessories costs from the selling prices. As result, for any given sales transactions for any product code, the selling prices after the deduction would be a significantly distortive one, almost without exception. Since after the ordinary course of trade test (which is itself distortive as explained above) will only leave part of the domestic sales transactions within this MCC in the calculation of normal value, the normal value would be based on a bunch of domestic sales prices distorted after this deduction.

2. The deduction is based on a ***presumption*** that Primy is selling all the accessories at its costs without any markups, therefore, the accessories **costs** can be directly deducted from the total sales **price** of a product code which is for both and not distinguishable in-between the sinks and accessories because they are sold and priced together, to reach a selling price only for sinks. There is nothing on the record supporting this presumption that only sinks are sold with markup, not accessories. The sinks and accessories are sold together and priced together by Primy as one single product code and any markups would apply to both sink and accessories together.

   The resulting effect of such a deduction by the Commission is that all the markups for both sinks and accessories in the combined domestic selling price would be left in the domestic selling price for sinks so calculated, which overstated and distorted the sinks selling price.

   The Commission acknowledged that the domestic sales has accessories "considerably larger than" the export to Australia.[10] This is also clearly shown in Table 2-3 where the accessories costs in domestic sales are much higher than that in Australian sales. Therefore, in the Commission's calculation, the markup of significant accessories in the domestic sales would be left in the final domestic prices as part of the normal value to be compared with the export price which has very little accessories. This would inevitably distort and increase the dumping margin so calculated.

IV.2 Specification Adjustment

As stated in the Primy Verification report and reflected in the sheet titled "Spec Adj", the Commission relied on the difference of Australian sale MCC CTMS to determine the difference in costs in the number of draining board in-between the MCCs for product with draining board and without the draining board.

[10] Primy Verification Report, Section 2.3

Primy could notice from the Commission's calculation of the specification adjustment that the Commission has been trying to develop the most appropriate methodology to identify the cost difference as the result of the difference in the number of drainer board between the MCC and surrogate MCC. However, because product codes with very different costs have been included in the same MCC by the Commission both in the MCC and surrogate MCC, the difference in the IP average unit cost between the MCC and surrogate MCC mostly likely reflected the difference in costs caused by different product mix of the MCC and surrogate MCC, instead of the difference in costs caused by the difference in the number of draining board.

V. Adjustment

V.1 Double counting of packing costs in constructed normal value should be removed

For those MCCs that construction normal value is used to determine normal value, packing costs have been counted twice. In "517 - Primy - Appendix 4 - Normal Value" sheet titled "(c) TAC(2)(c)", packing costs are already included, as part of the costs, in "Export CTMS (RMB/pce) ". However, in "Add Export Direct Selling Expenses (RMB/pce)", packing costs were added again into the constructed normal value. Such double counting should be removed from the constructed normal values.

V.2 The Commission should use actual accessories costs in relation to types of accessories actually used in specific MCC to adjust the normal value

In "517 - Primy - Appendix 4 - Normal Value" sheets titled "(b) TAC(1) NV" and "(c) TAC(2)(c)", the Commission simply summed up the a simple estimated unit cost of each category of accessories to obtain the unit cost for each combination of Accessory Pack, regardless the cost of different types of accessories within the same category could be very different and the quantity of same category of accessories used on the sinks could be different.

Primy has made it very clear when presenting the purchase of accessories after verification at the request of the Commission that "the unit price for different types of accessories within the same category could be very different." This is reflected in the purchase table submitted to the Commission. For example, there are different types of clips with very different cost. Primy also provides pictures of two common types of waste basket (each line is a combination of parts in the waste basket) attached hereto as Exhibit 5 to support that even though they are both categorized as waste basket, the one on the bottom is bigger, with more parts and much more expensive than the one on the top.

The quantity of accessories classified in a specific category packed with a specific product code is different. Take clips used for two product code as an example, there is

only one bag of clip is packed with product code 1015C0804001, which includes five pieces of clips while there are two bags of clips are packed with product code 1041C0830001, six pieces of clips in one bag and four piece of clips in the other bag.

The Commission roughly calculated the cost for each accessory pack without regard to what actual types of accessories or how many accessories of a specific category used on the sinks which led to the actual cost for the accessories could not be reflected and the normal value for each MCC with different accessory pack is inaccurate.

The basic problem is that the cost of accessories added to the MCC is not based on the actual costs of the types of accessories actually used in the products within the MCC. This is clear from **Table 6**, which is the calculation of Primy of "Accessory Pack Number" based on the actual accessory costs incurred for the product codes with Australian sales. Such accessory costs is fully based on the actual costs in the cost calculation of Primy as reflected in "(b) Australian CTM" of "517 - Primy - Appendix 2 - CTMS". Such actual costs in relation to accessories actually used in the MCC should be used by the Commission for the adjustment.

VI. Summary of the problems in the margin calculation methodology and Primy's proposals for revisions

VI.1 The Commission should rely on Primy's product codes for the purpose of product comparison

The dumping margin needs to be calculated accurately so that the "anti-dumping duty shall be collected in the appropriate amounts" [11] The appropriate methodology applied should be with the purpose to calculate an accurate dumping margin, and the choice of methodology would necessarily depend on the specific fact of each case with respect to each respondent.

Primy has a very detailed cost accounting system that calculated cost of production as detailed as for every product code, which is for a unique combination of a particular type of sink together with a particular combination of specific types of different kinds of accessories. The Commission has verified Primy's system as such and the accuracy and reasonableness of its cost accounting methods. Each product code of Primy with Australian sales has its unique cost of production, distinct from any other product codes, based on the amount of steel used and types of each kind of accessories used, which is the most accurate cost of production for that product code. If such product code also has domestic sales, domestic sales price of that product code might be the appropriate basis as normal value for that product code if the domestic sales passed the ordinary course of trade test and has sufficient quantity. Otherwise, normal value for that product code could be constructed based on the production costs of that particular product code, together with SGA and appropriate profit, as proxy for

[11] Article 9.2 of the WTO Antidumping Agreement

domestic price for that product code. Either way, it would be the most accurate reflection of the normal value of that particular product code, apt to be compared with the Australian export price of that product to establish if there is dumping, and if yes, how much is the dumping margin. Mixing a particular product code with some other product codes with different sets of production costs would not in any way contribute to a more accurate calculation of dumping margin for that product code or to Primy as a whole, but would necessarily reduce the accuracy.

Of course, this does not rule out that a particular product code would be grouped together with very similar or comparable other product codes to form a product group for the purpose of margin calculation, as envisaged in the model matching policies and practices. However, when Primy's cost accounting system is so specific to each product code, Primy failed to see how it would be meaningful to do so for Primy for the purpose of dumping margin calculation. In this respect, Primy noticed that the Model Matching Policy provides that "There may be specific cases where the Commission considers that a MCC structure is not meaningful". Primy believes its situation falls squarely into this category.

Primy also noticed the Model Matching Policy also provides that "(T)here may be specific cases where the Commission considers that a MCC structure ----cannot be established for the goods under consideration". In this respect, Primy recalls that, in the initiation notice of this particular inquiry, the Commission acknowledged that "in the original investigation, the Commission found that the goods and like goods vary in a number of different ways, and that there were many physical characteristics influencing prices. There were also different consumer preferences on the Australian and Chinese markets. The above factors limited the Commission's ability to identify sales of like goods that would be relevant for the purpose of determining a price under subsection 269TAC(1). ***The Commission considers it is likely that similar issues will be present in this inquiry.*** As a result, the Commission has elected not to propose an MCC structure at the outset of this inquiry. However, information gathered in responses received from importers and exporters, and from the Australian industry, will be examined to assess if an appropriate MCC structure can be developed".

Based on Primy's analysis and comment above, it is clear that there are still many physical characteristics influencing costs and prices, and the MCC established by the Commission for Primy failed to capture many of them. Also, another unique situation with Primy's sinks sale is that sinks are always sold together with accessories as one single product and priced together. In the case of Primy, sinks and accessories are actually also treated as one single product in the cost accounting, and the cost of production is calculated together as one single product. In addition, there are large number of possible combination of different types of accessories to be sold together with sinks. In such a situation, if MCC structure is applied and grouped together different sinks with different combination of different types of accessories into one

MCC, it inevitably will give rise to the need to make all kinds of adjustments to try to neutralize these differences caused by grouping different products into one MCC, and in such adjustment, all kinds of averaging and presumptions would be needed. In the end, after all the grouping, adjustments, nobody really knows what is the kind of sink the normal value still stands for which is finally used to be compared with the exported sinks. In the end, the exported sinks are actually compared with a non-existent sink with non-existent combination of accessories. Such a "monster sink" could not serve as reasonable basis for the comparison with export price to establish an appropriate amount of dumping.

Primy could not understand, in light of the specific situation of this case and Primy, why the Commission would first group different products together and then try to adjust the differences that causing all the problems and distortions, instead of just using Primy's product code to conduct an exact product matching in the first place. Model matching system is provided for appropriate calculation of dumping margin, and should be considered by the Commission based on the facts of each case and respondent if MCC is needed for such purpose. MCC should not be applied just for the sake to apply it. Primy respectfully propose that the Commission refrain from applying MCC for Primy in this inquiry and relied on Primy's product code for the purpose of product comparison for the calculation of dumping margin.

VI.2 If MCC has to be used, adjustments of the significant differences between normal value and export price is needed

Even if for some reason, the Commission decides that MCC still needs to be applied to Primy, the data shows very clearly there is significant differences between the normal value established and the export price. In such situation, for a fair comparison between normal value and export price, Article 2.4 of the WTO Antidumping Agreement requires due allowance be made for "any other differences which are also demonstrated to affect price comparability".

As analyzed and explained by Primy above, there are significant differences in costs between normal value and export price in the same MCC, and the close correlation between costs and prices demonstrated such differences "affect price comparability". Thus, the fair comparison obligation under Article 2.4 of WTO Antidumping Agreement obliged the Commission to make adjustments to neutralize such differences between normal value and export price.

Primy considers carefully the reasonable, effective and feasible ways for making such adjustments, which could also be easily implemented by the Commission for this purpose.

In order to make the adjustment, first the differences that "affect price comparability" between normal value and export price need to be identified. In this respect, the differences

in costs are clearly reflected in "(a) Domestic CTMS" of "517 - Primy - Appendix 2 - CTMS" and "(b) Australian CTM" of "517 - Primy - Appendix 2 - CTMS". Primy has compiled **Table 7** for the unit costs based on these documents for the three MCCs for which domestic selling prices were used by the Commission as the basis for normal value. Primy calculated "Total CTM less accessories" for both domestic and Australian CTMS for each quarter and each MCC and then calculated a difference in costs between domestic and Australian costs in "ADJUSTMENT RATIO". This is the difference in costs that affects price comparability between normal value and export price. In such calculation, Primy did not include the accessory costs because, in the methodology developed by the Commission, accessories were adjusted separately.

In order to make the adjustment for such differences that affect price comparability, Primy believes the Commission should apply the "ADJUSTMENT RATIO" to adjust (either to increase or decrease) the "Invoice price at EXW Cash (RMB/Unit)" in the sheet "(a) OCOT Sales" in the disclosure document "517 - Primy - Appendix 4 - Normal Value". Primy believes the ratio should be applied to this price because, based on the methodology of the Commission, this price is purported to be the net sink's price which matched to the "Total CTM less accessories".

Primy does not believe that for the MCCs for which a constructed normal value is used such adjustment is necessary because the costs used are already the Australian CTMS net of accessory costs, which do not contain such difference in domestic and Australian CTMS that affects price comparability between normal value and export price in the first place.

Primy believes, with this adjustment, a fair comparison between normal value and export price are not prevented by the significant difference in costs in domestic products and Australian products due to the MCC structure by the Commission.

VI.3 Certain adjustments are needed regardless general methodology applied

Primy respectively requests the Commission to (1) remove the double counting of packing costs in the construction of normal value; and (2) use the actual accessories costs incurred in the production of the product codes for Australian exports in the adjustment for normal value, either constructed or based on domestic price. Primy has elaborated on these two issues above.

PUBLIC RECORD

Australian Government
Department of Industry, Innovation and Science

Anti-Dumping Commission

Exporter Verification Report

Verification & Case Details

Initiation Date	3 July 2019	**ADN:**	ADN No. 2019/086
Case:	Continuation - Deep Drawn Stainless Steel Sinks from China		
Case Number	517		
Exporter	Primy Corporation Ltd		
Location	China		
Verification from	04/09/2019	**to**	09/09/2019
Inquiry Period	1/07/2018	**to**	30/06/2018

THIS REPORT AND THE VIEWS OR RECOMMENDATIONS CONTAINED THEREIN WILL BE REVIEWED BY THE CASE MANAGEMENT TEAM AND MAY NOT REFLECT THE FINAL POSITION OF THE ANTI-DUMPING COMMISSION

CONTENTS

1 COMPANY BACKGROUND

1.1 Corporate Structure and Ownership

The companies legal name is Primy Corporation Ltd (Primy). Primy has no other legal or trading names. The company is a privately held company registered in China.

Relying on its response to A-2.5 in the non-confidential version of its response to exporter questionnaire (REQ) Primy reported it has interests in several other companies through common ownership, family relationships or direct and indirect investment.

1.2 Related Parties

The verification team examined the relationships between related parties involved in the manufacture and sale of the goods.

The verification team determined there were no related suppliers to Primy and as discussed below sold like goods to three related party customers.

1.2.1 Related customers

At A-2.5 of its REQ Primy reported the following related party customers who are responsible for undertaking distribution functions relating to Primy domestic and export markets;

- Beijing PRIMY Kitchenware Sales Co. Ltd, a distributor of Primy products owned by a family member of Primys' majority shareholder. Primy had made domestic sales to this entity.
- Zhuhai Youshang Kitchen & Bathroom Products Co., Ltd, an entity set up for Primys' online sales. Primy had domestic sales to this entity.
- Primy Trading (HK) Limited, an overseas trading company for exports of all products. This entity was not used for any Australian export sales during the inquiry period however was used for third country export sales.

2 THE GOODS AND LIKE GOODS

2.1 Production Process

The production process for the goods and the like goods was largely similar. Production steps generally followed a process of punching, drawing, detailing, finishing and packaging the sink.

The verification team did note there were some differences in the production process provided by Primy in the REQ to what was witnessed onsite. Primy was asked and subsequently provided a revised production process chart showing information relation to production processes such as folding, corner welding, edge treatment, painting etc.

2.2 Model Control Codes (MCCs)

As detailed in the initiation notice[1], the Anti-Dumping Commission (the Commission) did not propose an MCC structure at the outset of this inquiry. Alternatively, information gathered in responses received from importers and exporters, and the Australian industry would 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 importers, exporters, 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
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

[1] ADN No. 2019/86

Category	Characteristics of category
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 1: Categories selected for identification

Primy provided the above information categories for both its Australian sales listing and domestic sales listing relevant to its responses to part B-2 and D-2 of its REQ. It also provided similar information in response to Section C of the REQ regarding product specification.

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 REQ however sufficient information was requested and provided by the exporter to allow the cost data reported at the product code to be mapped against the product specification data reported in the sales listing.

2.3 Mapping MCC Structure

Relying on an analysis of Primy's sales and production of sinks sold into the domestic market and Australian export market, and feedback received from the verification teams who attended on-site verifications in China, the verification team considers that the consumption of 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 addition to the above, the kinds of accessories offered with sinks was also determined 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 verification team has developed MCC subcategories to account for types of accessories sold with the sinks exported to Australia.

The resulting MCC structure applied to Primy's exports, domestic sales and costs is outlined below.

Item	Category	Subcategory	Identifier
1	Number of Bowls	1 Bowl	1BWL
		2 Bowls	2BWL
2	Number of Drainer Boards	No drainer board	0DB
		1 drainer board	1DB
		2 drainer boards	2DB

Item	Category	Subcategory	Identifier
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
4	Accessory Pack	Accessory Pack 1 (No Accessories)	1
		Accessory Pack 2	2
		Accessory Pack 3	3
		Accessory Pack 4	4

Table 2: 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. Depending on the type of accessories sold with the sink the relevant accessory sub-category code will be added, e.g. 2BWL-1DB-B-1. As demonstrated at sections 2.5 and 2.6 several MCCs are generated as a result of mapping the product codes in Primy sales and cost listing to the MCC structure. The verification team notes that each resulting MCC represents an aggregation of all of the exporter's product codes that mapped to each particular MCC.

2.3.1 Assessment of MCC Structure for Primy

Relying on the following, the verification team assessed whether the MCC structure at Table 1 was appropriate for Primy.

- Primy's sales and cost data;
- Primy's product brochures and technical drawings; and
- Other cooperating exporter's sales and cost data;
- Observations made relating to verification of other selected exporters.

The verification team observed in relation to both domestic sales of like goods and the goods exported to Australia that the price and cost differences trended in a similar pattern after applying the MCC structure. On this basis the verification team was satisfied that the MCC structure as applied to Primy's sinks sales and production appropriately captured the key price and cost determinants.

The verification team further found that within each MCC, in most cases the average capacity of the sinks exported to Australia in a particular MCC were comparable to the corresponding MCC for like goods. One MCC exhibited material differences where the average capacity of sinks on the domestic market were smaller than the sinks in the equivalent exporter MCC when compared to the average capacity of sinks exported to Australia. The verification team notes that prices were found to increase as bowl volume increased.

In terms of material thickness (gauge) and surface finish, the verification found that these characteristics within the MCC for exported goods were identical for a large proportion of sales within the corresponding MCC for like goods. The price of the most relevant steel coil gauges were also found to be comparable.

In relation to other sink features, the verification team had regard to whether the sink bowl corner radius influenced price. Particularly the concept that sinks with a smaller bowl corner radius attracted higher prices than a sinks with larger radius corners. The verification team's analysis did not resulting in finding that it was necessary to have regard to bowl corner radius.

Lastly, using product catalogues and technical drawings, the verification team an analysis of the sinks within each MCC by comparing the design of sinks exported to Australia and those in the corresponding like goods MCC. Whilst the designs of the sinks were not found to be identical in all respect, they were found to be highly comparable, particularly the sinks where the normal values have been established under section TAC(1) of the *Customs Act 1901* (the Act).[2]

2.3.2 Amendments to MCCs

The verification team did not find it necessary to depart from the proposed MCC structure on account of variations in price.

2.4 Verification of MCCs

Since exporters were not required to report cost and sales in accordance with an MCC structure, on account that a structure had not been determined at the time of initiating the inquiry, the verification team has relied on the information reported by the exporter in its cost and sales data to map each kind of sink to the MCC structure discussed at Section 2.2.

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

- product code information provided by the exporter with its questionnaire response;
- a sample of sales invoices pertaining to domestic and export sales;
- the exporter's product brochures and technical drawings; and;
- other publicly available information, such as Australian importer's online web based catalogues.

The above information was sufficient to satisfy the verification team that the product information reported by the exporter in its cost and sales worksheets was accurate. As a result, the verification team is satisfied that the MCC structure has been correctly mapped to the exporter's data.

2.5 The goods exported to Australia

The verification team was satisfied that Primy produced and exported the goods to Australia. Primy exported the goods to Australia with the following MCCs during the period:

Australian Exports MCC
1BWL0DBA
1BWL0DBB
1BWL0DBC

[2] References to any section or section in this report relate to provisions of the Act, unless specifically stated otherwise.

Australian Exports MCC
1BWL1DBA
2BWL0DBB
2BWL0DBC
2BWL1DBA
2BWL1DBB
2BWL2DBB

Table 3: Australian Export Models

2.6 Like goods sold on the domestic market

The verification team was satisfied that Primy sold like goods in the domestic market.

The verification team considers that the goods manufactured for domestic consumption are identical to, or have characteristics closely resembling, the goods exported to Australia, as they:

- subject to individual customer specifications, the exported goods and like goods sold on the domestic market are produced in the same way, are in similar configurations in terms of bowls, capacity and drainer board, and the costs of production for models sold domestically and for export are comparable;
- the goods and the like goods are produced at the same facilities, using the same raw material inputs and manufacturing processes; and,
- can be considered functionally alike, as they have similar end uses.

Primy sold like goods on the domestic market with the following MCCs during the period:

Domestic Like Goods MCC
1BWL0DBA
1BWL0DBB
1BWL1DBA
2BWL0DBA
2BWL0DBB
2BWL1DBA
2BWL1DBB
3BWL0DBA
3BWL0DBB

Table 4: Domestic Like Goods Models

2.7 Like goods – assessment

The verification team considers that the goods produced by Primy for domestic sale have characteristics closely resembling those of the goods exported to Australia and are therefore ‘like goods’ in accordance with section 269T(1) of the Act.

3 VERIFICATION OF SALES COMPLETENESS AND RELEVANCE

Verification of relevance and completeness is conducted by reconciling selected data submitted "upwards" through management accounts up to audited financial accounts. The total sales value and quantity is reconciled to management reports with particular attention given to ensuring that all relevant transactions are included and irrelevant transactions are excluded. The total value from the management reports is then reconciled to the total revenue figure reported in the audited income statement.

The verification team verified the completeness and relevance of the export and domestic sales listings provided in the REQ by reconciling these to audited financial statements in accordance with ADN. No 2016/30.

The visit team verified the relevance and completeness of the sales data as follows:

- Examining Primy's 2018 financial year audited financial statements;
- In its account balance sheet, "other business revenue" were contained in "main business revenue", profit & loss statement (2018)
- trial balance records relevant to the inquiry period;
- reviewing domestic and foreign sales accounting entries manually compiled and summarized, with product category

The verification team identified the issues outlined below during this process. Details of this verification process are contained in the verification work program and its relevant attachments, at **Confidential Attachment 1.**

3.1 Exceptions during verification of sales completeness and relevance

No.	Exception	Resolution
1	The quantity of exports subject to measures was overstated.	The verification team established that sinks exported to Australia as part of a laundry unit assemblies had been incorrectly reported at Section B-2 of Primy's REQ. Sinks exported together with laundry cabinets, that comprise a completed laundry unit, either assembled or unassembled are not subject goods. The relevant sales were identified using product code information and excluded from the sales listing.
2	When reconciling its Export sales revenue, sub-ledger to the management account, the verification team noted a minor variance.	Primy explained that this difference was due to the difference between accounting recording and invoice value, as well as some accounting adjustment and corrections by auditors. Details of the variance together with were provided to the verification team. The verification team accepted Primy's explanation.
3	A non-material quantity of domestic sales reported zero quantity sales values	The verification team removed these transactions from the sales listing.

Table 5 Exceptions during verification of completeness and relevance of sales data

3.2 Sales completeness and relevance finding

The verification team is satisfied that the sales data provided by Primy, including any required amendments as outlined in the exception table above, is complete and relevant.

4 VERIFICATION OF SALES ACCURACY

The accuracy of data is verified by reconciling selected data submitted "downwards" to source documents. This part of verification involves the process of agreeing the volume, value and other key information fields within the sales data down to source documents. This verifies the accuracy of the data.

The verification team verified accuracy of the export and domestic sales listings submitted in the REQ by reconciling these to audited financial statements in accordance with ADN. No 2016/30.

The verification team identified the issues outlined below during this process. Details of this verification process are contained in the verification work program and its relevant attachments, at **Confidential Attachment 1**.

4.1 Exceptions during verification of sales accuracy

No.	Exception	Resolution
1	Packing costs was omitted from export and domestic sales	Primy provided revised updated Australian and domestic sales listing with correct packaging costs. The method of calculating packaging costs calculation was tested by the verification team using selected samples.
2	VAT was included in the Inland freight costs for both export and domestic sales.	Primy provided revised updated Australian and domestic sales listing excluding VAT from inland freight costs. The method of calculating packaging costs was verified against the source documents.
3	Calculation of commissions, handling fees had calculation errors in the Australian sales listing.	Primy provided revised Australian sales with updated formulas. The verification checked the calculation using sample transactions and to the source documents.
4	VAT was included in the Declaration fee from export sales listing.	Primy provided revised Australian sales excluding VAT was provided. The verification checked the calculation using sample documents.
5	Exchange rate were not recorded for some transactions in the export sales listing.	Primy provided revised Australian sales including exchange rates for all transaction. The verification verified that correct rates were included using sample documents.
6	Some non-goods were included in Australian Sales listing.	Primy identified all non-goods in Australian sales. The verification team excluded all non-goods from the Australian sales listing. The verification team verified selected transactions to the source documents (list of all invoices to ensure all non-goods were excluded).
7	There were formula errors in discount calculations.	Primy provided revised Australian sales with updated formulas was provided. The verification checked the calculation using sample documents

Table 6 Exceptions during verification of accuracy of sales data

The verification team established the following information as outlined in the table below:

Item	Method applied
Invoice value	Based on invoice value reported for domestic and export sales.
Quantity	Based on invoice and packing list
Rebates and discounts	Based on quality, value and discount policy
Date of sale	Taken as invoice date, as appears on invoice
Delivery	Weighted average rate based on total expenses incurred divided by delivered sales volume
Packaging	Weighted average rate based on total expenses incurred divided by delivered sales volume
Credit	Average payment days, credit rate.
Non-Refundable VAT	Based on the VAT rate and rebate rate for the respective months during the inquiry period

Table 7 Sales verification summary

4.2 Sales accuracy finding

The verification team is satisfied that the sales data provided by Primy, including any required amendments as outlined in the exception tables above, is accurate. Details of this verification process are contained in the verification work program and its relevant attachments, at **Confidential Attachment 1**.

5 VERIFICATION OF CTMS COMPLETENESS AND RELEVANCE

Verification of relevance and completeness is conducted by reconciling selected data submitted "upwards" through management accounts up to audited financial accounts. The total cost to make data is reconciled to the cost of production in the management reports with particular attention given to ensuring that all relevant costs are included and irrelevant costs have been excluded. The cost of production data is then reconciled, through relevant account ledgers, to the cost of goods sold figure reported in the audited income statement. Additionally, selling, general and administration (SG&A) expenses are reconciled to income statements, with particular attention given to specific expenses that have been excluded or should be excluded.

The verification team verified the completeness and relevance the cost to make and sell (CTMS) information provided in the REQ by reconciling it to audited financial statements in accordance with ADN No. 2016/30.

The visit team verified the relevance and completeness of the cost data as follows:

- The visit team successfully reconciled upwards from the reported CTMS.
- The CTM reported on the REQ was reconciled with the monthly production cost sheets.
- The cost sheets reconciled to the finished goods sub ledger.
- The finished goods sub ledger reconciled to the cost of goods sold (COGS) ledger.
- The COGS ledger reconciled to the exporter's Profit and Loss (P&L) statement.
- The P&L statement reconciled to the last audited financial statement .
- Variances were explained, evidence provided and the team undertook close examination of relevant subleaders.

The visit team verified the relevance and completeness of the SG&A data as follows:

- The visit team successfully reconciled the reported SG&A upwards to the sales, administrative and financial expenses on the Profit and Loss statement.
- The verification team ensured export expenses were removed.
- The verification team selected six included sub ledgers for detailed verification to confirm that only relevant expenses were included in the SG&A listing .
- The verification team selected five excluded ledgers to further confirm that only complete relevant expenses were included in the SG&A listing.

The verification team identified the issues outlined below during this process. Details of this verification process are contained in the verification work program and its relevant attachments, at **Confidential Attachment 1**.

5.1 Exceptions during verification of completeness and relevance of CTMS data

No.	Exception	Resolution
1	At G-2.1 of its REQ Primy reported that its cost accounting system is not based on standard cost.	The verification team verified Primy's costs having regard to cost of production variances between standard and actual cost.
2	During examination of the included SG&A consulting fee sub ledger the	Primy provided the ledger showing the total amount of the commission. The verification

No.	Exception	Resolution
	verification team noted that a commission included as a direct selling expense on the sales listing was also included in the SG&A	team has adjusted the SG&A to exclude this commission.
3	The verification team observed that in the REQ more models were sold than produced in certain quarters.	Costs were carried forward from the quarter in which the most recent production run had occurred. In a number of instances this included costs that occurred prior the inquiry period.

Table 8 Exceptions during verification of completeness and relevance of CTMS data

5.2 Completeness and relevance finding of CTMS data

The verification team are satisfied that the cost to make and sell (CTMS) data provided in the exporter questionnaire response by Primy once adjusting for the above change to the SG&A is complete and relevant.

6 VERIFICATION OF CTMS ACCURACY

6.1 Cost allocation method

The verification team verified the reasonableness of the method used to allocate the cost information provided in the REQ to the relevant MCCs, in accordance with ADN No. 2016/30.

Cost Area	Method applied
Raw Materials	Primy calculated the actual raw material cost incurred allocated by product code. The visit team verified the actual raw material costs with the raw material purchase ledger as well as sampling purchase transactions to the source documents. The visit team verified the actual cost had been applied to the standard costs using the correct formula.
Auxiliary and Other Materials	Primy calculated the auxiliary and other materials cost incurred allocated by product code. The standard costs for each product were established and consistent for each product code based on the amount and type of auxiliary material used. The actual costs were not tracked to the factory level however the visit team verified that the base standard costs for material type were consistent across product codes and between deep drawn sinks and other type of sinks produced by Primy, meaning the total actual cost was fairly allocated based on relative production quantities. Primy provided supporting evidence showing the standard cost matched the purchase cost for a number of auxiliary materials such as deafening pads and paint within in the inquiry period. The visit team verified the actual cost had been applied to the standard costs using the correct formula.
Accessories	Primy applied the monthly actual cost of accessories to each product code using the ratio difference between the total standard and actual cost. For purchased accessories the visit team verified the actual accessories purchases cost. For partially produced accessories the visit team verified the accessories cost sheets. In both instances the team verified the accessories cost had been applied correctly too the standard costs using the correct formula.
Scrap Allocation	Primy added a cost offset for the sale of scrap metal. Primy allocated the total value of scrap sold over the IP by the total steel consumption to calculate a recovery ratio. The recovery ratio was applied to the actual steel cost for drawn sinks. The visit team verified the total scrap sales amount and selected individual sales for proof of pricing and payment.

Cost Area	Method applied
	The verification team also ensured the allocation had been applied correctly.
Manufacturing Overheads	Primy applied the monthly actual overheads cost for the drawn sink factory to each product codes cost using the ratio difference between the total standard cost and total actual cost. The standard cost was set for each product code was the same as the labour standard cost. The methodology being based on an addition of all the average timings of each production stage applicable to that product. The visit team verified the actual overheads cost for a selected month and examined the overhead inclusions. The visit team again verified the allocation was applied correctly.
Labour	Primy applied the monthly actual labour costs for the drawn sinks factory to each product codes cost using the ratio difference between the total standard and total actual cost. The standard cost was set based on an addition of all the average timings of each production stage applicable to that product. The visit team verified the actual monthly labour cost for one month using the payroll and verified it had been correctly applied to the standard costs.
Depreciation	As part of the overhead examination the visit team verified a depreciation asset from both the drawn sink and fabricated sink factory. The team verified a selection of asset purchases using their invoices and then verified the depreciation schedule had been calculated and applied correctly to the overhead cost.

Table 9 Cost allocation method

The verification team identified the issues outlined below during this process. Details of this verification process are contained in the verification work program and its relevant attachments, at **Confidential Attachment 1**.

6.2 Exceptions during verification of CTMS allocation method

No.	Exception	Resolution
1	The verification team noticed that Primy had discussed its use of scrap in partially produced accessories. However this was not reflected in the scrap cost offset. The verification team noted this could result in a slight over allocation of raw material in the CTM.	Primy explained that it was not possible to distinguish this scrap and was not considered worthwhile production management to track for such small quantities of scrap. The team sought explanation of the partial accessories production and agreed it would not be possible to make an adjustment and even if possible would be an negligible offset.

Table 10 Exceptions during verification of CTMS allocation method

6.3 Verification of Accuracy of CTMS data

The accuracy of data is verified by reconciling selected data submitted "downwards" to source documents. This part of verification involves the process of agreeing the volume, value and other key information fields within the cost data down to source documents. This verifies the accuracy of the data.

The verification team verified the accuracy of the CTMS information provided in the REQ by reconciling it to source documents in accordance with ADN No. 2016/30.

The verification team identified the issues outlined below during this process. Details of this verification process are contained in the verification work program and its relevant attachments, at **Confidential Attachment 1**.

6.4 Exceptions during verification of accuracy of CTMS data

No.	Exception	Resolution
1	The verification team noted that Primy purchases raw material in stainless steel sheet and coil, however in the raw material purchases listing and source documents provided it was not possible to distinguish coil purchases from sheet purchases.	Primy was offered a chance to revise the raw material purchases ledger to distinguish the two types of purchases. Primy stated it would not be possible to revise the raw material purchase listing. The visit team informed Primy that in the event of a cost replacement benchmark the purchases may be treated unfavourably.
2	Primy's raw material purchase listing included an outsourced processing fee for converting stainless steel coil into stainless steel plate for production. During downwards verification the visit team noticed two instances where Primy was charged a partial processing fee where processing had started but ceased due to defects with the coil.	Primy explained that these were reported as raw material costs incurred. The verification team agreed, but informed Primy that in the event of a cost replacement benchmark, if a coil to plate conversion fee was needed based on Primy's data these two partial fees would be excluded from the calculation.

Table 11 Exceptions during verification of accuracy of CTMS data

6.5 Accuracy finding

The verification team are satisfied that the cost to make and sell (CTMS) data provided in the exporter questionnaire response by Primy once including the above identified adjustments to the raw material purchases listing is accurate.

7 EXPORT PRICE

7.1 The importers

The verification team considers exporter's Australian customers to be the beneficial owner of the goods at the time of importation and therefore the importers as customers are:

- named on the commercial invoice as the customer;
- named as the consignee on the bill of lading,
- declared as the importer on the importation declaration to ABF;
- pays for all the importation charges; and
- arranges delivery from the port.

7.2 The exporter

Subject to further inquiries, the verification team considers Primy to be the exporter of the goods[3], as Primy is:

- the manufacture of the goods;
- named on the commercial invoice as the supplier;
- named as consignor on the bill of lading;
- arranges and pays for the inland transport to the port of export; and
- arranges and pays for the port handling charges at the port of export.

The verification team is satisfied that for all Australian export sales during the period the verification team considers Primy to be the exporter of the goods.

7.3 Arms length

7.3.1 Related party customers

In respect of Primy's export sales of the goods to its related customer in Australia during the period, the verification team found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than their price; or
- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.[4]

The verification team therefore considers that export sales to Australia made by Primy to its related customer during the period were arms length transactions.

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[3] 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.

[4] See section 269TAA(1)(c).

7.4 Export Price – assessment

In respect of Australian sales of the goods by Primy, the verification team recommends that the export price be determined under paragraph 269TAB(1)(a), as the price paid by the importer to the exporter less transport and other costs arising after exportation.

The verification team's preliminary export price calculations are at **Confidential Appendix 1.**

8 DOMESTIC SALES SUITABILITY

The verification team has assessed the domestic sales to determine if the prices paid in respect of domestic sales of like goods are suitable for assessing normal value under section 269TAC(1).

8.1 Arms length

8.1.1 Related party customers

In respect of Primys domestic sales of like goods to its related customers during the period, the verification team found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than its price; or
- the price was influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller; or
- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.[5]

The verification team therefore considers that all domestic sales made by Primy to its related customers during the period were arms length transactions.

The verification compared the domestic quarterly weight average unit selling prices for all product codes during the inquiry period of Primy's related customers is by reference the price to the unrelated customers. The verification team noted only a minor variances in some quarters the prices between the related and unrelated customers.

8.1.2 Unrelated customers

In respect of Primy's domestic sales of like goods to its unrelated customers during the period, the verification team found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than its price; or
- the price was influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller; or
- the buyer, or an associate of the buyer, was not directly or indirectly reimbursed, compensated or otherwise received a benefit for, or in respect of, the whole or any part of the price.

The verification team therefore considers that domestic sales made by Primy to its unrelated domestic customers during the inquiry period were arm's length transactions.

8.2 Ordinary course of trade

Section 269TAAD states that domestic transactions are not in the ordinary course of trade (OCOT) if arms length transactions are:

- unprofitable in substantial quantities over the investigation period; and

[5] Section 269TAA of the Act refers.

- unlikely to be recoverable within the period.

The verification team tested profitability by comparing the price at ex-works against the relevant cost for each domestic sales transaction.

The team then tested whether the unprofitable sales were in substantial quantities (not less than 20%) by comparing the volume of unprofitable sales to the total sales volume, for each MCC over the period.

The team tested recoverability by comparing the price at ex-works against the relevant weighted average cost over the period for each domestic sales transaction.

The following table sets out further detail:

OCOT particulars	Details
Price	Net invoice price, excluding direct selling expenses
Cost	Quarterly cost to make and sell, excluding direct selling expenses
Weighted average cost	Weighted average cost to make and sell, excluding direct selling expenses, over the inquiry period.

Table 12 OCOT details

8.3 Suitability of domestic sales

Subparagraph 269TAC(2)(a)(i) provides that the normal value of goods exported to Australia cannot be ascertained under section 269TAC(1) where there is an absence, or low volume, of sales of like goods in the market of the country of export.

Domestic sales of like goods are taken to be in a low volume pursuant to section 269TAC(14) where the total volume of like goods is less than five percent of the total volume of the goods under consideration that are exported to Australia (unless the Minister is satisfied that the volume is still large enough to permit a proper comparison).

The verification team assessed the total volume of like goods as a percentage of the goods exported to Australia for the whole period and found that the domestic sales were sufficient volumes when expressed as a proportion of the total volume of the goods exported. As a result, the normal value can be ascertained under section 269TAC(1).

As per the *Dumping and Subsidy Manual* (the Manual)[6], where the total volume of like goods is greater than five percent of the total volume of the goods under consideration, and where comparable models exist, the Commission also tests the suitability of domestic sales of like goods individually for each model type.

The verification team's assessment of the suitability of domestic models to the models exported to Australia is further detailed below:

[6] Available at www.industry.gov.au.

Export MCCs	Sufficient domestic sales of identical MCC	Treatment of normal value where there were insufficient domestic sales of identical MCC
1BWL0DBA	Y	Sufficient sales volumes available for TAC(1).
1BWL0DBB	Y	Sufficient sales volumes available for TAC(1).
1BWL0DBC	N	No sufficient sales or available cost information to apply a reasonable surrogate model therefore ascertained normal value under TAC(2)(c).
1BWL1DBA	N	Normal values determined under TAC(1) based on TAC(1) normal values for 1BWL0DBA and adjusted for differences in number of drainer boards.
2BWL0DBB	Y	Sufficient sales volumes available for TAC(1).
2BWL0DBC	N	No sufficient sales or available cost information to apply a reasonable surrogate model therefore ascertained normal value under TAC(2)(c).
2BWL1DBA	N	No sufficient sales or available cost information to apply a reasonable surrogate model therefore ascertained normal value under TAC(2)(c).
2BWL1DBB	N	Normal values determined under TAC(1) based on TAC(1) normal values for 2BWL0DBB and adjusted for differences in number of drainer boards.
2BWL2DBB	N	No sufficient sales or available cost information to apply a reasonable surrogate model therefore ascertained normal value under TAC(2)(c).

Table 13 Sufficiency test

As outlined in Table 13 above, the verification team found that there were sufficient domestic sales volumes of identical MCCs sold in OCOT for three MCCs exported to Australia.

For MCC 1BWL1DBA and 2BWL1DBB exported to Australia there were not sufficient sales of the identical MCCs in OCOT, however this is not to say that none occurred at all. Whilst sales in OCOT for these MCCs 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.

The verification team considers that the circumstances outlined above for MCC 1BWL1DBA and 2BWL1DBB render the sales of these models in OCOT unsuitable for the purpose of a normal value under TAC(1). This approach is consistent with the Commission's stated practice in the Manual[7] where sales of individual models that are below five percent of the equivalent export model may not be sufficient.

In the alternative, the verification team found sufficient domestic sales volumes of surrogate models based on the MCCs with the closest physical characteristics under the MCC hierarchy structure. In relying on surrogate models, the verification team considered specification adjustments under TAC(8) is warranted to ensure fair comparison between the export model and surrogate domestic model.

[7] Suitability of Sales, Section 7.3, p.34 (November 2018).

In determining whether such an approach was reasonable, the verification team compared and contrasted the differences between the surrogate and target MCC by having regard to the available technical and product catalogue information supplied by the exporter. Taking this into account the verification team was satisfied that the surrogate models selected were acceptable. 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. In the case of the above the difference related to the addition of one drainer board. Further discussion on the approach to specification adjustments is provided at section 9.2.

For the remaining four MCCs exported to Australia, the verification team found there were no sales of goods in the identical MCC or were there suitable surrogate MCC's available. As a result, it was not possible to estimate the comparability between exported and domestic like goods for the purpose of relying on a surrogate model. For these export MCCs, and pursuant to section 269TAC(2)(a)(i), the verification team 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).

8.4 Profit

Where the Commission is required to calculate a normal value under section 269TAC(2)(c), an amount of profit must be worked out under Regulation 45 of the *Customs (International Obligations) Regulation 2015* (the Regulation).

The verification team has calculated an amount of profit based on the profit achieved on domestic sales of like goods in the OCOT in accordance with section 45(2) of the Regulation.

The verification team's preliminary calculation of domestic profit is at **Confidential Appendix 3**.

9 ADJUSTMENTS

To ensure the normal value is comparable to the export price of goods exported to Australia at free-on-board (FOB) terms, the verification team has considered the following adjustments in accordance with section 269TAC(8) and where applicable section 269TAC(9).

9.1 Rationale and Method

Adjustment type	Assessment for adjustment	Calculation method and evidence	Claimed in REQ?	Adjustment required?
Domestic Credit terms	Credit terms on domestic sales of like goods sold in OCOT were on a weighted average basis materially different to credit terms offered on export sales.	For normal values established under TAC(1) the cost of credit is based on the credit term period reported for each invoice, an appropriate interest rate and the net invoice value. The cost of credit for normal value established under TAC(2) was identical to the method for TAC(1) normal values with the exception that the payment term was calculated using the weighted average terms identified in the sales of like goods in OCOT.	Y	Y
Domestic inland transport	Inland transport costs were incurred in relation to certain domestic sales	Inland freight was calculated based on total inland freight allocated by sales revenue. The adjustment is based on the unit inland freight allocate by sales quantity (pieces).	Y	Y
Packaging	Domestic like goods had different packaging compared to exported goods	Relying on the costs from the relevant accounts in the financial records to work out the weighted average unit cost of packing.	N	
Export inland transport	Inland transport costs were incurred in relation to export sales at levels which were materially different to the cost of domestic inland transport.	Primy worked out the inland transport costs per container and allocated the cost to each transaction by sales value. The adjustment is applied by using the total verified inland transport cost incurred on Australian export and divided by the total sales quantity in pieces.	Y	Y
Export port handling charges	Port handling charges were incurred in relation to Primy exports of the goods to Australia.	Primy worked out the port handing costs per container and allocated to each transaction by sales value. The adjustment is applied by using the total verified inland	N	Y

Adjustment type	Assessment for adjustment	Calculation method and evidence	Claimed in REQ?	Adjustment required?
		transport cost incurred on Australian export and divided by the total sales quantity in pieces.		
Export credit terms	Credit terms on export of the goods were on a weighted average basis materially different to credit terms offered on domestic sales.	The cost of credit is based on the weighted average of the payment terms reported for each invoice, an appropriate interest rate and the net invoice value.	N	Y
Export Declaration Fee	Export declaration fees are payable on exports of the goods to Australia. Similar expenses do not occur in relation to domestic sales of like goods	Verified declaration fee costs incurred for each container and allocated based on sales revenue. The adjustment is calculate based on the weighted average declaration fee per unit sold.	N	Y
Export Commission expense	No commission expense is incurred by the exporter for its like goods sales however it does pay commissions on its exports to Australia.	Commission is based on the verified percentage of export price and applied to the normal value at the FOB level.	N	Y
Non-refundable VAT	Exporter incurred expenses in relation to a non-refundable amount of VAT on export sales	Applying the relevant rates relating to the non-refundable amount of VAT to the normal value at FOB terms. NB: The non-refundable rate up to 31 October 2018 was 7%, up to 31 March 30 2019 was 3%. Thereafter a full refund was granted so no expense was realised.	N	Y
Specifications	Refer to 9.2 below.		N	Y
Accessories (Domestic)	The range of accessories was of a different variety and cost compared to those sold with sinks exported to Australia.	Working out the unit accessory costs per MCC by relying on the cost of production data reported by the exporter at G-3.1 to the REQ.	N	Y
Accessories (Export)	The range of accessories was of a different variety and cost compared to those sold with domestic sinks.	Added the unit cost of accessories to the unit cost of sinks by mapping the relevant accessory pack to the relevant sink MCC.	N	Y
Level of Trade	Domestic sinks were sold to customers at different levels of trade which had distinct price points and profit	Goods exported to Australia and sold domestically were sold to the same level of trade. For other domestic sales which were not sold at	Y	Y

Adjustment type	Assessment for adjustment	Calculation method and evidence	Claimed in REQ?	Adjustment required?
	margins. Exported goods were sold to only one level of trade.	an equivalent level of trade the verification team considers an adjustment to account for price or cost differences due to level of trade is warranted. The verification team analysed the price and profit margin at the different domestic levels of trade and compared these to the level of trade that was comparable to the exported goods. The weighted average price variance was applied to domestic sales which were not sold not at level of trade comparable to the level at which the goods were exported. The verification team also analysed differences in CTMS for domestic sales sold in OCOT at each level of trade. The CTMS for sales to the level of trade which were comparable to the level of trade of the exporter's Australian customers differed to the weighted average CTMS for all levels of trade. The weighted average difference between the CTMS of the relevant level of trade and the weighted average level of trade, as a percentage of the weighted average level of trade, has been applied to EXW price of export MCC's		

Table 14 Assessment of adjustments

9.2 Specification Adjustments

As discussed in section 8.3, the verification team considered that the domestic OCOT sales of like goods in MCC 1BWL1DBA and 2BWL1DBB were not a suitable basis for a normal value for these models under section 269TAC(1).

In the alternative the verification team considers that suitable surrogates were available in sufficient OCOT sales volumes that, when adjusted for specification differences, permitted the normal value to be determined under section 269TAC(1).

The verification team notes the following regarding the approach to the calculation of specification adjustments;

- 1BWL1DBA - The difference in the Australian cost of production for a drainer board between 1BWL0DBA and 1BWL1DBA plus the addition of the profit margin earned on goods sold in OCOT to customers in a level of trade comparable to export customers;
- 2BWL1DBB - The difference in the Australian cost of production for a drainer board between 2BWL0DBB and 2BWL1DBB plus the addition of the profit margin earned on goods sold in OCOT to customers in a level of trade comparable to export customers.

The verification team considers that the above adjustments reflect the practice outlined in the *Anti-Dumping Commission Dumping and Subsidy Manual*.[8]

The verification team considered an adjustment relying on domestic cost of production differences for the above MCCs however considered this was not the preferable on the basis of very small domestic production volumes reported for these MCCs. The domestic production volume was equivalent to between 0.06 and 0.10 per cent of the equivalent production volume of the same MCC exported to Australia. Application of the cost data in this manner was considered arbitrary.

9.3 Level of trade differences

Goods exported to Australia and sold domestically were sold to the same level of trade. For other domestic sales which were not sold at an equivalent level of trade the verification team considers an adjustment to account for price or cost differences due to level of trade is warranted.

To account for differences in prices at each level of trade, the verification team analysed the price and profit margin at each level of trade and compared these to the level of trade that was comparable to the exported goods. The weighted average price variance was applied to domestic sales which were not sold not at level of trade comparable to the level at which the goods were exported.

To account for differences in CTMS at each level of trade, the verification team analysed the CTMS at each level of trade and compared these to the level of trade that was comparable to the exported goods. The difference between the weighted average CTMS of the relevant level of trade and the weighted average level of trade of all sales in OCOT, as a percentage of the weighted average level of trade of all OCOT sales.

9.4 Adjustments

The verification team considers the following adjustments under section 269TAC(8) and 269TAC(9), where relevant, are necessary to ensure that the normal value so ascertained is properly compared with the export price of those goods.

Adjustment Type	Deduction/addition
Domestic credit term expenses	Deduct an amount for domestic credit expense for normal values determined under section 269TAC(1) and TAC(2)(c).

[8] Chapter 15.3, Physical Characteristics and Quality, p.67 (November 2018).

Adjustment Type	Deduction/addition
Domestic inland transport expenses	Deduct an amount for domestic inland transport expense for normal values determined under section 269TAC(1).
Domestic packaging expenses	Deduct an amount for domestic packaging expense for normal values determined under section 269TAC(1).
Export packaging expenses	Add an amount for export packaging expense for normal values determined under section 269TAC(1) and TAC(2)(c).
Export inland transport expenses	Add an amount for export inland transport expense for normal values determined under section 269TAC(1) and TAC(2)(c).
Export port charges	Add an amount for port charges for normal values determined under section 269TAC(1) and TAC(2)(c).
Export credit term expenses	Add an amount for export credit expense for normal values determined under section 269TAC(1) and TAC(2)(c).
Non-refundable VAT expenses	Add an amount for non-refundable VAT expense for normal values determined under section 269TAC(1) and TAC(2)(c).
Domestic Accessories	Deduct an amount for accessories offered with domestic sink sales for normal values determined under section 269TAC(1)
Export Accessories	Add an amount for accessories offered with exported sink sales for normal values determined under section 269TAC(1) and TAC(2)(c)
Specification differences	Add or deduct an amount for specification difference for normal values determined under section 269TAC(1).
Level of trade	Add or deduct amounts based on the differences in weighted average prices at EXW terms for sales in OCOT that were not of a level of trade comparable to the level of trade of export customers for normal values determined under section 269TAC(1). Add or deduct amounts based on the differences in weighted average CTMS for sales in OCOT that were not of a level of trade comparable to the level of trade of export customers for normal values determined under section 269TAC(2)(c).

Table 15 Summary of adjustments

The verification team's preliminary adjustment calculations are included in normal value calculations at **Confidential Appendix 4**.

10 NORMAL VALUE

10.1 Normal values ascertained under section 269TAC(1)

The verification team found that the following models had sufficient volumes of domestic sales of the goods, exported to Australia, that were arms length transactions and at prices that were within the OCOT, that permitted the normal value to be determined under section 269TAC(1).

Export MCCs	Sufficient domestic sales of identical MCC	Surrogate Model
1BWL0DBA	Y	Sufficient sales volumes available for TAC(1).
1BWL0DBB	Y	Sufficient sales volumes available for TAC(1).
2BWL0DBB	Y	Sufficient sales volumes available for TAC(1).

Table 16 Normal values under TAC(1) based on sales in OCOT

The verification team also found that for the following models which did not have sufficient sales in OCOT, when compared to the volume of the equivalent export MCC, subject to adjustments under section 269TAC(8) to account for specification differences in the form of number of drainer boards, suitable surrogate models were available to determine the normal value for those models under section TAC(1).

Export MCCs	Sufficient domestic sales of identical MCC	Surrogate Model
1BWL1DBA	N	1BWL0DBA adjusted for differences in number of drainer boards.
2BWL1DBB	N	2BWL0DBB adjusted for differences in number of drainer boards.

Table 17 TAC(1) normal values based on other TAC(1) surrogate models

The verification team is therefore satisfied that the prices paid in respect of domestic sales of these models of the goods are suitable for assessing normal value under section 269TAC(1).

In using domestic sales as a basis for normal value, the verification team considers that certain adjustments, in accordance with section 269TAC(8), are necessary to ensure fair comparison of normal values with export prices, as outlined in chapter 9 above.

The verification team's preliminary normal value calculations are at **Confidential Appendix 4**.

10.2 Normal values ascertained under section 269TAC(2)(c)

The verification team is satisfied that because of the absence, or low volume, of sales of like goods in the market of the country of export that would be relevant for the purpose of determining a normal value, the normal value of goods exported to Australia cannot be ascertained under section 269TAC(1).

The verification team has therefore calculated a preliminary normal value for the following models under section 269TAC(2)(c)

Export MCCs	Sufficient domestic sales of identical MCC	Surrogate Model
1BWL0DBC	N	No sufficient sales or available cost information to apply a reasonable surrogate model therefore ascertained normal value under TAC(2)(c).
2BWL0DBC	N	No sufficient sales or available cost information to apply a reasonable surrogate model therefore ascertained normal value under TAC(2)(c).
2BWL1DBA	N	No sufficient sales or available cost information to apply a reasonable surrogate model therefore ascertained normal value under TAC(2)(c).
2BWL2DBB	N	No sufficient sales or available cost information to apply a reasonable surrogate model therefore ascertained normal value under TAC(2)(c).

Table 18 Normal Values under section 269TAC(2)(c)

The preliminary normal values for the models in the table above have been constructed under section 269TAC(2)(c) by have regard to the following;

- the cost to make the exported model based on the company's records in accordance with section 43(2) of the *Customs (International Obligations) Regulation 2015* (the Regulation);
- SG&A on the assumption that the goods, instead of being exported, were sold domestically based on the company's records in accordance with section 44(2) of the Regulation; and
- an amount for profit based on data relating to the production and sale of like goods on the domestic market in the OCOT in accordance with section 45(2) of the Regulation.

In constructing normal values under 269TAC(2)(c), the verification team considers that certain adjustments in accordance with section 269TAC(9), are necessary to ensure fair comparison of normal values with export prices as outlined in chapter 9 above.

The verification team's preliminary normal value calculations pursuant to both section 269TAC(1) and section 269TAC(2)(c) are at **Confidential Appendix 4**.

11 DUMPING MARGIN

In the original investigation at section 6.8 of *Anti-Dumping Commission Report No.238*, the Commission did not consider that the cost of grade 304 stainless steel cold rolled coil reflected competitive market costs under Regulation 180(2) of the *Customs Regulations 1926.* As a result, the Commission replaced the cost reported by each exporter was replaced with a competitive market substitute.

As it is the Commission's intention in this inquiry to also further consider whether the cost of stainless steel cold rolled coil incurred by the selected exporters during the inquiry period satisfy section 43(2) of the *Customs (International Obligations) Regulations 2015*, the preliminary dumping margin determined as a result of the verification process will not be published. The Commission's proposal regarding the treatment of stainless steel costs, and the resulting impact on each exporter's dumping margin, will be outlined in the Statement of Essential Facts.

12 APPENDICES AND ATTACHMENTS

Confidential Appendix 1	Export price
Confidential Appendix 2	Cost to make and sell
Confidential Appendix 3	Domestic sales, OCOT and profitability
Confidential Appendix 4	Normal Value
Confidential Appendix 5	NOT PUBLISHED
Confidential Attachment 1	Verification work program