

**APPLICATION FOR REVIEW OF
DECISION OF THE MINISTER WHETHER TO PUBLISH A DUMPING DUTY NOTICE OR
COUNTERVAILING DUTY NOTICE**

Under s 269ZZE of the *Customs Act 1901* (Cth), I hereby request that the Anti-Dumping Review Panel reviews a decision by the Minister responsible for Australian Customs and Border Protection Service:

to publish : ☒ a dumping duty notice(s), and/or
 ☐ a countervailing duty notice(s)

OR

not to publish : ☐ a dumping duty notice(s), and/or
 ☐ a countervailing duty notice(s)

in respect of the goods which are the subject of this application.


I believe that the information contained in the application:

- - provides reasonable grounds to warrant the reinvestigation of the finding or findings that formed the basis of the reviewable decision that are specified in the application
- - provides reasonable grounds for the decision not being the correct or preferable decision, and
- - is complete and correct to the best of my knowledge and belief.

I have included the following information in an attachment to this application:

- ☒ Name, street and postal address, and form of business of the applicant (for example, company, partnership, sole trader).
- ☒ Name, title/position, telephone and facsimile numbers and e-mail address of a contact within the organisation.
- ☒ Name of consultant/adviser (if any) representing the applicant and a copy of the authorisation for the consultant/adviser.
- ☒ Full description of the imported goods to which the application relates.
- ☒ The tariff classification/statistical code of the imported goods.
- ☒ A copy of the reviewable decision.
- ☒ Date of notification of the reviewable decision and the method of the notification.
- ☒ A detailed statement setting out the applicant's reasons for believing that the reviewable decision is not the correct or preferable decision.
- ☒ A statement identifying what the applicant considers the correct or preferable decision should be, that may result from the grounds the applicant has raised in the application. There may be more than one such correct or preferable decision that should be identified, depending on the grounds that have been raised.

- ☒ [If the application contains material that is confidential or commercially sensitive] an additional non-confidential version, containing sufficient detail to give other interested parties a clear and reasonable understanding of the information being put forward.

Signature: 

Name: Robert van der Riet

Position: Managing Director

Applicant Company/Entity: Milena Australia Pty Ltd

Date: 26 / 04 / 2015

[Submitted via Fax (02 6213 6821) and Email (ADRP@industry.gov.au)]

26 April 2015



Application to the Anti-Dumping Review Panel to review the decision of the Minister to publish dumping duty notice on 26 March 2015 based on Australian Customs Dumping Notice No. 2015/41 in respect of Anti-Dumping Commission Investigation ADC 238 - Deep Drawn Stainless Steel Sinks Exported from China

1. Name, street and postal address, and form of business of the applicant

- 1.1. Name: Milena Australia Pty Ltd
- 1.2. Street Address: 68-80 Kirkham Road West, Keysborough, VIC 3173
- 1.3. Postal Address: PO Box 457, Coolum, QLD 4573
- 1.4. Form of Business: Australian Proprietary Limited Company
- 1.5. Type of Business: Manufacturer & Wholesaler of Laundry Cabinet & Tubs and Laundry Tubs

2. Name, title/position, telephone and facsimile numbers and e-mail address of a contact within the organisation.

- 2.1. Name: Robert van der Riet
- 2.2. Title: Managing Director
- 2.3. Telephone: (07) 5351 1305
- 2.4. Fax: (07) 5351-1306
- 2.5. Email: robert@milena.com.au

3. Name of consultant/adviser (if any) representing the applicant and a copy of the authorisation for the consultant/adviser.

- 3.1. N/A

4. Full description of the imported goods to which the application relates.

- 4.1. Deep Drawn Stainless Steel Laundry Sinks imported from Shengzhou Chunyi Electrical Appliances Co Ltd.

5. The tariff classification/statistical code of the imported goods.

- 5.1. The goods are currently classified to tariff subheading 7324.10.00 (statistical code 52) in Schedule 3 of the Customs Tariff Act 1995.

6. A copy of the reviewable decision.

- 6.1. Attached – ATTACHMENT 1

7. Date of notification of the reviewable decision and the method of the notification.

- 7.1. 26 March 2015

8. **A detailed statement setting out the applicant's reasons for believing that the reviewable decision is not the correct or preferable decision.**

8.1. Ground 1 - Inadequate notification and communication with affected parties

8.1.1. Milena submits that the Commissioner should have given more consideration to the potential for Collateral and Unintended damage being caused to Australian industry by this investigation and thus should have made more extensive and vigorous efforts to notify both Chinese Exporters and Local users of the Goods.

- The Goods in question are not just sold as finished product but also used as components in more complex Australian made products.
 - Examples of locally made Milena Laundry Cabinets with imported Stainless Steel Tubs are shown in ATTACHMENT 2.
 - Not only are these Milena Cabinets made in Australia but so is all their packaging, polymer tubs and all of the other componentry is also sourced locally (only excludes the Stainless Steel tubs in question).
- Dumping is generally based on product being sold in Export markets for cheaper than in Local markets. Some manufacturers may believe that they can't be guilty of Dumping if they have only exported a particular product and that was not sold locally.
 - Shengzhou Chunyi Electrical Appliances Co Ltd believed they could not be guilty as they were and are not selling the products they make for Australia in their local Chinese market – See ATTACHMENT 3.
 - It must be noted that Chinese Manufacturing is regularly accused of dumping and other similar actions and as such they receive ongoing notices from their government but rarely is it detailed or does it lead to anything.
 - Yes ignorance is not an excuse but neither is it proof of guilt.

8.1.1.1. The Commission is of the view that their notifying the Chinese government, placing a notice in the Australian newspaper and on their website constitutes fair notice.

- The Commission's General Manager (Lisa Hind) has confirmed that their public notice consisted of "... In the case of deep drawn stainless steel sinks, this notification was made by the Commission as required on 18 March 2014 (advertised in the Australian and published on our website)." - See ATTACHMENT 4.
 - While legally this may well be an acceptable argument it is doubtful that any everyday person would agree.
 - We do not believe it would have been unacceptably difficult to directly notify the affected companies in both China and Australia.

8.2. Ground 2 - Unwillingness to Review during investigation

8.2.1. Milena submits that the Commissioner should have been more willing to assist when approached by Australian Industry during the investigation.

8.2.1.1. When Milena heard rumours of the Investigation (26 August 2014) we immediately contacted the Commission telephonically. The Commission's Andrea Stone insisted that it was too late to put an Exporter forward and while we could participate in the process moving forward our Exporter would automatically be deemed as "Uncooperative and Other".

- By the Commissions own assertions it could and should have been willing to look at the merits of the Exporter who required a late submission. (See ATTACHMENT 5)
 - "... Please note that, while the attached notice indicates that the timeframe for lodging submissions has passed, the Commission is required to take into account any submissions received by it throughout the investigation that do not delay its timely reporting in its Statement of Essential Facts (due 5 October) and/or report to the relevant Minister (due 19 November 2104)."

8.3. Ground 3 - Decision to include Lipped laundry tubs as Like Goods was not correct

- See ATTACHMENT 6
 - Lipped laundry tubs, when imported separately from the components that convert these tubs into free-standing laundry units (see below):
 - are the goods subject to the investigation; and
 - are not eligible for an exemption from anti-dumping measures under the Dumping Duty Act.

8.3.2. Milena submits that based on evidence presented during the investigation by Milena and other parties it was clearly shown that Lipped laundry tubs are components and as such should not have been included as Like Goods.

- Milena's submission in this regard - See ATTACHMENT 7
- Everhard's submission in this regard - See ATTACHMENT 8
- CLR Maintenance Group - See ATTACHMENT 9

8.3.1.1. It has been clearly shown that these Lipped laundry tubs are a component used to complete locally made Stand-alone laundry units and were not used or suitable for any other purpose.

8.3.1.2. It was further shown that there is no equivalent locally made product.

8.4. Ground 4 - Decision to exclude Stand-alone laundry units (whether imported fully assembled or in a 'kit') was not correct

- See ATTACHMENT 6
 - Lipped laundry tubs, when imported separately from the components that convert these tubs into free-standing laundry units (see below):
 - are the goods subject to the investigation; and
 - are not eligible for an exemption from anti-dumping measures under the Dumping Duty Act.
 - Stand-alone laundry units (whether imported fully assembled or in a 'kit') are not the goods subject to the investigation.

8.4.2. Milena submits that based on the finding that Lipped laundry sinks (used to complete locally made Stand-alone laundry units) were Like Goods the subsequent finding that imported Stand-alone laundry units were Not Like Goods is absurd.

- Surely it was not the intention of the Minister that Milena and other Australian manufacturers should move their production of cabinets entirely to China and then rather import the complete or partially complete units back.
 - Doing so would mean that they would not have to pay any levy.
- The effect of this measure is to advantage Chinese manufacturers of stand-alone laundry units over Australian manufacturers.

8.5. Ground 5 - Unnecessarily punitive nature of levy in regards parties who have been deemed Uncooperative and Other

8.5.1. Milena submits that a levy of 52.6% on “Uncooperative and Other” Exporters while not allowing a review for 12 months is simply punitive and unjustified.

- Many of these Exporters may be guilty of naiveté and perhaps ignorance but certainly that does not deserve punishment to this extreme level with no prospect of review in a reasonable time period.
- Dumping is generally based on product being sold in Export markets for cheaper than in Local markets. Some manufacturers believed that they can’t be guilty of Dumping if they have only exported a particular product and that was not sold locally.
 - Shengzhou Chunyi Electrical Appliances Co Ltd believed they could not be guilty as they were and are not selling the products they make for Australia in their local Chinese market – See ATTACHMENT 3.
 - It must be noted that Chinese Manufacturing is regularly accused of dumping and other similar actions and as such they receive ongoing notices from their government but rarely is it detailed or does it lead to anything.
 - Yes ignorance is not an excuse but neither is it proof of guilt.

8.5.1.1. The Commission is of the view that their notifying the Chinese government, placing a notice in the Australian newspaper and on their website constitutes fair notice.

- The Commission’s General Manager (Lisa Hind) has confirmed that their public notice consisted of “... In the case of deep drawn stainless steel sinks, this notification was made by the Commission as required on 18 March 2014 (advertised in the Australian and published on our website).” - See ATTACHMENT 4.
 - While legally this may well be an acceptable argument it is doubtful that any everyday person would agree.
 - We do not believe it would have been unacceptably difficult to directly notify the affected companies in both China and Australia.

8.5.1.1. The Commission believes that dumping was occurring at around 10% yet it chose to levy 52.6% on what it terms “Uncooperative and other Exporters”.

- See pages 2 and 3 of the Anti-Dumping Notice – ATTACHMENT 1

8.6. Ground 6 - Currency Exchange Rates not fully factored in investigation

8.6.1. Milena submits that while some consideration has been given to exchange rates the simple fact is that this was lost in the final findings.

- When this investigation commenced and during its course the Australian Dollar was near parity with the US Dollar and this was coming from a record high.
 - Currently it is nearer to 0.75 – the rate the Reserve Bank has indicated it views as the correct and desirable rate.

8.6.1.1. At parity a local manufacturer producing a tub for AU\$30 would have found it difficult to compete with an imported tub sold for US\$25 (AU\$25). However at a rate of 0.75 the local manufacturer would find it easy to compete with the imported US\$25 (AU\$33.33) tub.

8.7. Ground 7 - Currency Exchange Rates not fully factored in levy

8.7.1. Milena submits that the variable nature of exchange rates makes the use of a percentage based on the US Dollar inappropriate for a levy.

- When this investigation commenced and during its course the Australian Dollar was near parity with the US Dollar and this was coming from a record high.
 - Currently it is nearer to 0.75 – the rate the Reserve Bank has indicated it views as the correct and desirable rate.

8.7.1.1. At parity a local importer of tubs from an “Uncooperative Exporter” at say US\$25 would need to pay a net price of AU\$38.15 per tub. However at a rate of 0.75 the same importer would be paying a net price of AU\$50.86 per tub.

9. **A statement identifying what the applicant considers the correct or preferable decision should be, that may result from the grounds the applicant has raised in the application. There may be more than one such correct or preferable decision that should be identified, depending on the grounds that have been raised.**

- 9.1. In regards Grounds 1 (8.1), 2 (8.2) and 5 (8.5) Milena requests that the Minister grant immediate Review of all Exporters and in particular Shengzhou Chunyi Electrical Appliances Co Ltd.
- 9.2. In regards Grounds 3 (8.3) and 4 (8.4) Milena requests that the Minister declare Lipped laundry tubs eligible for an exemption from anti-dumping measures under the Dumping Duty Act.
- 9.3. In regards Grounds 6 (8.6) and 7 (8.7) Milena requests that the Minister declare that the levy be subject to change relative to the exchange rate.

10. **If the application contains material that is confidential or commercially sensitive] an additional non-confidential version, containing sufficient detail to give other interested parties a clear and reasonable understanding of the information being put forward.**

- 10.1. A Confidential version and Non-Confidential version of the Application has been provided, with Footer mark accordingly.



ROBERT VAN DER RIET
Managing Director

Milena Australia Pty Ltd

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Australian Government
Anti-Dumping Commission

ANTI-DUMPING NOTICE NO. 2015/41

Deep drawn stainless steel sinks

Exported from the People's Republic of China

Findings in Relation to a dumping and subsidisation investigation

Customs Act 1901 – Part XVB

I, Dale Seymour, Commissioner of the Anti-Dumping Commission (the Commissioner) have completed the investigation, which commenced on 18 March 2014, into the alleged dumping and subsidisation of certain deep drawn stainless steel sinks (the goods), exported to Australia from the People's Republic of China (China).

The goods are currently classified to tariff subheading 7324.10.00 (statistical code 52) in Schedule 3 of the *Customs Tariff Act 1995*. These goods are subject to 5% Customs duty.

A full description of the goods is available in Anti-Dumping Notice (ADN) No. 2014/20. This ADN is available at www.adcommission.gov.au.

Findings and recommendations were reported to the Parliamentary Secretary to the Minister for Industry and Science (the Parliamentary Secretary) in *Anti-Dumping Commission Report No. 238* (REP 238). REP 238 outlines the investigations carried out by the Anti-Dumping Commission (the Commission) and recommends the publication of a dumping duty notice and a countervailing duty notice in respect of the goods.

The Parliamentary Secretary has considered REP 238 and has accepted the recommendations and reasons for the recommendations, including all material findings of fact or law on which the recommendations were based, and particulars of the evidence relied on to support the findings.

Notice of the Parliamentary Secretary's decision was published in *The Australian* newspaper and the *Commonwealth of Australia Gazette* on 26 March 2015.

On 19 February 2015, I terminated the subsidisation investigation into the goods exported by Primy Corporation Limited and Zhongshan Jiabaolu Kitchen and Bathroom Products Co., Ltd. *Termination Report No. 238* (TER 238) sets out the reasons for these terminations. This report is available on the Commission's website.

In REP 238, it was found that:

- certain deep drawn stainless steel sinks exported from China to Australia were dumped with margins ranging from 5.0% to 49.5%, and subsidised with margins ranging from 3.3% to 6.4%;

- the dumped and subsidised exports caused material injury to the Australian industry producing like goods; and
- continued dumping and subsidisation may cause further material injury to the Australian industry.

The duty that has been determined is an amount worked out in accordance with the ad valorem duty method, as detailed in the table below.

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

Exporter	Dumping Margin	Subsidy Margin	Effective Rate of Combined Interim Countervailing Duty and Interim Dumping Duty*	Duty Method
Zhuhai Grand Kitchenware Co., Ltd	12.5%	3.3%	12.5%	<i>Ad valorem</i> duty method
Primy Corporation Limited	5.0%	N/A – countervailing investigation terminated	5.0%	<i>Ad valorem</i> duty method
Zhongshan Jiabaolu Kitchen & Bathroom Products Co., Ltd	15.4%	N/A – countervailing investigation terminated	15.4%	<i>Ad valorem</i> duty method
Jiangmen New Star Hi-Tech Enterprise Ltd.	10.4%	3.4%	10.7%	<i>Ad valorem</i> duty method
Elkay (China) Kitchen Solutions Co., Ltd.	10.4%	3.4%	10.7%	<i>Ad valorem</i> duty method
Franke (China) Kitchen System Co., Ltd	10.4%	3.4%	10.7%	<i>Ad valorem</i> duty method
Xinhe Stainless Steel Products Co., Ltd	10.4%	3.4%	10.7%	<i>Ad valorem</i> duty method
Guangzhou Komodo Kitchen Technology Co., Ltd.	10.4%	3.4%	10.7%	<i>Ad valorem</i> duty method
Rhine Sinkwares Manufacturing Ltd. Huizhou	10.4%	3.4%	10.7%	<i>Ad valorem</i> duty method
Yuyao Afa Kitchenware Co., Ltd	10.4%	3.4%	10.7%	<i>Ad valorem</i> duty method

Jiangmen City HeTangHengWeiDa Kitchen & Sanitary Factory	10.4%	3.4%	10.7%	<i>Ad valorem</i> duty method
Uncooperative and all other exporters	49.5%	6.4%	52.6%	<i>Ad valorem</i> duty method

* 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.

In addition, the Parliamentary Secretary has granted exemptions from imposed interim dumping duties and interim countervailing duties in relation to the following sub-sets of deep drawn stainless steel sinks, based on a finding that like or directly competitive goods are not offered for sale in Australia to all purchasers on equal terms under like conditions having regard to the custom and usage of trade:

- Cleaner's sinks that are comprised of a deep drawn stainless steel bowl and stainless steel splashback or upturned rear edge that is designed for fixture against a wall; and
- Hand wash basins that are comprised of:
 - a deep drawn stainless steel bowl with a rounded or concave basin bottom (i.e. not flat-bottomed); and
 - a stainless steel splash back or upturned rear edge that is designed for fixture against a wall.

Anti-dumping measures apply to goods (other than those exempted items listed above), that are exported to Australia on or after 13 August 2014. Interim dumping duties (IDD) apply to goods that were exported to Australia after the Commissioner made a preliminary affirmative determination to the day before the Parliamentary Secretary decision was published; however only dumping securities that have not expired will be converted to interim dumping duties¹.

Pursuant to section 12 of the *Customs Tariff (Anti-Dumping) Act 1975*, conversion of securities to IDD will not exceed the level of security taken. This means:

- If the rate at which interim dumping duty is imposed is **higher** than the rate at which the security was taken - the security will be converted to IDD at the dumping security rate.

Alternatively:

- If the rate at which interim dumping duties are imposed is **lower** than the rate at which securities was taken - the securities will be converted to IDD at the IDD ad valorem rate.

¹ Within the time limitations of section 45 of the Act.

For those securities that will be converted at the rate at which the security was taken, the rate of conversion will reflect the rates of securities imposed on 24 October 2014 and 23 December 2014 (as applicable).

Importers will be contacted by the Australian Customs and Border Protection Service (ACBPS) detailing the required conversion or acquittal action for each security taken.

Affected parties should contact the Commission on 1300 884 159 or +61 2 6275 6066 (outside Australia) or at clientsupport@adcommission.gov.au for further information regarding the actual duty liability calculation in their particular circumstance.

To preserve confidentiality, the export price, normal value and amount of countervailable subsidisation applicable to the goods will not be published. Bona fide importers of the goods can obtain details of the rates from the Dumping Liaison Officer in their respective capital city.

Clarification about how measures are applied to 'goods on the water' is available in Australian Customs Dumping Notice No. 2012/34, available at the Commission's website.

Interested parties may seek a review of this decision by lodging an application with the Anti-Dumping Review Panel in accordance with the requirements in Division 9 of Part XVB of the Act within 30 days of the publication of the Parliamentary Secretary's notice.

REP 238 has been placed on the Commission's public record, which may be examined at the 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 2 6275 6173, fax number 1300 882 506 or +61 2 6275 6888 (outside Australia) or email at operations2@adcommission.gov.au.

Dale Seymour
Commissioner
Anti-Dumping Commission

26 March 2015

Examples of locally made Milena Laundry Cabinets with imported Stainless Steel Tubs



Contour



Solo



Skinny Mini



嵊州市春益电器有限公司

SHENGZHOU CHUNYI ELECTRICAL APPLIANCES CO., LTD.

Factory Add: Xiashitou Sanjie Town, Shengzhou City, Zhejiang, China

30th March, 2015

TO WHOM IT MAY CONCERN:

Dear Sir or Madam,

We, SHENGZHOU CHUNYI ELECTRICAL APPLIANCES CO., LTD. in China, are manufacturer to produce the kitchen sinks and laundry tubs. Our products are mainly exported to Europe, Australia and some Asian countries markets, only 5% of our kitchen sinks are sold in China domestic market. Regarding to the laundry tubs which are currently exported to Australia, we exclusively manufactured those tubs for Australia market, did not sell anywhere else in the world, not in China either. Therefore, our products should not be considered as dumping products.

Yours sincerely,

戚佩芳
Peifang Qi

Director

SHENGZHOU CHUNYI ELECTRICAL APPLIANCES CO., LTD.

嵊州市春益电器有限公司
SHENGZHOU CHUNYI ELECTRICAL APPLIANCES CO., LTD.

戚佩芳

From: Hind, Lisa [mailto:lisa.hind@adcommission.gov.au]
Sent: Thursday, 23 April 2015 8:25 AM
To: 'robert@milena.com.au'
Subject: FW: Milena - Local Manufacturer Negatively Effected by A.D. Notice 2015/41 [SEC=UNCLASSIFIED]

Dear Robert

Thank you for your email and the attached information.

The Anti-Dumping Commission (the Commission) takes reasonable steps to ensure that interested parties are informed of investigations in a timely manner and that these parties are aware of the potential detrimental consequences of failing to participate in the investigation. This includes issuing a public notice and the direct notification of the foreign government(s) of the country(ies) involved in the investigation on the date of initiation. In the case of deep drawn stainless steel sinks, this notification was made by the Commission as required on 18 March 2014 (advertised in the Australian and published on our website).

As you are aware, the abovementioned investigation has been finalised, with the Parliamentary Secretary to the Minister for Industry and Science (the Parliamentary Secretary) accepting the final report and recommendations of the Anti-Dumping Commissioner in this matter. In this circumstance, there is no avenue for the Commission to reconsider or alter the findings of this investigation as requested in your email.

However, Milena may wish to consider applying to the Anti-Dumping Review Panel (ADRP) for a merits review of the Parliamentary Secretary's decision to impose anti-dumping measures. Such a review could encompass the decision to classify your named exporter as an 'uncooperative' exporter, and whether goods exported by your named exporter have been dumped or in receipt of countervailable subsidies.

Appeals to the ADRP must be received no later than **Monday 27 April**. You can find information on the ADRP and its review process on the following website www.adreviewpanel.gov.au.

Milena may also wish to consider the options of applying to the Commission for:

- a duty assessment; and/or
- a review of the level of measures.

These are mentioned in Andrea Stone's email of 20 April 2014, which you supplied below.

A review of measures cannot be applied for by Milena (or any other interested party for that matter) any sooner than 12 months after the notification of the Parliamentary Secretary's decision to impose anti-dumping measures (which was made on 26 March 2015).

I trust this information has been of assistance.

If you have any further questions in this matter please do not hesitate to contact the Case Manager for this investigation, Andrea Stone, on (02) 6276 1437 or andrea.stone@adcommission.gov.au.

From: Robert van der Riet [mailto:robert@milena.com.au]
Sent: Tuesday, 21 April 2015 4:59 PM
To: Hind, Lisa
Subject: Milena - Local Manufacturer Negatively Effected by A.D. Notice 2015/41

Hi Lisa

Michael Read has suggested that I write to you and outline the situation we find ourselves in.

We believe that we can show that our supplier (Shengzhou Chunyi Electrical Appliances Co. Ltd) has not been guilty of dumping and certainly did not intend to be "Uncooperative".
There is no question they are most likely guilty of naiveté - for assuming that as they aren't guilty of the crime they had no need to prove their innocence.
We also believe it is vital to highlight that if the levy is applied on our supplier in its current form the likely result will be the closure or overseas relocation of Milena.

A brief background on Milena:

Milena is a proud Australian manufacturer with a history dating back to 1976.

Up until 2007 all Milena laundry products were entirely made in Australia.

When the infamous Nickel price surge happened, causing shortages of Stainless Steel supply, we were forced to cease local production of Stainless Steel tubs and move to sourcing the Stainless Steel tubs we required from China.

Our laundry cabinets remain entirely Australian made as is our packaging, all our polymer tubs and all of our other componentry is sourced locally.

I would have liked at this point to go into the range of products we produce but it is more important to focus on what this all has to do with the recently passed Anti-Dumping Levy (2015/41).

In August 2014 we became aware of the Anti-Dumping Investigation after hearing rumours in the marketplace.

We contacted the Commission and spoke to Andrea Stone - an email back from Andrea is attached (FW: Sinks investigation – information [SEC=UNCLASSIFIED]).

Andrea indicated that our Supplier was not listed in the Investigation and as such had most likely not provided feedback by the due date.

This meant that our supplier was henceforth part of the "Uncooperative and Other" group.

We asked how we could remedy the situation and were told we could participate in the process moving forward but the option for a review of our supplier was not an option.

We highlighted that the main items we import are not a saleable product in their own right but rather a crucial component for our locally manufactured laundry cabinets (lipped laundry tubs) and that at a minimum these should be excluded from the investigation.

We were advised to make a submission in this regard - which we did (copy attached: OFFICIAL USE ONLY Letter of Submission MILENA ANTI DUMPING 03 09 14).

During this time we communicated with our Chinese supplier who indicated they had heard of an investigation but that there were multiple investigations being mentioned to them on an almost daily basis. Further they felt as they exclusively supplied us with these products they assumed they could not be guilty of dumping and had not done anything about it.

Attached is a letter from our Chinese supplier in which they confirm that the tubs they supply us with are exclusively made for us.

Yes they should rather have acted or at least let us know when they heard there may be an investigation but unfortunately this did not occur and by the time we began to question it was a fait accompli.

Recently I have called your offices and spoken to both Danielle and Tim.

Both of whom were very pleasant to deal with but were unable to confirm if our supplier had ever even been directly approached in this regard.

As things currently stand if we move our manufacturing to China we will be able to sell our units back to Australia without paying any levy.

However if we continue manufacturing locally we are hit with the highest levy possible on the tubs used to complete our product.

We do not want to even contemplate relocation and beg that you please assist in simply allowing our Supplier to be Reviewed.

We understand that they may be guilty of dumping as a result of actions by their Government or similar but the current rating of "Uncooperative or Other" seems particularly harsh under the circumstances.

In the hopes it may assist we have attached copies of all our purchases of Stainless Steel tubs from China since the beginning of 2014 (Milena - Austmate - Purchases Record).

We believe these clearly show that we have been paying a fair market based price for all the tubs we have been supplied.

We really need your assistance and I am more than happy to meet with you at a time and place that is convenient to you to discuss this further.

Regards,

Robert van der Riet
(Managing Director)

Milena

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ABN: 48604156738

From: STONE Andrea [Andrea.Stone@adcommission.gov.au]
Sent: Tuesday, 26 August 2014 1:50 PM
To: Julie McManamny
Subject: Sinks investigation - information [SEC=UNCLASSIFIED]

Good afternoon Julie,

Thank you for your phone call today in relation to the ongoing investigation into deep drawn stainless steel sinks.

Laundry tubs

As discussed, the Commission is currently considering the claim that lipped laundry tubs (to be inserted in the top of laundry cabinets to make free-standing units) should be excluded from the investigation and any subsequent measures. A letter has been drafted to Tasman Sinkware (the applicant) requesting they directly address this point, and other material is available on the investigation's Public Record in relation to this issue.

The Public Record for the sinks case is at <http://www.adcommission.gov.au/cases/EPR238.asp>.

Submissions

Your company may wish to make a submission to the investigation into deep drawn stainless steel sinks in relation to laundry tubs that form part of free-standing laundry units, or in relation to any other matter you consider necessary.

I have attached Anti-Dumping Notice (AND) 2014/20 that notifies of the investigation's initiation for your reference, which includes details of the address to send submissions to. Please note that, while the attached notice indicates that the timeframe for lodging submissions has passed, the Commission is required to take into account any submissions received by it throughout the investigation that do not delay its timely reporting in its Statement of Essential Facts (due 5 October) and/or report to the relevant Minister (due 19 November 2104). As such, you are encouraged to make a submission as soon as possible (if you choose to do so).

I have also attached another notice which provides a guide for how to make a submission.

Post-decision actions

In relation to the actions that can be taken after a final decision is made to impose duties (if indeed one is made), you may wish to consider lodging a duty assessment (which can result in a refund of duty paid) or request for a review of measures (available after 12 months and can change the rate of measures going forward).

Information on each of these can be found on the Commission's website at:

- Duty assessment: <http://www.adcommission.gov.au/system/what-is-a-duty-asseessment.asp>
- Review: <http://www.adcommission.gov.au/system/What-is-a-review.asp>

I hope the above is of assistance. Please do not hesitate to contact me if you require anything further.

Kind regards,

Andrea Stone
Manager| Anti-Dumping Commission

Customs House
5 Constitution Ave
Canberra ACT 2600

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www.adcommission.gov.au<<http://www.adcommission.gov.au>>

3 THE GOODS AND LIKE GOODS

3.1 Finding

The Commissioner considers that locally produced deep drawn stainless steel sinks are like to the goods the subject of the application (the goods – see below description).

The Commissioner has considered a number of submissions from interested parties in relation to the exclusion of certain goods from the investigation and any resulting anti-dumping measures due to them not being considered to be the goods as described below, or due to them being eligible for an exemption from those measures under the Dumping Duty Act. In relation to these claims, the Commissioner finds the following.

- Lipped laundry tubs, when imported separately from the components that convert these tubs into free-standing laundry units (see below):
 - are the goods subject to the investigation; and
 - are not eligible for an exemption from anti-dumping measures under the Dumping Duty Act.
- Stand-alone laundry units (whether imported fully assembled or in a 'kit') are not the goods subject to the investigation.
- Tight corner radius sinks:
 - are the goods subject to the investigation; and
 - are not eligible for an exemption from anti-dumping measures under the Dumping Duty Act.
- Hand wash basins and cleaner's sinks:
 - are the goods subject to the investigation; and
 - are eligible for an exemption from anti-dumping measures under the Dumping Duty Act.

In light of the above, the Commissioner recommends that the Parliamentary Secretary exercise her discretion under the Dumping Duty Act to exempt hand wash basins and cleaner's sinks from the anti-dumping measures recommended in this report.

3.2 The goods

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.



Venture DMG T/As Milena Australia
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3rd September 2014

Letter to the ADC – CONFIDENTIAL

Ms. Andrea Stone
Manager/Anti-Dumping Commission
Customs House
5 Constitution Ave
Canberra ACT 2600

Dear Ms Stone,

For Official Use Only

Re: Anti-Dumping Investigation NO. 238 – Certain deep drawn stainless steel sinks Exported from China

Submission by Venture DMG T/as Milena Australia

Australian Importer of Laundry Stainless Steel Sinks – China – Australia

We are aware that the point highlighted in this submission with regards to products described as lipped stand-alone stainless steel laundry units, have been raised by other parties throughout this investigation and we wish to add our information and request Venture DMG's support of this matter is documented and considered.

Milena Australia, established in 1976 has been a trusted local supplier to National Plumbing Merchants in the Laundry Category. Milena Australia is considered a low-middle range, value for money Laundry essential. Polymer Cabinets are injection moulded in two Victorian locations (Keysborough and Braeside), assembled in Dandenong and sold with either a Polymer Sink or imported Chinese Stainless Steel Sink assembled to form a stand-alone laundry unit. The stainless steel sinks are the only item Milena imports for its production – all other components are produced within Australia. Our point of difference is our commitment to a high level of local manufacturing.

Venture currently sells 17 items to National and Independent Plumbing Merchants, of which 11 contain Stainless Steel Sinks imported from China. A summary of our product split by sales value and volume is shown below.

Product Code	Description	Ave Monthly Unit Qty	% Of Our Business
CT-45MS	Laundry Lipped Sink - 45L sold as part of a stand-alone laundry unit		
CT-35MS	Laundry Lipped Sink - 35L sold as part of a stand-alone laundry unit		
Inset Troughs	Bench Top Tubs		

Product Code	Description	Average Monthly Gross \$
CT-45MS	Laundry Lipped Sink 45L	
CT-35MS	Laundry Lipped Sink 35L	
Inset Troughs	Bench Top Tubs	

These figures reflect the impact the Levy will have on our local manufacturing plant. [REDACTED] of units made and sold to Merchants are Laundry Trough and Cabinets (containing Laundry lipped sinks) that equates to [REDACTED] of Gross Revenue.

The Two above mentioned Milena Product's (specifically Laundry Lipped Sinks) are shown below.



CT-35MS and CT-45MS

As per your notice Anti-Dumping Notice No. 2014/20 Customs Act 1901- Part XVB

The application alleges that the goods have been exported to Australia at prices less than their normal value and were in receipt of countervailable subsidies and that the dumping and subsidisation has caused material injury to the Australian industry through:

- *Lost sales volumes*
- *Reduced market share*
- *Price depression*
- *Price suppression*
- *Loss of profits and profitability*
- *Reduced return on investments*
- *Reduced capacity utilisation and*
- *Reduced employment numbers*

Venture DMG recommends that Lipped Laundry Troughs exported from China be excluded from the Duty and categorised as not the goods. We submit this application requesting you take action to exempt these sinks on the grounds that our Stainless Steel Trough and Polymer stand-alone cabinets on offer are in no way considered competitive to those goods offered for sale in Australia by Tasman Sinkware Pty Ltd. Tasman will not be affected by our importation of these units as we do not compete against them in any way with our Laundry Trough and Cabinets. It is a product which they are not manufacturing and selling.

Should the Levy apply we anticipate the following happening to our business:

- *Lost sales volumes*
- *Reduced market share*
- *Loss of profits and profitability*
- *Reduced return on investments*
- *Reduced capacity utilisation and*
- ***Reduced employment numbers***

This levy would have a severe negative impact on our viability as an employer in the Victorian manufacturing sector which is already under severe pressure to remain viable.

Should you require any additional information to support this submission please contact the undersigned.

Yours sincerely,



Julie McManamny

National Account Manager

Venture DMG T/As Milena Australia

jmcmamamny@ventureaustralia.com.au

Ph. 03 9212 3222 Fax. 03 9212 3200



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P O Box 543
Virginia Qld 4014
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26 September 2014

Ms Andrea Stone
Manager, Operations 2
Anti-Dumping Commission
Customs House
5 Constitution Ave
Canberra ACT 2600

**RE: Dumping Investigation into Stainless Steel Sinks Exported from China –
Lipped Stainless Steel Bowls for Laundry Units – Submission by
Everhard Industries Pty Ltd**

Dear Ms Stone,

We refer to the Anti-Dumping Commission's (**Commission**) verification at Everhard Industries Pty Ltd (**Everhard**) on 4 June 2014 and the visit report published by the Commission on 18 July 2014. During the verification, the Commission advised that lipped stainless steel bowls that Everhard imported during the period of investigation for assembly with Australian-made cabinets into standalone laundry units (**Lipped SS Laundry Tub Bowls**) may be considered subject goods of the investigation.

We further refer to the Commission's letter to applicant regarding goods issues published on 21 August 2014, in which the Commission summarised the submissions that it has received in opposition to the position in which Lipped SS Laundry Tub Bowls are treated as subject goods of the investigation.

We wish to make the following submissions on this issue.

1. Lipped Stainless Steel Laundry Tub Bowls

The Lipped SS Laundry Tub Bowls that Everhard imports are manufactured in three different sizes (capacities) to suit various applications and laundry configurations. They are available in 30Lt, 45Lt and 70Lt bowl configurations (capacities). The unique lipped top edge of the Lipped SS Laundry Tub Bowls is designed to lock-in and firmly secure the bowls to one of our metal or Australian-made polymer cabinets. These are then sold as a complete free standing laundry unit. The Lipped SS Laundry Tub Bowls cannot be used in any other application. Further, the Lipped SS Laundry Tub Bowls are not manufactured in Australia.

Both Everhard and Milena manufacture injection moulded lipped polymer bowls in Australia. Such bowls are also fitted to either a metal or polymer cabinet for the Australian market to provide the consumer with a choice at the point of purchase.

2. Lipped Stainless Steel Laundry Tub Bowls are not “like goods”

Lipped SS Laundry Tub Bowls are not “like goods” for the purposes of this investigation.

Lipped SS Laundry Tub Bowls are not interchangeable with drop-in / benchtop sinks, which are the subject goods of this investigation due to their shape, configuration and application. In particular, Lipped SS Laundry Tub Bowls have a unique design and can only be used with cabinets that are also designed to accommodate such specific “lipped” bowls. Due to their specific design, Lipped SS Laundry Tub Bowls cannot be used in a bench top. Bench top laundry sinks cannot be used on a cabinet without a “lip” as the bowl would simply fall off the cabinet.

The pictures below show the differences between a Lipped SS Laundry Tub Bowl which is assembled with Australian-made cabinets into standalone laundry units and a bench top laundry sink.



Nugleam Supreme – 45 Lt stainless steel lipped laundry bowl fitted to an Australian made polymer cabinet. Sold as a free standing unit.



Nugleam Standard – 45Lt stainless steel lipped laundry bowl fitted to a powder coated metal cabinet. Sold as a free standing laundry unit.



Benchline – 45Lt stainless steel benchtop sink. Will not fit a metal or polymer cabinet and can only be fitted to a benchtop application.

There is no manufacturer of Lipped SS Laundry Tub Bowls in Australia. Tasman Sinkware Pty Ltd (**Tasman**), the applicant of this investigation, does not manufacture, import or sell Lipped SS Laundry Tub Bowls. Given the unique feature and application of Lipped SS Laundry Tub Bowls, their importation cannot cause material injury to an Australian manufacturer of the deep drawn stainless steel sinks. Further, given that there are no like or directly competitive goods manufactured or offered for sale in Australia, Lipped SS Laundry Tub Bowls should be considered being eligible for exemption from any measures that may be applied following the completion of the investigation in according with the *Customs Tariff (Anti-Dumping) Act 1975*.

3. Application of Lipped Stainless Steel Laundry Tub Bowls

Everhard has manufactured stand-alone laundry tub and cabinets from various materials since 1926 – initially pre-cast concrete, then injection-moulded polymer.

In the early 1980s, Everhard began manufacturing drop-in / benchtop polymer laundry bowls. In the 1990s, Everhard began importing stainless steel drop-in laundry bowls. Everhard introduced both of these products to meet a market need not being addressed by the stand-alone product.

Everhard is unaware of any Australian manufacturer / importer or any Australian builder who would regard the drop-in /benchtop and stand-alone tub as being interchangeable.

GWA is a recent exception and has made a submission to the Commission which we will discuss in section 4 below.

Free standing laundry units are generally used in the lower end laundry applications or by volume building companies due to its lower installation cost as compared to the drop-in / benchtop models which have to be fitted to a manufactured bench top cabinet. That bench top cabinet will usually be designed with drawers and other additions to meet the individual laundry layout requirements of the home owner.

To contend that benchtop laundry sinks (in stainless steel and polymer) perform the same function as a stand-alone tub and cabinet unit is to argue that Holden Barinas and Holden Caprice are interchangeable.

Everhard entered the drop-in/benchtop laundry bowl market in the 1980s and 1990s because of significant consumer demand for this higher-end, higher-cost product. Nevertheless the majority of laundry units installed in new Australian homes are stand-alone laundry tub and cabinet using Lipped SS Laundry Tub Bowls.

To the best of Everhard's knowledge, there are only two Australian manufacturers of laundry tub bowls and stand-alone laundry tub and cabinet units, that is, Everhard and Milena . Both Everhard and Milena manufacture polymer drop-in laundry sinks and stand-alone polymer bowls and cabinets in Australia.

In contrast, Tasman manufactures stainless steel sinks used as drop-in / benchtop laundry bowls in Australia.

The table below shows the different types of laundry products that are manufactured or imported by Australian producers.

Free Standing Laundry Units – Local Manufacturers Vs Importers

	S/S Bowls	Poly Bowls	Metal Cabinet	Polymer Cabinet	Assessorries
Everhard	Import	Local	Import	Local	Local
Milena	Import	Local	Not known	Local	Not known
Clarke	Import	No	Import	No	No
Tasman	No	No	No	No	No
Others	Import	No	Import	No	No

4. GWA's position

We refer to the recent submission by GWA to the Commission on 3 September 2014 in which GWA contended that Lipped SS Laundry Tub Bowls are "like" goods for the purpose of the investigation.

Everhard disagrees with GWA's contention which is contrary to GWA's earlier position expressed during the Commission's verification at GWA and subsequently outlined in the Commission's visit report published on 18 August 2014.

In the visit report, GWA's position was described as below:

Tasman's 'Laundry' range sinks do not meet GWA's requirements for assembly into standalone laundry units and are not like to GWA's lipped sinks...Tasman's products are designed to be incorporated (i.e. mounted) into a bench top and thus lack the metal lip/overhang that allows the sink

to slot directly onto the top of laundry cabinet to form a laundry unit. GWA advised that because Australian industry did not manufacture what it considered to be 'like goods' to its imported laundry sinks, it did not include any laundry sinks in its response to the Importer Questionnaire. (page 14)

However, GWA changed its position in the recent submission arguing that Lipped SS Laundry Tub Bowls and drop in tubs are "like" due to their commercial and functional likeness.

We do not agree with GWA's position in its recent submission but agree with its position as stated in the visit report.

*Further, we find support in Milena's submission to the Commission on 3 September 2014 which contends *Venture DMG recommends that Lipped Laundry Troughs exported from China be excluded from the Duty and categorised as not the goods. We submit this application requesting you take action to exempt these sinks on the grounds that our Stainless Steel Trough and Polymer stand-alone cabinets on offer are in no way considered competitive to those goods offered for sale in Australia by Tasman Sinkware Pty Ltd. Tasman will not be affected by our importation of these units as we do not compete against them in any way with our Laundry Trough and Cabinets. It is a product which they are not manufacturing and selling.**

Should the Levy apply we anticipate the following happening to our business:

- *Lost sales volumes*
- *Reduced market share*
- *Loss of profits and profitability*
- *Reduced return on investments*
- *Reduced capacity utilisation and*
- ***Reduced employment numbers***

This levy would have a severe negative impact on our viability as an employer in the Victorian manufacturing sector which is already under severe pressure to remain viable".

5. Everhard

Everhard is a family owned business established in Brisbane in 1926. The Company manufactures, imports & distributes products used by the building & plumbing industries. The company's first product was a pre-cast concrete laundry tub & stand. The company has continuously manufactured & marketed laundry units for the past 88 years. Some of its laundry products are now imported. These laundry units are

sold nationally to recognised hardware and plumbing merchants along with other Everhard products. We are a SME – we employ about 125 people.

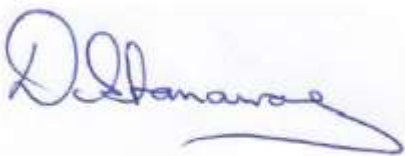
Everhard will suffer material harm if stainless steel laundry bowls which are imported from China (that are to be fitted to Australian made polymer cabinets) are subject to anti-dumping duties, This will add considerable cost to the Australian made laundry unit which in turn will have a higher manufactured cost and in turn a higher price than other fully imported laundry units which are imported from China which are currently considered to not be “like goods”.

Our polymer cabinets are injection moulded and assembled at our Geebung plant and are then fitted with either a stainless steel or polymer bowl to form a free standing laundry unit. The polymer bowl and accessories are also manufactured at our Geebung plant with the “ Lipped “ Stainless Steel laundry tub bowl being the only component that is imported from China.

All “ Lipped “ Stainless Steel laundry tub bowls being imported into Australia either with an imported cabinet and accessories or to be fitted to an Australian made polymer cabinet should be deemed not “like goods “ and be exempted from the investigation.

Should you have any queries or need further information, please do not hesitate to contact us.

Yours faithfully



Doug Stanaway
Chief Executive Officer /
National Sales & Marketing Manager

**C.L.R. MAINTENANCE GROUP
CONCRETING (ALL TYPES)
PLUMBING & DRAINAGE
STEEL FABRICATION
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A/HRS :- 38884424
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A.B.N. :- 27989260318
B.S.A. :- 1012049**

Client:- Everhard Industries.
405 Newman Road Geebung.

Date :- 26/11/14

To Whom it may Concern

Dear Sir/Madam:

I have been asked if I would be able to provide some comment on behalf of Everhard Industries Pty Ltd with regards the differences in use and installation between free standing cabinet style (lipped) and Bench top / insert style laundry units that are offered by Everhard and other companies for installation into residential laundry rooms.

I am a plumber by trade and have been working in the industry for over twenty years and during this time installed numerous laundry units from many manufacturers although the type and style is generally selected by the builder or the home owner.

Bench top / Insert type laundry bowls are fitted where there is a bench or cabinet work built into the laundry room. These units can also be used as a sink for a wet bar or butlers kitchen but rely on a solid bench or cabinetry for support. The bowl is placed into a precut opening and is held in place by clips which attach to lugs welded at positions around the underside of the bowl edge. The bowl is normally sealed to the bench top by using a flexible foam strip that is trapped in a groove in the edge of the bowl between the bowl and the bench top surface.

The free standing cabinet style laundry unit is often used by builders of new homes as it gives the new home owner more freedom in the layout of the new laundry. The free standing cabinet is still fixed in position in the room however the washing machine could be put on either side of the cabinet if it is placed along a wall. The lipped bowl used in the free standing style cabinet is a major part of the structure of the cabinet itself. The lipped bowl fits over the top edges of three sides of the cabinet and gives the unit rigidity. It is also the rear upturned tiling strip that holds the unit against the wall although sometimes the rear braces are also screwed to the wall. The upturned lip that is tiled over is also what provides the seal against the laundry wall.

I have been also asked to comment as to how an insert bowl could be substituted in a cabinet and vice versa.

It may be possible to use a cabinet style (lipped) bowl in a bench but it would require extensive modification. It would be necessary to cut away all of the side lips both down turned and up turned to be able to try to seal the bowl to the bench top. It would not be possible to seal the bowl to the bench without removing the lips as the rear upturned lip would leave an opening for vermin to get in and under the bowl and create a health hazard. If all the lips were cut away it would also be necessary to grind smooth all of the edges or it would be a significant safety hazard on the raw edge of the stainless steel.

Also it would still be very difficult to seal the bowl to the bench as there would be no recess to trap the seal strip and hold in place while the bowl was fixed in place. Which is a further issue as there would be no way to attach the clips to the bowl without welding to the underside of the bowl surround which would cause marks and burns to the top surface of the bowl surround. In all my time as a plumber I have never been asked to perform this modification or try and fit a lipped laundry bowl into this configuration.

In the same way it would be extremely difficult to use a bench top / insert mount bowl in a freestanding style laundry cabinet. Without the downturned lip there is no way to position the bowl positively on the top of the cabinet. It may be possible to get some of the clips to align under the edges of the cabinet walls however it is going to leave a straight edge of thin stainless steel exposed all around which would be a sever safety hazard. Also without the upturned lip on the rear of the bowl there would be no reliable seal at the rear of the unit against the wall which in turn would allow water to enter the inside of the cabinet and become a health risk with the possible buildup of mould. Generally bench top /insert type bowls all come with rounded corners so there are no sharp points to catch on when wiping around the sink, so it would leave openings in the cabinet top unless it completely overhangs the cabinet which as pointed out previously would leave a straight edge of stainless steel that would be like a knife if someone rubbed against or past the bowl edge while doing laundry. Instead of fitting the bowl directly to the cabinet it could be possible to place a section of bench top on top of the standard cabinet and mount the bowl in the standard manner, however there are no provisions for fixing a bench top to a standard cabinet and fixing any brackets through the sides would be unsightly.

I hope this assists with clearing up the confusion that has been related to me by the Everhard staff member.

Sincerely,



JACK RITCHIE - DIRECTOR

License No : 15649