



**Australian Government**

**Anti-Dumping Review Panel**

Anti-Dumping Review Panel  
C/O Legal Services Branch

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By EMAIL

Mr D Seymour  
Anti-Dumping Commissioner  
Anti-Dumping Commission  
55 Collins Street  
MELBOURNE VIC 3000

Dear Mr Seymour,

**DEEP DRAWN STAINLESS STEEL SINKS EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA- REQUEST FOR REINVESTIGATION UNDER S269ZZL.**

I am currently conducting a review of the decision of the Parliamentary Secretary to publish a dumping and countervailing duty notice in relation to Deep Drawn Stainless Steel Sinks from the People's Republic of China. The applicants are Everhard Industries Pty Ltd (Everhard) and Milena Australia Pty Ltd (Milena).

Pursuant to s.269ZZL of the Customs Act 1901, I require the reinvestigation of the following findings in Report No. 238:

- 1. The finding that deep drawn stainless steel sinks exported from China at dumped and subsidised prices cause material injury to the Australian Industry producing "like goods", in relation to lipped stainless steel laundry tubs (LSSL tubs).**

In particular, you should consider whether the goods produced by Tasman are 'like goods' to LSSL tubs imported by Everhard and Milena, for the purpose of determining if the dumped and subsidised goods cause material injury to the Australian industry.

This relates to the claim by Everhard in its application for review, and in various submissions to the ADC, that the imports of LSSL tubs cannot cause material injury to an Australian manufacturer of deep drawn stainless steel sinks<sup>1</sup>.

While there is a finding in Report 238 that LSSL tubs fall within the description of the goods being investigated, there is no specific finding that the goods produced by Tasman are 'like goods' to the imported LSSL tubs, for the purpose of determining if the dumped and subsidised goods cause material injury. In reinvestigating this issue you should address the considerations of physical likeness, commercial likeness, functional likeness and production likeness of Tasman's inset tubs and the imported LSSL tubs, having regard to the submissions made by all interested parties.

In Report 238 the ADC considered whether Tasman's inset tubs are 'like goods' to imported LSSL tubs, but this analysis was for the purpose of determining whether LSSL tubs are eligible for an exemption from measures, pursuant to ss.8(7)(a) and 10(8)(a) of the Dumping

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<sup>1</sup> See paragraph 2 of Attachment 1 to Everhard's application for review and submissions to the ADC of 26 September 2014 (#66 of the Public Record) and 11 November 2014 (#79 of the Public Record)

Duty Act. It should be noted that I am not requesting a reinvestigation of the ADC's finding in this regard. However, if in the reinvestigation, the ADC is to use a similar analysis of 'like products', the consideration of 'commercial likeness' should be revisited for the following reasons:

- In the analysis the ADC compared free standing units (with lipped sinks) to bench tops (with drop in sinks), therefore in effect comparing different 'laundry solutions' and their commercial likeness and substitutability, rather than a comparison of the actual products under consideration, which are inputs in the downstream products;
- The ADC is requested to take into consideration the submission on behalf of Everhard dated 26 November 2014<sup>2</sup> and the submission by Milena dated 2 December 2014<sup>3</sup>, both of which were not specifically referred to in Report 238, as well as the submissions of all other parties in this regard.

The ADC as part of its reinvestigation should propose specific wording for the description of the goods that would be the subject of an amended notice under ss.269TG(1) and (2) and s.269TJ(2), that excludes LSSL laundry tubs,<sup>4</sup> in the event that it is found that Tasman's inset tubs are not considered to be 'like products' to the imported LSSL tubs, and a recommendation to the Parliamentary Secretary is made to this effect.

## **2. The finding that stand-alone laundry units (whether imported fully assembled or in a 'kit') are not the goods subject to the investigation or any resulting measures**

This relates to Milena's ground of review that the decision to exclude stand-alone laundry units (whether imported fully assembled or in a 'kit') was not correct.

In particular, the ADC is requested to reinvestigate its finding that the laundry cabinet that is supplied with the lipped laundry tub to make a free standing laundry unit is not an 'accessory' in the sense of the goods description. In conducting the reinvestigation of this issue, the ADC should take into consideration the point made by Milena in its submission to the ADC of 2 December 2014<sup>5</sup> that,

*"To argue that a free-standing laundry unit is a cabinet with a tub more so than a tub with a cabinet is not correct. A simple proof of this is that the cabinets in question are not on sale without the tub."*

Tasman in its submission pursuant to s.269ZZJ contends that this argument of Milena was omitted from the final report and therefore not given full consideration by the Parliamentary Secretary.

Since the ADC is conducting a reinvestigation of this issue, I request that it also include in its reinvestigation, a consideration of the implications for the definition of "Australian industry" in the event of a finding that stand alone laundry units are the goods subject to the investigation, bearing in mind that in Report 238 Tasman was identified as the sole Australian producer of the like goods, and that Everhard and Milena are two Australian manufacturers of stand alone laundry units.

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<sup>2</sup> See Attachment 2 to Everhard's application, which is #87 of the Public Record

<sup>3</sup> See #85 of the Public Record

<sup>4</sup> See, for example, ADRP Report - Review of Decision to Impose Dumping Duties on Aluminium Zinc Coated Steel Exported from the Republic of Korea.

<sup>5</sup> See #85 of the Public Record

Please report the result of the reinvestigation within 30 days, that is by 12 August 2015.

Thank you for your assistance and co-operation.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Blumberg', with a stylized initial 'L'.

Leora Blumberg  
Member  
Anti-Dumping Review Panel

13 July 2015