



Australian Government
Anti-Dumping Commission

CUSTOMS ACT 1901 - PART XVB

**PRELIMINARY AFFIRMATIVE
DETERMINATION
REPORT NO. 238**

**DEEP DRAWN STAINLESS STEEL SINKS
EXPORTED TO AUSTRALIA FROM THE
PEOPLE'S REPUBLIC OF CHINA**

August 2014

CONTENTS

CONTENTS	2
ABBREVIATIONS	4
1 SUMMARY & PRELIMINARY DECISIONS	5
1.1 Background.....	5
1.2 PAD and provisional dumping measures.....	5
1.3 Application of law to facts.....	5
1.4 The role of the Commissioner.....	5
1.5 The role of the Anti-Dumping Commission.....	6
1.6 Preliminary assessments.....	6
2 BACKGROUND	8
2.1 Initiation of dumping investigation.....	8
2.2 SEF and due dates.....	8
2.3 Submissions.....	8
3 ABILITY TO MAKE A PAD AND TAKE SECURITIES	9
3.1 Ability to make a PAD.....	9
3.2 Ability to take securities.....	9
3.3 Information considered.....	9
4 THE GOODS UNDER INVESTIGATION	10
4.1 Goods description.....	10
4.2 Tariff classification.....	11
5 AUSTRALIAN INDUSTRY & LIKE GOODS ASSESSMENT	12
5.1 Preliminary assessment.....	12
5.2 Like goods.....	12
6 AUSTRALIAN MARKET SIZE	14
6.1 Preliminary assessment.....	14
6.2 Background.....	14
6.3 Market size and share.....	14
7 PRELIMINARY DUMPING ASSESSMENT	16
7.1 Preliminary assessment.....	16
7.2 Exporter questionnaire and responses.....	17
7.3 Classification of exporters – sampling.....	17
7.4 Determination of normal values – particular market situation and replacing costs.....	20
7.5 Determination of export prices, normal values and dumping margins.....	30
7.6 Residual exporters.....	32
7.7 Uncooperative exporters.....	32
7.8 Preliminary dumping margin summary.....	32
7.9 Volumes.....	32
8 PRELIMINARY COUNTERVAILING ASSESSMENT	34
9 PRELIMINARY INJURY ASSESSMENT	35
9.1 Preliminary assessment.....	35
9.2 Approach.....	35
9.3 Legislative framework.....	36
9.4 Commencement of injury, and analysis period.....	36
9.5 Volume trends.....	36
9.6 Price trends.....	38
9.7 Profit trends.....	41

PUBLIC RECORD

9.8	Other economic factors	42
10	PRELIMINARY CAUSATION ASSESSMENT	44
10.1	Preliminary assessment	44
10.2	Size of the dumping margins	44
10.3	Price effects	44
10.4	Volume injury	46
10.5	Injury caused by factors other than dumping.....	50
11	PRELIMINARY NON INJURIOUS PRICE ASSESSMENT.....	54
11.1	Preliminary assessment	54
11.2	Relevant legislation	54
11.3	The Commission's assessment	54
12	REASONS FOR MAKING A PAD	55
13	PROVISIONAL DUMPING MEASURES.....	56
13.1	Preliminary finding.....	56
13.2	Preliminary assessment	56
13.3	Preliminary provisional measures	56
14	APPENDICES & ATTACHMENTS	58

PUBLIC RECORD

ABBREVIATIONS

ABS	Australian Bureau of Statistics
ACBPS	Australian Customs and Border Protection Service
the Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
the Commission	Anti-Dumping Commission
the Commissioner	Commissioner, Anti-Dumping Commission
CTMS	Cost to make and sell
GAAP	Generally accepted accounting principles
GOC	Government of China
FOB	Free on board
GAAP	generally accepted accounting principles
the goods	the goods the subject of the application (also referred to as the goods under consideration or GUC)
Jiabaolu	Zhongshan Jiabaolu Kitchen & Bathroom Products Co., Ltd
MEPS	MEPS (International) Ltd
the Minister	the Minister for Industry
NIP	Non-injurious Price
PAD	Preliminary Affirmative Determination
Parliamentary Secretary	Parliamentary Secretary to the Minister for Industry
Primy	Primy Corporation Limited
the Regulations	<i>Customs Regulations 1926</i>
SEF	Statement of Essential Facts
Tasman	Tasman Sinkware Pty Ltd
USP	Unsuppressed Selling Price
VAT	Value-added tax
Zhuhai Grand	Zhuhai Grand Kitchenware Co., Ltd

1 SUMMARY & PRELIMINARY DECISIONS

1.1 Background

This Preliminary Affirmative Determination (PAD) Report Number 238 sets out the reasons for the Commissioner of the Anti-Dumping Commission's (the Commissioner's) decision to make a PAD in respect of a dumping duty notice under s. 269TD of the *Customs Act 1901* (the Act).¹

The preliminary findings, conclusions and provisional calculations discussed in this report are for the purpose of the PAD and are based on information available at the time of making the PAD. It is possible for these findings, conclusions and calculations to change between publication of the PAD and publication of the Statement of Essential Facts (SEF) and the final report and recommendations for this investigation, as more information becomes available.

1.2 PAD and provisional dumping measures

In making a PAD, the Commissioner is satisfied there appears to be sufficient grounds for the publication of a dumping duty notice in relation to deep drawn stainless steel sinks exported to Australia from the People's Republic of China (China).

Further, being satisfied that securities are necessary to prevent material injury to the Australian industry occurring while the investigation continues, the Commissioner determines that the Australian Customs and Border Protection Service (ACBPS) should take securities under s. 42 of the Act in respect of interim dumping duty that may become payable in relation to deep drawn stainless steel sinks exported to Australia from China.

Securities will apply to imports of deep drawn stainless steel sinks from China entered for home consumption in Australia on or after **13 August 2014**.

The following documents give effect to the Commissioner's decision:

- the determination for the PAD and decision to require and take securities (**Confidential Attachment 1**); and
- the public notice (**Non-Confidential Attachment 2**).

1.3 Application of law to facts

Division 2 of Part XVB of the Act sets out procedures for the consideration of anti-dumping matters by the Commissioner.

1.4 The role of the Commissioner

The Commissioner may make a PAD at any time after 60 days from the date of initiation of an investigation if satisfied that there appears to be sufficient grounds for

¹ References to any section or subsection shall be references to sections or subsections of the *Customs Act 1901*.

PUBLIC RECORD

the publication of a dumping duty notice and/or a countervailing duty notice, or that it appears that there will be sufficient grounds for the publication of such a notice subsequent to the importation of the goods into Australia.

In deciding whether to make a PAD, the Commissioner must have regard to the application and any submissions received within 40 days after the date of initiation of the investigation. The Commissioner may also have regard to any other matters the Commissioner considers relevant.

If the Commissioner decides that the ACBPS should require and take securities at the time of the determination, or at a later time in the investigation, being satisfied that doing so is necessary to prevent injury to the Australian industry, the Commissioner must also give public notice of that decision.

1.5 The role of the Anti-Dumping Commission

The role of the Anti-Dumping Commission (the Commission) is to provide a report to the Commissioner with its recommendations as to whether a PAD is justified. Those recommendations are based on information gathered during the investigation.

1.6 Preliminary assessments

1.6.1 Australian industry and like goods (Chapter 5 of this report)

The Commission is satisfied there is an Australian industry producing 'like goods' (deep drawn stainless steel sinks) to the goods the subject of the investigation. The Commission is satisfied that the like goods are manufactured in Australia by Tasman Sinkware Pty Ltd (Tasman).

1.6.2 Preliminary dumping assessment (Chapter 7 of this report)

The Commission's assessment shows:

- the normal value of deep drawn stainless steel sinks exported to Australia can be established pursuant to s. 269TAC(2)(c), using constructed costs, due to the lack of relevant domestic sales suitable for use as a normal value;
- the cost of stainless steel as recorded in the financial records of exporters of deep drawn stainless steel sinks does not reasonably reflect a competitive market cost for stainless steel in China. A benchmark cost for stainless steel can be established using world composite data (excluding Asian prices) from MEPS (International) Ltd;
- deep drawn stainless steel sinks exported to Australia from China during the investigation period were dumped by all exporters excluding Zhongshan Jiabaolu Kitchen & Bathroom Products Co., Ltd (Jiabaolu); and
- the volume of dumped goods from China and the dumping margin for each exporter that was found to have exported goods at dumped prices was not negligible.

The Commission's assessment of dumping margins for deep drawn stainless steel sinks exported from China is outlined below:

PUBLIC RECORD

Exporter / Manufacturer	Preliminary dumping margin
Zhuhai Grand Kitchenware Co., Ltd	19.4%
Primy Corporation Limited	42.4%
Zhongshan Jiabaolu Kitchen & Bathroom Products Co., Ltd	Negligible
Jiangmen New Star Hi-Tech Enterprise Ltd.	35.0%
Elkay (China) Kitchen Solutions Co., Ltd.	35.0%
Franke (China) Kitchen System Co., Ltd	35.0%
Xinhe Stainless Steel Products Co., Ltd	35.0%
Zhongshan Xintian Hardware Co., Ltd.	35.0%
Rhine Sinkwares Manufacturing Ltd. Huizhou	35.0%
Yuyao Afa Kitchenware Co., Ltd	35.0%
Jiangmen City HeTangHengWeiDa Kitchen & Sanitary Factory	35.0%
Uncooperative and all other exporters	61.5%

Table 1- Preliminary dumping margins

1.6.3 Preliminary countervailing assessment (Chapter 8 of this report)

The Commission's assessment as to whether exports of deep drawn stainless steel sinks from China have benefitted from countervailable subsidies is ongoing. This PAD report does not include a finding in relation to countervailable subsidies.

1.6.4 Injury (Chapter 9 of this report)

The Commission is satisfied that, during the investigation period, the Australian industry producing like goods experienced injury in the form of:

- 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.

1.6.5 Causation (Chapter 10 of this report)

The Commission is satisfied for the purpose of the PAD that there are sufficient grounds to find that dumping of deep drawn stainless steel sinks by exporters from China caused material injury to the Australian industry (Tasman) producing like goods.

2 BACKGROUND

2.1 Initiation of dumping investigation

On 31 January 2014, Tasman lodged an application requesting that the Parliamentary Secretary to the Minister for Industry² (the Parliamentary Secretary) publish a dumping duty notice and countervailing duty notice in respect of deep drawn stainless steel sinks exported to Australia from China.

Following consideration of the application, the Commissioner decided not to reject the application and the Commission initiated an investigation on 18 March 2014. Public notification of initiation of the investigation (public notice) was made in *The Australian* newspaper on that day.

Anti-Dumping Notice (ADN) No. 2014/20 provides further details of the investigation and is available on the Commission's website at www.adcommission.gov.au

In respect of the investigation:

- the investigation period for the purpose of assessing dumping is 1 January 2013 to 31 December 2013; and
- the injury analysis period for the purpose of determining whether material injury has been caused to the Australian industry is from 1 January 2009.

2.2 SEF and due dates

The public notice advised that the SEF for the investigation would be placed on the public record by 7 July 2014. However, the Commissioner requested that the Parliamentary Secretary extend the prescribed 90 days for publication of the SEF.³

Pursuant to s. 269ZHI of the Act, the Parliamentary Secretary approved an extension of time to publish the SEF, which is now due on or before 5 October 2014. The final report with the Commissioner's recommendations is now due to the Parliamentary Secretary on or before 19 November 2014.

2.3 Submissions

At the date of this PAD, the Commission has received 17 responses to the Exporter Questionnaire and seven general submissions from interested parties. These submissions have been considered for the purpose of this PAD and will continue to be considered as the investigation progresses.

² The Minister for Industry has delegated responsibility with respect to anti-dumping matters to the Parliamentary Secretary, and accordingly, the Parliamentary Secretary is the relevant decision maker for this investigation.

³ The extension of time granted to issue the SEF was detailed in ADN 2014/50.

3 ABILITY TO MAKE A PAD AND TAKE SECURITIES

3.1 Ability to make a PAD

The Commissioner may make a PAD under s. 269TD of the Act, if satisfied that:

- there appears to be sufficient grounds for the publication of such a notice; or
- it appears that there will be sufficient grounds for the publication of such a notice subsequent to the importation into Australia of such goods.

The Commission may make a PAD in respect of goods the subject of an application at any time from 60 days after the date of initiation of an investigation into whether there are sufficient grounds for the publication of a dumping duty and/or countervailing notice.

In deciding whether to make a PAD, the Commissioner must have regard to the application concerned and any submissions concerning publication of the notice that are received by the Commission within 40 days after the date of initiation of the investigation. The Commissioner has also had regard to any other matter considered relevant. The Commissioner is not obliged to have regard to any submission received after day 40 if to do so would prevent the timely consideration of whether or not to make a PAD.

3.2 Ability to take securities

ACBPS may, at the time of the Commissioner making a PAD or at any later time during the investigation, require and take securities under s. 42 of the Act in respect of interim duty that may become payable, if the Commissioner is satisfied that it is necessary to do so to prevent material injury to an Australian industry occurring while the investigation continues.⁴

3.3 Information considered

In making this PAD, the Commission has had regard to:

- the application for a dumping duty notice and a countervailing duty notice;
- the findings and recommendations contained in the *Australian Industry Visit Report* (available on the Public Record);
- submissions and questionnaire responses (verified and unverified); and
- other matters that the Commissioner considered relevant.

⁴ Subsection 269TD(4)(b).

4 THE GOODS UNDER INVESTIGATION

4.1 Goods description

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.

Additional product information

The application contains the following further information in relation to the goods the subject of the application.

For the purposes of this definition, the term “deep drawn” refers to a manufacturing process using metal forming technology to produce a smooth basin with seamless, smooth, and rounded corners. Deep drawn stainless steel sinks are available in various shapes and configurations and may be described in a number of ways including flush mount, top mount, or undermount (to indicate the attachment relative to the countertop). Stainless steel sinks with multiple deep drawn bowls that are joined through a welding operation to form one unit are covered by the scope of the investigations. “Finished or unfinished” refers to whether or not the imported goods have been surface treated to their intended final “finish” for sale. Typically, finishes include brushed or polished.

Deep drawn stainless steel sinks are covered by the scope of the investigation whether or not they 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.

Excluded from the definition of the goods the subject of this application are stainless steel sinks with fabricated bowls. Fabricated bowls do not have seamless corners, but rather are made by notching and bending the stainless steel, and then welding and finishing the vertical corners to form the bowls. Stainless steel sinks with fabricated bowls may sometimes be referred to as “fabricated sinks”.

Deep drawn stainless steel sinks are commonly used in residential and non-residential installations including in kitchens, bathrooms, utility and laundry rooms. When used in the context of bathrooms, deep drawn stainless steel sinks may there be referred to, for marketing purposes, as “wash basins”. As noted above, deep drawn stainless steel sinks may have may, or may not, have a single (or multiple) integrated drain board that forms part of the sink structure, designed to direct water into the sink bowl.

PUBLIC RECORD

4.2 Tariff classification

The application states that the goods are classified within tariff subheading 7324.10.00 (statistical code 52), in Schedule 3 of the *Customs Tariff Act 1995*.

The ACBPS' tariff branch has confirmed this is the correct classification.

The rate of Customs duty payable is 5 per cent.

5 AUSTRALIAN INDUSTRY & LIKE GOODS ASSESSMENT

5.1 Preliminary assessment

Based on information available at the time of making the PAD, the Commissioner is satisfied there is an Australian industry producing like goods to the goods the subject of the application and that those like goods are produced in Australia.

5.2 Like goods

Subsections 269T(2) and 269T(3) of the Act 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.

Subsection 269T(1) of the Act defines like goods as:

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

Having undertaken verification visits to Tasman's Regency Park factory, as well as to importers of deep drawn stainless steel sinks, the Commission is satisfied that Tasman is the sole producer of deep drawn stainless steel sinks in Australia and that Tasman wholly manufactures the products. Accordingly, the Australian industry consists of Tasman.

The Commission has assessed, based on the information currently before it, that Tasman has demonstrated the following in relation to deep drawn stainless steel sinks:

- 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 Commission is satisfied that the Australian industry produces like goods to the goods the subject of the application, as defined in s. 269(T) of the Act.

Submissions have been received from interested parties emphasising physical differences between locally produced goods and imported goods. Some submissions claim that certain goods being imported do not fall under the goods description. Other submissions claim that certain imported goods, while being covered by the goods description, should be exempted from any anti-dumping measures that may result from the investigation under s.8(7)(a) and s.10(8(a)) of the *Customs Tariff (Anti-*

PUBLIC RECORD

Dumping) Act 1975 on the grounds that like or directly competitive goods are not offered for sale in Australia by the Australian industry.

The Commission will continue to assess the issue of like goods and the applicability of the exemption provisions throughout the investigation.

6 AUSTRALIAN MARKET SIZE

6.1 Preliminary assessment

The Commission preliminarily considers that it is unable to accurately assess the market size of the Australian deep drawn stainless steel sinks industry for the purposes of this PAD report.

6.2 Background

The Commission understands that the deep drawn stainless steel sink market in Australia is primarily driven by the residential construction (new dwellings) and renovations sector. It is supplied by imports from China, Thailand and other countries (including some imports by Tasman itself) and local production by Tasman (the only Australian producer).

6.3 Market size and share

In its application, Tasman used import data (in units) sourced from the Australian Bureau of Statistics (ABS) and its own sales data to estimate the size of the Australian market for deep drawn stainless steel sinks for each financial year (FY)⁵ during the period FY2009 to FY2013 inclusive.

The sales data submitted by Tasman in relation to its own sales has been verified by the Commission, as outlined in the *Australian Industry Verification Visit Report* (available on the Public Record). This sales data was found to be reasonably complete, relevant and accurate.

For the purposes of its Consideration Report for the investigation, the Commission compared the import volumes in the application to data in the ACBPS import database for the relevant tariff classification and statistical code outlined in Section 4.2. This analysis showed that import volume listed in the ACBPS database was similar to the ABS data relied upon by Tasman (which is itself derived by the ABS from ACBPS data) and the Commission considered the ABS data to be reasonably accurate for the purposes of its Consideration Report.

Since initiation of the investigation, the Commission has found that the ACBPS data also includes importations of 'lipped' laundry tubs and complete laundry unit 'kits' that include lipped tubs. It is understood from visits to importers that laundry unit 'kits' comprise of a lipped deep drawn stainless steel sink laundry tub and all other necessary assembly components, which are assembled to form free-standing laundry units. Imports of these components are also included in the ACBPS data.

The Commission has received submissions from importers that:

- the complete free standing laundry unit kits are not the goods because they are not 'deep drawn stainless steel sinks' but rather laundry units that have a sink component among numerous other components; and

⁵ Being 1 July to 30 June.

PUBLIC RECORD

- lipped laundry tubs are a specific design that allows them to be set on the top of a free-standing laundry cabinet (to become a laundry unit) as opposed to tubs designed to be inset into a laundry bench top (such as those made by Tasman). They should not be considered like goods to Tasman's own production (regardless of whether they are sold in a kit or not – noting the above submission that those sold in a kit are not the goods in any case).

As outlined in Section 5.2, the Commission is continuing to consider submissions relating to the goods and like goods in the scope of the investigation (as well as the applicability of exemption provisions) and is yet to make a preliminary determination in relation to the above.

In addition, the Commission has also become aware of the inclusion of a significant volume of fabricated sinks in the ACBPS data (and hence the ABS data submitted by Tasman) that are not the goods subject to investigation as outlined in Section 4.1 (being specifically excluded). In its investigations with major importers of goods under the relevant tariff classifications, the Commission has found that imports of fabricated sinks are potentially between one quarter and one half of the total volume of imports made under the relevant tariff classification.

Consequently, the Commission preliminarily considers that the ACBPS import data and submitted ABS data include large volumes of irrelevant data.

In the absence of reasonably reliable import data, the Commission preliminarily considers that it is unable to accurately assess the market size of the Australian deep drawn stainless steel sinks industry for the purposes of this report. The Commission is therefore unable to make accurate observations as to market size and share over the injury analysis period.

The Commission considers that the above impacts the accuracy of the Commission's assessment as to whether the volume of dumped imported deep drawn stainless steel sinks was above negligible levels, as well as whether market size trends in the Australian market have corresponded with sales volume trends demonstrated by Tasman.

However, as discussed later in this report, the Commission has examined other indicators to develop an understanding of import volumes and market size trends over the injury analysis period, allowing it to make preliminary conclusions relevant to these matters. The lack of reliable market size data therefore has limited bearing on the preliminary findings in this report.

7 PRELIMINARY DUMPING ASSESSMENT

7.1 Preliminary assessment

Based on unverified information and data available at the time of making the PAD, the Commissioner is satisfied that exports of deep drawn stainless steel sinks to Australia from China were dumped during the investigation period.

The Commission’s assessment is that:

- the normal value of deep drawn stainless steel sinks exported to Australia can be established pursuant to s. 269TAC(2)(c), using constructed costs, due to the lack of relevant domestic sales suitable for use as a normal value;
- the cost of stainless steel as recorded in the financial records of exporters of deep drawn stainless steel sinks does not reasonably reflect a competitive market cost for stainless steel in China. A benchmark cost for stainless steel can be established using world composite data (excluding Asian prices) from MEPS (International) Ltd;
- deep drawn stainless steel sinks exported to Australia from China during the investigation period were dumped; and
- the volume of dumped goods, and the dumping margins for all exporters excluding one (Jiabaolu) were not negligible.

Preliminary dumping margins are tabulated below:

Exporter / Manufacturer	Preliminary dumping margin
Zhuhai Grand Kitchenware Co., Ltd	19.4%
Primy Corporation Limited	42.4%
Zhongshan Jiabaolu Kitchen & Bathroom Products Co., Ltd	Negligible
Jiangmen New Star Hi-Tech Enterprise Ltd.	35.0%
Elkay (China) Kitchen Solutions Co., Ltd.	35.0%
Franke (China) Kitchen System Co., Ltd	35.0%
Xinhe Stainless Steel Products Co., Ltd	35.0%
Zhongshan Xintian Hardware Co., Ltd.	35.0%
Rhine Sinkwares Manufacturing Ltd. Huizhou	35.0%
Yuyao Afa Kitchenware Co., Ltd	35.0%
Jiangmen City HeTangHengWeiDa Kitchen & Sanitary Factory	35.0%
Uncooperative and all other exporters	61.5%

Table 2 - Preliminary dumping margins

7.2 Exporter questionnaire and responses

On the date of initiation of this investigation, the Commission wrote to all known potential exporters of deep drawn stainless steel sinks from China⁶ to advise them of initiation of the investigation and invite them to cooperate with the investigation by completing an Exporter Questionnaire.

At the time of publication of this PAD report, responses to the Exporter Questionnaire have been received by the Commission from the following entities:

- Primy Corporation Limited (Primy)
- Jiabaolu Zhongshan Jiabaolu Kitchen & Bathroom Products Co., Ltd (Jiabaolu)
- Zhuhai Grand Kitchenware Co., Ltd (Zhuhai Grand)
- Flowtech Co Ltd
- CM Engineering Solutions Pty Ltd
- Jiangmen New Star Hi-Tech Enterprise Ltd.
- Elkay (China) Kitchen Solutions Co., Ltd.
- Franke (China) Kitchen System Co., Ltd
- Franke Asia Sourcing Ltd
- Xinhe Stainless Steel Products Co., Ltd
- Xiaohui Trading Development Co., Ltd
- Komodo Hong Kong Ltd
- Zhongshan Xintian Hardware Co., Ltd.
- Rhine Sinkwares Manufacturing Ltd. Huizhou
- Yuyao Afa Kitchenware Co., Ltd
- Jiangmen City HeTangHengWeiDa Kitchen & Sanitary Factory
- Anhui Feidong Import and Export Co., Ltd.

7.3 Classification of exporters – sampling

Following receipt of the above-listed responses to the Exporter Questionnaire, the Commission determined that it is appropriate to limit the number of exporters individually investigated to a sample of selected exporters to as it is considered not practicable to examine the exports of all responding exporters. This is provided for under s.269TACAA of the Act.

This sample has been limited to those exporters who are responsible for the highest volume of exports that the Commission considers can reasonably be examined in this investigation.

Where the Commission undertakes a sampling exercise under s.269TACAA, it is then able to use the information of those sampled exporters to make findings as to whether the goods have been dumped and/or received countervailable subsidies in respect of all other exporters. In doing so, the Commission preliminarily proposes to

⁶ Identified in the ACBPS import database, or the application for the investigation.

PUBLIC RECORD

classify all exporters from China other than the three named 'selected exporters' as either:

- residual exporters; or
- uncooperative exporters.

The terms 'residual exporter' and 'uncooperative exporter' are defined by s.269T(1) of the Act.

7.3.1 Selected exporters

The Commission has decided to investigate the exportations of three 'selected exporters' of deep drawn stainless steel sinks from China:

SELECTED EXPORTERS
Primy
Jiabaolu
Zhuhai Grand

Table 3 – Selected exporters

The reasons for this decision are outlined in the Commission's *Sampling Report 238*, available on the Commission's Public Record. This PAD report should be read in conjunction with *Sampling Report 238*.

7.3.2 Residual exporters

Subsection 269T(1) provides that residual exporters are those exporters whose exports were not examined as part of the investigation and are not 'uncooperative exporters' (further discussed below).

In light of this, the Commission preliminarily considers that 'residual' exporters are those that can reasonably be considered to have cooperated with the investigation by fulfilling the requirements of the Exporter Questionnaire, except for the three selected exporters. In practicality, this means that the exporter is not 'uncooperative' for the purposes of s.269T(1) but also is not amongst the three selected exporters.

Further, to be classified as a residual exporter, the entity responding to the Exporter Questionnaire must be considered to be an 'exporter' for the Commission's purposes, the requirements for which are outlined in Chapter 5 of the *Dumping and Subsidy Manual*. Failure to be considered an 'exporter' at all would mean that the entity is not a 'residual exporter' by definition.

Noting the above, the Commission has reviewed the Exporter Questionnaires of each of the remaining responding entities (i.e. other than the selected exporters) to determine whether they should preliminarily be considered a 'residual exporter' for the purposes of the investigation.

As a result of this assessment, the Commission preliminarily determines the following entities to be 'residual exporters' for the purposes of the investigation:

PUBLIC RECORD

RESIDUAL EXPORTERS
Jiangmen New Star Hi-Tech Enterprise Ltd.
Elkay (China) Kitchen Solutions Co., Ltd.
Franke (China) Kitchen System Co., Ltd
Xinhe Stainless Steel Products Co., Ltd
Zhongshan Xintian Hardware Co., Ltd.
Rhine Sinkwares Manufacturing Ltd. Huizhou
Yuyao Afa Kitchenware Co., Ltd
Jiangmen City HeTangHengWeiDa Kitchen & Sanitary Factory

Table 4 – Residual exporters

Traders

Five completed Exporter Questionnaires were received from ‘traders’. These are as follows.

TRADERS
Flowtech Co Ltd
CM Engineering Solutions Pty Ltd
Franke Asia Sourcing Ltd
Xiaohui Trading Development Co., Ltd
Komodo Hong Kong Ltd
Anhui Feidong Import and Export Co., Ltd.

Table 5 – Trading entities (determined to not be exporters)

For the purpose of the PAD, the Commission preliminarily considers that these traders were not the exporters of the goods subject to investigation, but rather acted as intermediaries in the export transaction. This assessment is based on the information provided by these entities in their response to the Exporter Questionnaire and information received from their corresponding suppliers in responses to the Exporter Questionnaire (where provided).

PUBLIC RECORD

Where a completed Exporter Questionnaire has been received by the Commission from a trader, a separate dumping margin has not been calculated for that entity for the purposes of the PAD. The dumping margin applicable to these shipments is the dumping margin applicable to the relevant exporter of those goods supplied via the trader.

The Commission will further examine this issue as the investigation progresses.

7.3.3 Uncooperative exporters

Under s.269T(1) of the Act, an 'uncooperative exporter' is an exporter who did not provide the Commissioner information considered relevant to the investigation, or an exporter that significantly impedes the investigation.

The Commissioner preliminarily considers that all exporters not named above as either a 'selected exporter' or a 'residual exporter' should be considered an 'uncooperative exporter' for the purposes of this PAD.

The Commissioner may re-classify any of the above-listed 'selected' or 'residual' exporters at any stage of the investigation as 'uncooperative' if they fail to provide information considered relevant that may be requested of them or significantly impede the investigation.

7.4 Determination of normal values – particular market situation and replacing costs

7.4.1 Tasman's application

In its application, Tasman submitted that domestic prices of deep drawn stainless steel sinks in China are not suitable for the determination of normal values under s.269TAC(1) of the Act, as a particular market situation in relation to those goods renders those domestic selling prices unsuitable.

The application in effect submits that:

- constructed normal values should be used as a result;
- in constructing normal values and determining the cost of manufacture of deep drawn stainless steel sinks in line with Regulation 180(2) of the *Customs Regulations 1926* (the Regulations),⁷ the cost of stainless steel does not reasonably reflect a competitive market cost for that input (relying on the same influences identified that cause the alleged particular market situation) and should be substituted with a competitive market cost; and
- a MEPS (International) Ltd (MEPS) world composite price is an appropriate price for substituting domestic cold-rolled stainless steel costs.

⁷ All references to any Regulation within this report are to the *Customs Regulations 1926* unless specifically stated otherwise.

7.4.2 Applicable legislation

Subsection 269TAC(1) provides that the normal value of any goods exported to Australia is the price paid or payable for sufficient volumes of like goods sold domestically in the ordinary course of trade in arm's length transactions.

However, s.269TAC(2)(a)(ii) provides that the normal value of the goods exported to Australia cannot be determined under subsection (1) where the Minister⁸ is satisfied that:

...the situation in the market of the country of export is such that sales in that market are not suitable for use in determining a price under subsection (1).

Where such a market situation exists, normal value cannot be established on the basis of domestic sales. Instead, the normal value may be determined on the basis of a cost construction (s.269TAC(2)(c)) or third country sales (s.269TAC(2)(d)).

The construction of normal value under s.269TAC(2)(c) is required to be undertaken in accordance with the conditions of Regulation 180, 181 and 181A.⁹

To determine costs of manufacture or production, Regulation 180(2) requires that if:

- an exporter or producer keeps records relating to like goods that are in accordance with generally accepted accounting principles (GAAP) in the country of export; and
- those records reasonably reflect competitive market costs associated with the production or manufacture of like goods;

the Minister must work out the cost of production or manufacture using information set out in the exporter or producer's records.

Where the conditions of Regulation 180(2) are not met, it is the Commission's practice that the costs records kept by that exporter are not required to be used in working out their costs, and the Commission may resort to other information to calculate these costs.

7.4.3 Exporter Questionnaire responses – relevance of market situation assessment

In the responses to the Exporter Questionnaire by the three selected exporters, two of those exporters (Jiabaolu and Zhuhai Grand) submitted that domestic selling prices are not suitable for normal value calculations under s.269TAC(1) in any circumstances (regardless of the presence of a market situation). They claim this is because although the goods sold domestically are 'like goods' for the purposes of the investigation, they are so physically different from the Australian exports that they are not relevant for use in determining normal values (consistent with s.269TAC(2)(a)(i)).

⁸ In this case, the Parliamentary Secretary.

⁹ s.269TAC(5A) and s.269TAC(5B)

PUBLIC RECORD

The third selected exporter, Primy, does not appear to have directly claimed this in their response to the Exporter Questionnaire, however Primy has submitted:

...no identical goods to those sold to Australian customers were sold domestically.

For the purpose of considering a PAD the Commission has preliminarily accepted the exporters' claims that s.269TAC(1) is not suitable for determining normal values. This is based on the Commission's knowledge of deep drawn stainless steel sinks that has been acquired from the visit to the Australian industry and initial analysis of Exporter Questionnaire responses.

However, as the Commission's assessment of the domestic sales of exporters is ongoing, it has considered the Australian industry's claim in relation to the existence of a market situation in the Chinese deep drawn stainless steel sinks market for the purposes of this PAD.

Regardless of whether or not the Commission determines that a particular market situation exists in relation to Chinese deep drawn stainless steel sinks, it must consider the reasonableness of the costs incurred by Chinese exporters of the goods in accordance with the Regulations (either for determining costs to use for determining sales in the ordinary course of trade for s.269TAC(1) normal values, or for determining costs to construct normal value under s.269TAC(2)(c)).

7.4.4 Available information

Following initiation of the investigation, the Commission wrote to the Government of China (GOC) outlining Tasman's market situation and steel raw materials allegations, and requesting their cooperation with the Commission's investigation into the alleged particular market situation through completion of the Government Questionnaire. The Government Questionnaire also requested information from the GOC relevant to the Commission's assessment of countervailable subsidisation.

The GOC responded to the Government Questionnaire but in doing so declined to provide direct responses to the questions posed in Parts A and B, which are considered particularly relevant to the assessment of the alleged particular market situation in the Chinese deep drawn stainless steel sinks market. Instead, the GOC stated its general opposition to the Commission's (and its predecessor, ACBPS) approach to determining the existence of a particular market situation in China in relation to goods previously subject to anti-dumping investigations. It highlighted the fact that Australia considers China to be a 'market economy' for the purposes of anti-dumping and countervailing investigations, which the GOC considers is inconsistent with findings that there are particular market situations within certain Chinese markets.

Irrespective of the country the subject of the investigation, the Australian anti-dumping framework allows for rejection of domestic selling prices in market economies as the basis for normal value where there is a situation in the market making the sales unsuitable, as provided for by s.269TAC(2)(a) of the Act.

PUBLIC RECORD

In addition, the Regulations provide for an assessment of the reasonableness of exporters' costs regardless of the exporting country's status as a market or non-market economy.

In light of the GOC's failure to provide direct responses to Parts A and B of the Government Questionnaire, the Commission considers that it must rely on all information reasonably available to it in order to make preliminary determinations in relation to the alleged particular market situation, as well as the preliminary assessment as to the reasonableness of exporters' incurred costs, for the purposes of this PAD.

7.4.5 Previous investigations

The Commission has undertaken several recent investigations into the existence of a market situation in relation to Chinese carbon steel and carbon steel-based products (including hollow structural sections (HSS), hot rolled plate steel, zinc coated steel, aluminium zinc coated steel and wind towers). In each case, the Commission found there were significant GOC interventions in the domestic steel market.

In the cases of HSS, hot rolled plate, zinc coated steel and aluminium zinc coated steel (Report (REP) Nos 177, 190, 198 and 221), the Commission found that these GOC interventions had created a market situation in relation to those products making domestic selling prices unsuitable for determining normal values under s.269TAC(1). However, in relation to wind towers, the Commission found that insufficient relevant domestic sales exist for the purposes of determining normal values under s.269TAC(1) using domestic selling prices in any case. This meant that a finding in relation to the existence of a particular market situation was not relevant in any case (see REP221).

In all cases discussed above where an assessment was made that domestic sales were not suitable for use in determining normal values under s.269TAC(1) (either due to the existence of a market situation or the lack of relevant domestic sales), the Commission (or its predecessor, ACBPS) considered that constructed normal values under s.269TAC(2)(c) should be used.

In each case, when constructing normal values under s.269TAC(2)(c), the Commission found that certain steel and steel raw material costs incurred by Chinese manufacturers of investigated goods were not reasonably reflective of competitive market costs for the purposes of Regulation 180(2). The Commission then made amendments to the costs incurred by Chinese exporters of the goods to reflect reasonably competitive market costs for those inputs. These findings relied on the identification of significant GOC interventions in the domestic iron and steel industry, and how these impacted on the price of the steel raw materials subsequently replaced by the Commission.

Details of the Commission's previous findings in relation to a particular market situation and the reasonableness of Chinese steel costs are outlined in **Non-Confidential Appendix 1** of this report.

7.4.6 The Commission's assessment – particular market situation

Continued GOC influence in the iron and steel industry

As noted above, the GOC has declined to provide the Commission with a completed response to Parts A and B of the Government Questionnaire in relation to this investigation.

Similarly, in the most recent completed investigation into the existence of a particular market situation and the reasonableness of steel raw material costs in relation to a Chinese steel-based product (wind towers – REP 221), the GOC declined to provide a completed response to the Government Questionnaire.

In the absence of a completed response to the Government Questionnaire being provided by the GOC in this case, the Commission considers that no evidence has been provided by the GOC that establishes that the significant influences found to have been exerted by the GOC in the Chinese iron and steel industry have ceased.

The Commission therefore preliminarily finds that the GOC measures found to have caused distortion in the domestic Chinese iron and steel industry (most recently in REP221 for the period 1 January 2012 to 30 June 2013) have continued to exist for the duration of the investigation period applicable to the current investigation into deep drawn stainless steel sinks (1 January 2013 – 31 December 2013).¹⁰

Relevance of GOC iron and steel industry influences to deep drawn stainless steel sinks

The Commission considers that, due to the nature of the goods, their production process and raw materials, the preliminary findings of the existence of significant GOC interventions in the Chinese iron and steel industry in previous investigations are directly relevant to the inputs to the manufacturers Chinese deep drawn stainless steel sinks.

The Commission's investigation into deep drawn stainless steel sinks has established that the key raw material in the production of the goods is 304 grade stainless steel. This stainless steel is supplied to deep drawn stainless steel sink manufacturers either in coil or sheet form (with the sheets being pre-slit from stainless steel coils).

The Commission has undertaken research into the manufacturing process of 304 grade stainless steel coil and sheet and has found significant similarities between the raw materials and manufacturing process of stainless steel, and the raw materials and manufacturing processes of hot rolled plate steel, steel slab and hot-rolled coil (HRC). These are the raw materials for HSS, aluminium zinc coated steel, galvanised steel and wind towers¹¹. Specifically, HRC, hot rolled plate and stainless steel coil are each manufactured from steel slab that is hot-rolled in a rolling mill to the desired

¹⁰ Noting there is six months overlap between the investigation period of INV 221 and the current investigation.

¹¹ The Commission's understanding of HRC and hot rolled plate steel comes from its previous investigations into HSS, hot rolled plate steel, aluminium zinc coated steel and galvanised steel. Information relating to the manufacturing process has been sourced from the website of Outokumpu Oyj, the world's largest stainless steel manufacturer (<http://www.outokumpu.com/en/Pages/default.aspx>).

PUBLIC RECORD

thickness. The steel slabs used are made either using an electric arc furnace process (using scrap carbon steel as they key raw material) or through a fully integrated steelmaking process (using coking coal, iron ore, and scrap carbon steel as the key raw materials). Stainless steel coil, HRC and plate steel manufacturers may either produce their own slabs for later rolling or purchase them already made from a steel supplier.

The key difference between stainless steel coil and HRC or hot rolled plate steel is that the steel slabs used to make 304 grade stainless steel in coils or sheets contain a high level of chromium (at least 11.5 per cent) to give the steel its stainless properties, while the slabs used to make HRC and hot rolled plate steel do not have high chromium levels.

Noting the above, the Commission considers that numerous GOC policies, plans and implementing measures examined by the Commission in its previous investigations into the existence of a particular market situation and the reasonableness of Chinese steel raw materials costs are likely to extend to manufacturers of stainless steel coil, or to their upstream suppliers of steel and steel raw materials.

In addition, the Commission's previous assessments of the existence of a particular market situation and reasonableness of steel costs in relation to various Chinese steel products focussed on GOC measures relevant to the Chinese 'iron and steel industry'. The 'iron and steel industry' is the focus of the GOC's *Development Policies for the Iron and Steel Industry* (the National Steel Policy or NSP)¹², a key overarching policy document of the GOC, that includes clearly articulated policy aims for that industry that the Commission was able to link to several 'implementing measures'(see Appendix A to REP177).

This policy defines the Chinese 'iron and steel industry' as follows:

The term 'the iron and steel industry' as mentioned in the present Development Policies covers:

the selection of iron mines, manganese mines and chromium mines and working techniques and relevant supporting techniques such as agglomeration, carbonization, iron alloy, carbon products, fire-resisting materials, iron smelting, steel rolling and metal products.

This definition of the Chinese iron and steel industry is broad, and extends from raw material mining, through to steel rollers and the production of steel products themselves.

In light of this definition, the Commission considers it reasonable to find, at the very least, that manufacturers of stainless steel coil and their upstream manufacturers of steel and steel inputs are part of the iron and steel industry.

¹² GOC response to the HSS Government Questionnaire, Attachment A11.

PUBLIC RECORD

Existence of a particular market situation – Chinese stainless steel sinks

In order to make a finding that domestic sales are not suitable for determining normal values under s.269TAC(1), the Commission must find that a particular market situation exists in the domestic market for that product (i.e. in the Chinese deep drawn stainless steel sinks market).

In its preliminary assessment of exporters, the Commission has found that the cost of grade 304 stainless steel comprises a significant proportion of the total cost to manufacture deep drawn stainless steel sinks. The Commission has further preliminary found that there has been significant GOC interventions in the Chinese iron and steel industry that are considered to extend to the manufacturers of steel and steel inputs. The Commission therefore preliminarily considers that there is sufficient evidence to find that the cost of stainless steel incurred domestically by Chinese manufacturers of deep drawn stainless steel sinks has been impacted by these GOC interventions (further discussed at Section 7.4.8).

However, the Commission notes that its preliminary assessment of exporters' data shows that each exporter is making reasonable levels of profit on their domestic sales of deep drawn stainless steel sinks, both before and after the Commission has made amendments to the exporters' recorded cost to purchase 304 grade stainless steel in China (see Sections 7.4.8 and 7.4.9). This suggests to the Commission that, although the raw material input costs of these exporters have been impacted by GOC interventions, the ultimate selling prices of deep drawn stainless steel sinks in the Chinese market may still be reasonable for use in determining normal value based on domestic selling prices.

Consequently, the Commission considers that there does not appear to be sufficient evidence at this preliminary stage to determine that a particular market situation exists in the Chinese deep drawn stainless steel sinks market that renders sales of like goods in that market unsuitable for determining normal values under s.269TAC(1).

Conclusion

The Commission preliminarily determines that there is sufficient evidence to find that there continues to be significant GOC influence in the Chinese iron and steel industry that either directly or indirectly impacts on the domestic market for stainless steel.

It is less clear to the Commission at this stage of the investigation whether that influence could be said to extend to the domestic deep drawn stainless steel sinks market, such that domestic sales of those products within that market are not suitable for determining normal value under s.269TAC(1). The Commission will continue to consider this issue as the investigation progresses.

In any case, as discussed in Section 7.4.3, the Commission has preliminarily determined that, even in the absence of the existence of a particular market situation, domestic sales of deep drawn stainless steel sinks should not be used to determine normal values under s.269TAC(1).

7.4.7 Establishing normal values – third country sales or construction

Following the preliminary finding that domestic sales are not suitable for use in determining normal value due to the lack of relevant domestic sales of deep drawn stainless steel sinks (due to model matching issues – see Section 7.4.3), the Commission has examined the possibility of establishing normal value using either:

- sales of deep drawn stainless steel sinks to third countries by Chinese exporters (s.269TAC(2)(d)); and
- constructing normal values (s.269TAC(2)(c)).

In their responses to the Exporter Questionnaire, Chinese exporters of the goods have provided:

- aggregate third country sales data (not split into model or in line-by-line detail); and
- detailed domestic and export (to Australia) cost to make and sell (CTMS) data, split into month and model-level detail.

At this stage, the Commission determines that it does not possess sufficient information to allow it to determine normal values using third country sales data under s.269TAC(2)(d). However, sufficient data is available to preliminarily determine normal values using the constructed method provided for in s.269TAC(2)(c).

Consequently, the Commission has undertaken the construction of normal values under s269TAC(2)(c) of the Act, and has done so in accordance with the conditions of Regulation 180,181 and 181A of the Regulations.

7.4.8 The Commission's assessment – reasonableness of stainless steel costs

As outlined above, Regulation 180(2) requires that if an exporter keeps records in accordance with the appropriate GAAP, and those records reasonably reflect competitive market costs associated with the production of like goods, then the cost of production must be worked out using the exporter's records.

The Commission's preliminary assessment of exporters' data has found that the records of Chinese exporters of the goods have been kept in accordance with the relevant GAAP.

However, the Commission's preliminary view is that stainless steel (coil and sheet) prices in China are affected by the above-discussed GOC influences in the iron and steel industry, and hence do not reasonably reflect competitive market costs, and should be replaced by a competitive market substitute.

The Commission considers that the GOC influence in the Chinese iron and steel industry has likely impacted the whole Chinese stainless steel sector, regardless of whether the entity producing the stainless steel has any state ownership (noting that some of the findings relating to the iron and steel industry in China relate to GOC owned entities notably implementing the policies and directives of the GOC).

PUBLIC RECORD

In light of the above, the Commission has considered how best to determine what a competitive market substitute price for stainless steel in China should be, having regard to all available information.

Import prices

In previous investigations involving the substitution of various steel and steel raw material costs,¹³ the desirability of using import prices into China was examined.

Those investigations found that import prices were not suitable as a benchmark due to the lack of import penetration of the relevant materials and the likelihood that import prices were equally affected by the government influences on domestic prices.

In the absence of a complete response to the Government Questionnaire for this investigation, the Commission does not possess statistics relevant to assessing import penetration of stainless steel in the Chinese domestic market. However, preliminary assessment of the data of Chinese exporters show that all stainless steel purchased by these exporters was domestically-manufactured in China, indicating that imported stainless steel is not common in China.

The Commission preliminarily considers that, due to the potentially small quantity of imports of stainless steel, it is likely that import prices were equally affected by the government influences on domestic prices. The Commission considers that import prices are not suitable for determining a competitive market cost of stainless steel.

External benchmarks

Having discounted import prices as a source of a competitive market costs for stainless steel in China, the Commission has considered available information relating to an external benchmark for that input.

The Commission has determined that an appropriate benchmark for stainless steel costs in China is a composite of monthly North American and European 304 grade stainless steel coil prices for the investigation period, as published by MEPS.

As outlined above, Tasman's application submitted that a MEPS 'world composite price' that averaged Asian, European and North American 304 grade stainless steel coil prices (converted to AUD from the reported currency using published rates from the Reserve Bank of Australia (RBA)) would be an appropriate benchmark.

In its Consideration Report for this investigation, the Commission considered this MEPS price, and determined:

While the Commission is aware of other known sources of cold-rolled stainless steel price data (such as SBB, as noted above), the use of MEPS data is considered reasonable for the purposes of the application, being a reputable source of steel pricing data and supported by the CBSA in the investigation into sinks. The suitability of MEPS data and other available data sources will be considered during the investigation.

¹³ Including HSS, galvanised steel and aluminium zinc coated steel.

PUBLIC RECORD

For the purposes of the preliminary findings in this report, the Commission continues to consider that MEPS published prices are appropriate for use in determining a reasonably competitive price for 304 grade stainless steel coil.

However, the Commission's assessment of the 'world composite' price put forward by Tasman in its application has found that the Asian prices included in this composite include Chinese domestic prices, which the Commission does not consider reasonably reflect competitive market costs. The inclusion of Chinese domestic prices in the composite thus potentially distorts the benchmark price.

Consequently, the Commission has derived a monthly MEPS composite price for 304 grade stainless steel coil using the monthly reported MEPS North American and European prices alone (excluding the Asian price). This was calculated using the monthly reported data available from MEPS at <http://www.meps.co.uk/>.

As outlined on MEPS' web page, the stainless steel prices published by that company represent:

- 304 stainless steel coil (unslit); and
- undelivered (ex-works) prices.

7.4.9 Calculation of uplift

To determine the competitive market costs for stainless steel, the Commission compared the benchmark MEPS composite 304 grade stainless steel coil prices to purchases by Chinese exporters of deep drawn stainless steel sinks to arrive at an individual percentage difference to be applied to the raw materials cost recorded in the exporters' records.

Where these records reported that the stainless steel cost was a delivered price (not ex-works like the MEPS price), the Commission included an additional cost for delivery in China in the MEPS composite price (based on verified information for the domestic delivery costs of HRC gathered during the ACBPS investigation into HSS).

At this stage, the Commission is not in possession of reasonably reliable information to allow it to determine what additional cost should be added to the MEPS price to account for 304 grade stainless steel supplied in sheet form (i.e. slit to size from the stainless steel coils) and it has not accounted for this in its uplift calculations. It is considered that the inclusion of this additional 'slitting charge' would likely increase the preliminarily-assessed dumping margins by a small amount. This will be examined further with exporters during the investigation.

In each case, application of the MEPS composite benchmark resulted in an uplift to exporters' costs, i.e. the actual stainless steel costs incurred by exporters were lower than the benchmark amount.

The MEPS composite price forms **Confidential Appendix 2** of this report.

7.5 Determination of export prices, normal values and dumping margins

7.5.1 Selected exporters

Primy

Preliminary export prices for Primy were established pursuant to s. 269TAB(1)(a) of the Act using invoiced export price, by product model, less any expenses that represent a charge for any matter arising after exportation.

Preliminary normal values for exported models were determined under s. 269TAC(2)(c) based on a construction of the cost to make the exported goods, selling, general and administrative expenses as if the goods were sold domestically, and profit based on domestic sales made in the ordinary course of trade. As discussed above, the cost to make the goods included an uplift for the difference between the cost of stainless steel incurred by the exporter and the reasonably competitive market price (MEPS composite).

Adjustments to the normal value were made pursuant to s. 269TAC(9) for the difference between domestic and export inland transport and handling and the non-refundable VAT on export sales.

Using relevant information contained in Primy's questionnaire response, the Commission calculated a product dumping margin by comparing the monthly weighted average export price with the corresponding monthly weighted average normal value over the investigation period.

Monthly comparisons were used for this assessment rather than the Commission's standard quarterly approach due to the presentation of data (in monthly format) by the exporter. The Commission will consider the desirability of using monthly rather than quarterly weighted average comparisons for this exporter during the investigation.

The preliminary dumping margin for all exports from Primy is 42.4 per cent.

Jiabaolu

Preliminary export prices for Jiabaolu were established pursuant to s. 269TAB(1)(a) of the Act using invoiced export price, by product model, less any expenses that represent a charge for any matter arising after exportation.

Preliminary normal values for exported models were determined under s. 269TAC(2)(c) based on a construction of the cost to make the exported goods, selling, general and administrative expenses as if the goods were sold domestically, and profit based on domestic sales made in the ordinary course of trade. As discussed above, the cost to make the goods included an uplift for the difference between the cost of stainless steel incurred by the exporter and the reasonably competitive market price (MEPS composite).

PUBLIC RECORD

Adjustments to the normal value were made pursuant to s. 269TAC(9) for the difference between domestic and export inland transport and handling and the non-refundable VAT on export sales.

Using relevant information contained in Jiabaolu's questionnaire response, the Commission calculated a product dumping margin by comparing the monthly weighted average export price with the corresponding monthly weighted average normal value over the investigation period.

Monthly comparisons were used for this assessment rather than the Commission's standard quarterly approach due to the presentation of data (in monthly format) by the exporter. The Commission will consider the desirability of using monthly rather than quarterly weighted average comparisons for this exporter during the investigation.

The preliminary dumping margin for all exports from Jiabaolu is negligible.

Zhuhai Grand

Preliminary export prices for Zhuhai Grand were established pursuant to s. 269TAB(1)(a) of the Act using invoiced export price, by product model, less any expenses that represent a charge for any matter arising after exportation.

Preliminary normal values for exported models were determined under s. 269TAC(2)(c) based on a construction of the cost to make the exported goods, selling, general and administrative expenses as if the goods were sold domestically, and profit based on domestic sales made in the ordinary course of trade. As discussed above, the cost to make the goods included an uplift for the difference between the cost of stainless steel incurred by the exporter and the reasonably competitive market price (MEPS composite).

Adjustments to the normal value were made pursuant to s. 269TAC(9) for the difference between domestic and export handling fees and packaging and for the non-refundable VAT on export sales.

Using relevant information contained in Zhuhai Grand's questionnaire response, the Commission calculated a product dumping margin by comparing the monthly weighted average export price with the corresponding monthly weighted average normal value over the investigation period.

Monthly comparisons were used for this assessment rather than the Commission's standard quarterly approach due to the presentation of data (in monthly format) by the exporter. The Commission will consider the desirability of using monthly rather than quarterly weighted average comparisons for this exporter during the investigation.

The preliminary dumping margin for all exports from Zhuhai Grand is 19.4 per cent.

7.6 Residual exporters

The preliminary dumping margins for residual exporters (as listed in Section 7.3.2) have been determined as a comparison between the weighted average of export prices with the corresponding weighted average normal values of Primy and Zhuhai Grand (Jiabaolu was excluded as the preliminary dumping margin for that exporter is negligible) in accordance with s.269TACB(2)(a).

The preliminary dumping margin for residual exporters is 35.0 per cent.

7.7 Uncooperative exporters

Subsection 269TACAB(1) sets out the provisions for calculating export prices and normal values for uncooperative exporters. The Act specifies that for uncooperative exporters, export prices are to be calculated under s. 269TAB(3) and normal values are to be calculated under s. 269TAC(6).

Export price for uncooperative exporters was based on the lowest export price of any of the selected exporters. Normal value for uncooperative exporters was based on the highest normal value of any of the selected exporters.

Preliminary dumping margins for uncooperative exporters from China were established by comparing the weighted average export price for Chinese exporters with the weighted average normal value of Chinese exporters over the investigation period.

The preliminary dumping margin for uncooperative exporters is 61.5 per cent.

7.8 Preliminary dumping margin summary

The Commission's calculations of export prices, normal values and dumping margins in respect of deep drawn stainless steel sinks are at **Confidential Appendix 3**.

These calculations are based on the information available at the time of making the PAD. As further verified information becomes available, these calculations may change as verification visit reports for exporters are finalised and other relevant submissions are further considered.

7.9 Volumes

Subsection 269TDA(4) of the Act provides that, the Commissioner must terminate an investigation if negligible volumes of dumped goods are found. The Commission examined the volume of goods over the investigation period to determine if the volume of those goods was negligible.

As outlined in Section 6.3, the Commission is unable to make preliminary determinations about the size of the Australian deep drawn stainless steel sinks market in this report due to the inclusion of irrelevant goods in the available import data. This impacts the accuracy of the Commission's assessment as to whether the volume of dumped imported deep drawn stainless steel sinks was above negligible levels.

PUBLIC RECORD

As discussed at Section 6.3, data collected from importing parties suggests that the volume of irrelevant imports (fabricated sinks) in the available import data could be as much as 50 per cent of the total import volume. However, the Commission's examination of the import data shows that, even if this is the case, the volume of dumped deep drawn stainless steel sinks imported from China is likely to be significant and above negligible levels (three per cent).

8 PRELIMINARY COUNTERVAILING ASSESSMENT

Tasman submitted in its application that Chinese producers of the goods have benefited from a range of countervailable subsidies.

As a result of its assessment of the information provided by Tasman in its application, the Commission initiated an investigation into eight alleged subsidy programs that may have conferred benefit in relation to deep drawn stainless steel sinks exported to Australia from China during the investigation period.

At the time of making a PAD, the Commission's assessment of these programs is continuing and no PAD in relation to the countervailing investigation has been made as yet. It is considered that further analysis of all reasonably available information (including responses to the Exporter Questionnaire and the GOC's response to the Government Questionnaire) is necessary prior to a PAD being made in relation to the countervailing investigation, if such a PAD is warranted.

9 PRELIMINARY INJURY ASSESSMENT

9.1 Preliminary assessment

Based on an analysis of the information contained in the application and obtained and verified during the Commission's verification visit with Tasman, the Commission preliminarily considers that the company has experienced injury in the form of:

- 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.

Analysis of the economic condition of Tasman forms **Confidential Appendix 4**.

9.2 Approach

The injury analysis detailed in this section is based on financial information submitted by Tasman and verified by the Commission.

Costs data

As discussed in Section 6.4 of the *Australian Industry Visit Report*, Tasman's CTMS data submitted to the investigation is not considered to be suitable for analysing the economic performance of its manufactured deep drawn stainless steel sinks.

Sales data

The Commission considered in the *Australian Industry Visit Report* that there are limitations with the sales data provided by Tasman that place restrictions on the conclusions that can reasonably be drawn in relation to price depression (noting that issues with price suppression already exist due to the limitations of Tasman's CTMS data, though this issue would likely similarly impact price depression analysis otherwise).

As discussed in that report, Tasman's sales data for periods other than that covered by the detailed Appendix A4 sales listing (July 2012 – December 2013) was provided on aggregate by bowl number (volume and value), but did not differentiate models or ranges within models (and hence product tiers or other product characteristics). For the purposes of this PAD report, the Commission continues to preliminarily consider the limitations of Tasman's sales data impacts its ability to perform an accurate assessment of price depression. This issue is discussed further in Section 9.6.1 of this Chapter.

9.3 Legislative framework

Under s. 269TG of the Act, one of the matters that the Minister must be satisfied of in order to publish a dumping duty notice is that, because of the dumping, material injury has been, or is being, caused or has been threatened to the Australian industry producing like goods.

9.4 Commencement of injury, and analysis period

Tasman alleged in its application that material injury caused by dumped and subsidised imports of deep drawn stainless steel sinks from China commenced in the 2010 financial year when Chinese imports increased in volume by 30.8 per cent from the previous year and the market share of dumped and subsidised exports grew by 12 per cent over that period. In this same period, Tasman submitted that the market share held by the Australian industry declined by 20 per cent.

The Commission notes the above percentages reported by Tasman are based on Tasman's assessment of ABS data, which includes significant volumes of irrelevant information (see the discussion in Section 6.3).

As specified in *Consideration Report 238*, the Commission has set the investigation period as 1 January 2013 to 31 December 2013, and the period for assessing the condition of the Australian industry from 1 January 2009.

However, due to the format of information able to be readily provided by Tasman, charting and analysis in this report has been completed on a financial year basis for the five years 2009 to 2013, as well as for calendar year 2013. The Commission notes the overlap between FY2013 and calendar year 2013 (six months), but considers the inclusion of calendar year 2013 data useful to see the most recent trends in the available data.

9.5 Volume trends

9.5.1 Sales Volume

Figure 1 below depicts Tasman's total sales volume of its manufactured deep drawn stainless steel sinks on the Australian market during FY2009 – FY2013, and calendar year 2013.

PUBLIC RECORD

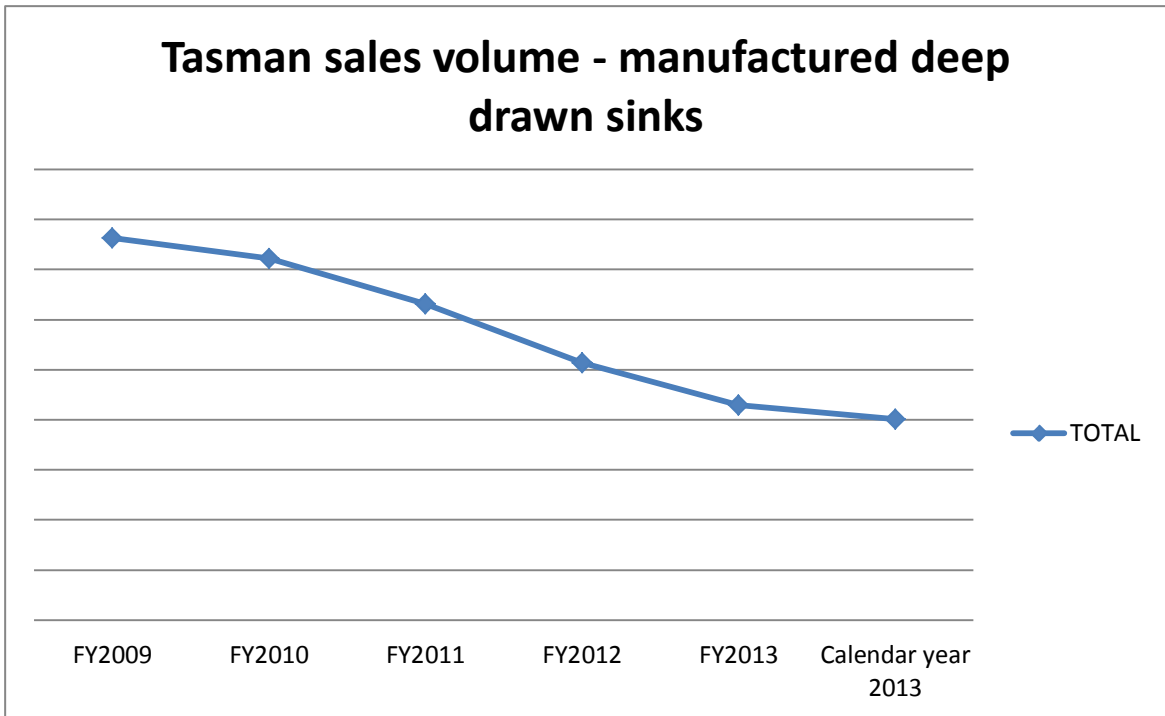


Figure 1 – Tasman’s manufactured deep drawn stainless steel sinks domestic sales volume

Figure 2 below shows Tasman’s sales volume by product (bowl number) over the same period.

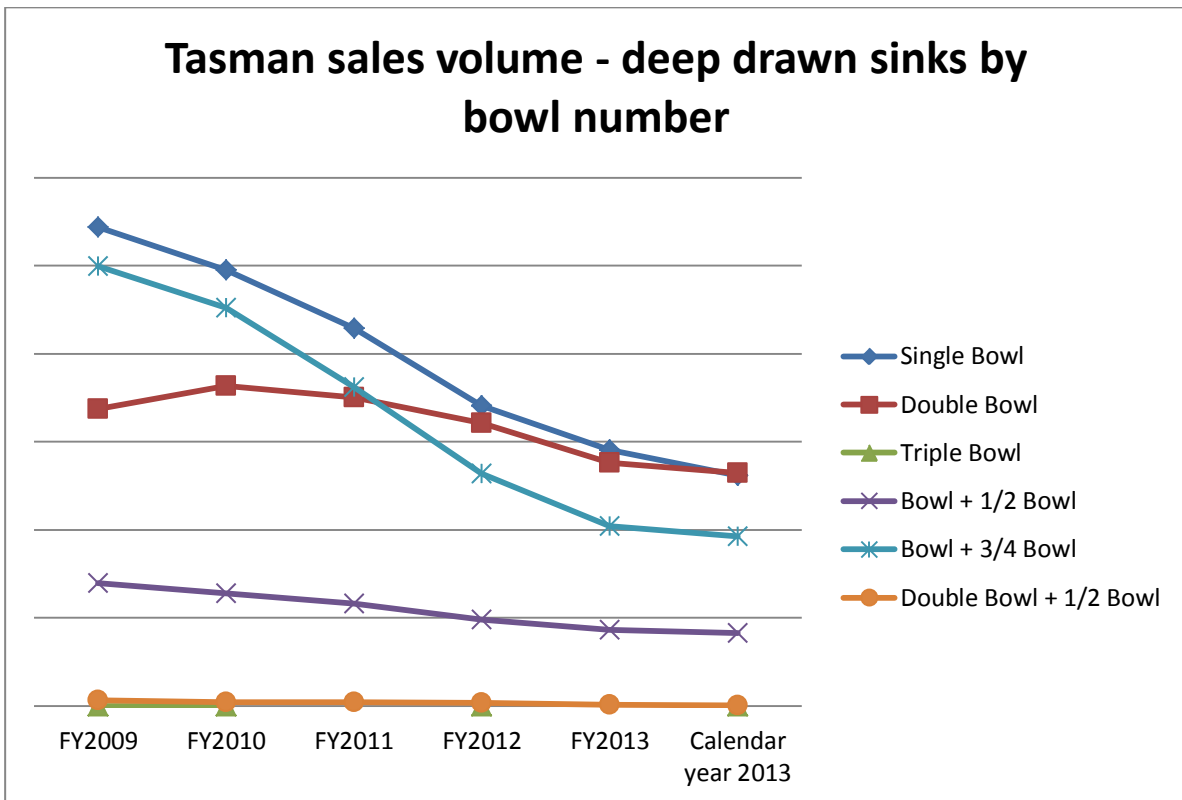


Figure 2 – Tasman’s manufactured deep drawn stainless steel sinks domestic sales volume (bowl number)

PUBLIC RECORD

Figure 1 indicates that Tasman's overall domestic sales volume has steadily decreased year-on-year since FY2009.

Figure 2 shows a similar trend in relation to volume by bowl number as that seen for volume on aggregate in Figure 1, except for double bowl sinks, which saw an increase in sales volume from FY2009 – FY2010, before declining year-on-year after FY2010.

To further demonstrate the trends seen in Figure 2, Table 6 below depicts an index of changes in Tasman's sales volume by product (bowl number) on the Australian market from FY2009 – calendar year 2013.

	FY2009	FY2010	FY2011	FY2012	FY2013	Calendar year 2013
Single Bowl	100%	91%	79%	63%	53%	48%
Double Bowl	100%	108%	104%	95%	82%	79%
Triple Bowl	100%	33%	0%	33%	0%	0%
Bowl + 1/2 Bowl	100%	91%	83%	70%	62%	59%
Bowl + 3/4 Bowl	100%	91%	73%	53%	41%	39%
Double Bowl + 1/2 Bowl	100%	76%	68%	59%	26%	16%
TOTAL	100%	95%	83%	67%	56%	53%

Table 6 – Index of changes in applicant's manufactured deep drawn stainless steel sinks domestic sales volume (by bowl number)

9.5.2 Market Share

As discussed in Section 6.3, the Commission preliminarily considers that it is unable to accurately assess market size of the Australian deep drawn stainless steel sinks industry for the purposes of this investigation. The Commission is therefore unable to make accurate observations as to market share over the injury analysis period in this PAD.

9.5.3 Conclusion – volume effects

Based on this analysis, there appears to be sufficient grounds to support the claim that the Australian industry has lost sales volume during the period calendar year 2009 to calendar year 2013.

9.6 Price trends

In its application, Tasman claimed that the Australian industry has suffered material injury in the form of price depression and suppression.

Price depression occurs when a company, for some reason, lowers its prices. Price suppression occurs when price increases, which otherwise would have occurred, have been prevented. An indicator of price suppression may be the margin between revenues and costs.

9.6.1 Price depression

At A-8.2 of its application, Tasman submitted an index of unit price variations by sink type (number of bowls) which Tasman reports provides evidence of price depression in relation to certain products. This index showed numerous price fluctuations over the period FY2009 to FY2013, with four types of deep drawn stainless steel sink ending the examined period at a unit price lower than that of FY2009, one type of sink above the FY2009 unit price and all sinks in aggregate ending slightly above the FY2009 price.

As discussed in Section 5.3 of the *Australian Industry Visit Report*, the verification team considered that the price of Tasman's selection of deep drawn stainless steel sinks is impacted by more than bowl number, with price differentiations due to product tier, range and number of drainer boards also observed. This has been confirmed by the Commission in its investigations with importers, who have consistently submitted that pricing analysis of deep drawn stainless steel sinks should reasonably take into account numerous factors other than bowl number.

Consequently, the Commission preliminarily considers that an accurate assessment of price depression should take into account, as far as possible, numerous factors that influence price.

As discussed in Section 9.2, the aggregate sales data that has been provided to the investigation by Tasman for FY2009 to calendar year 2013 is split only by bowl number and does not allow further differentiation by models (which itself separates products into tiers) or other product characteristics. The Commission therefore preliminarily considers this data to be of limited use to accurately assessing price depression over this period.

Despite the above-mentioned limitations of Tasman's aggregate sales data from FY2009 – calendar year 2013, it is observed that Tasman's Appendix A4 line-by-line sales data for July 2012 – December 2013 does include information as to product code (which takes into account product range and drainer board number).

Consequently, the Commission has undertaken preliminary analysis of Tasman's Appendix A4 to observe net unit pricing trends during the period July 2012 to December 2013 for 15 of Tasman's largest selling models, as outlined below.

PUBLIC RECORD

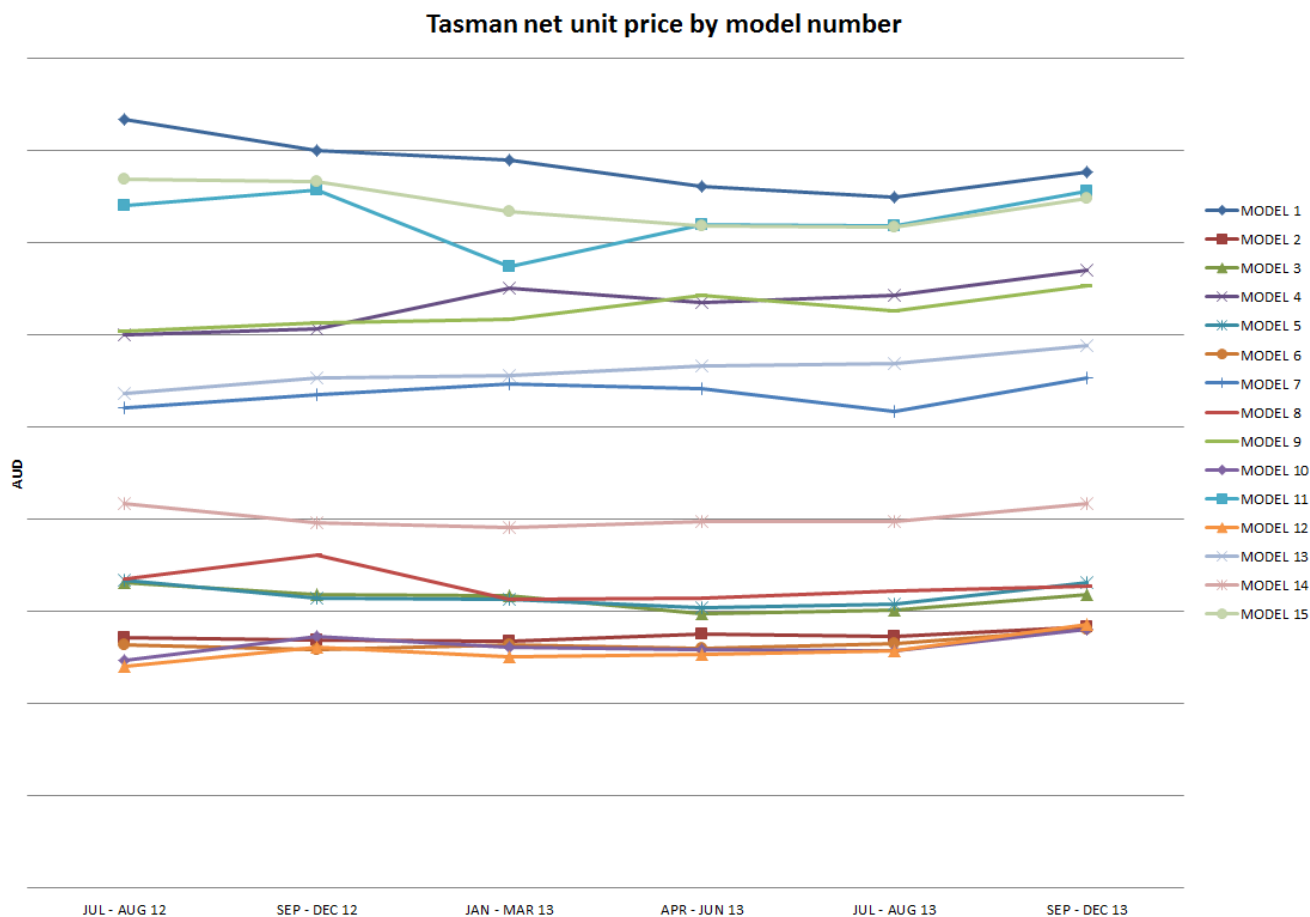


Figure 3 – Tasman’s unit price by model number – top 15 selling models of manufactured deep drawn sinks

Figure 3 shows that, during the period July 2012 to December 2013, Tasman experienced price depression across some of its highest volume selling manufactured models of deep drawn stainless steel sinks. However, Tasman experienced price increases in several models over the same period, as well as relatively stable pricing across other models.

During the verification Tasman explained that it had implemented a list price increase in September 2013. The Commission observes that Figure 3 demonstrates this price increase, with the majority of Tasman’s top 15 models by volume increasing in unit net sales price from the July to August 2013 quarter to the September – December 2013 quarter.

9.6.2 Conclusion – price effects

Based on the analysis outlined in Figure 3 above, there appears to be sufficient grounds to support the claim that the Australian industry has suffered price depression during the period calendar year 2009 to calendar year 2013.

9.7 Profit trends

To assess the economic condition of an Australian industry member’s profit and profitability in relation to like goods, the Commission will undertake a comparison between prices and costs of like goods.

As noted in Section 9.2, the Commission considers that Tasman’s CTMS is not suitable for use in assessing Tasman’s economic performance in relation to its manufactured deep drawn stainless steel sinks as a separate product. In light of this, the Commission preliminarily considers that both profit and profitability analysis for manufactured deep drawn stainless steel sinks cannot be undertaken in this PAD report.

However, it is considered possible to assess Tasman’s profit and profitability at a whole company level, as detailed in the below chart, using verified all-company-level costs and revenue data for the period FY2009 – calendar year 2013 (noting the overlap between FY2013 and calendar year 2013).

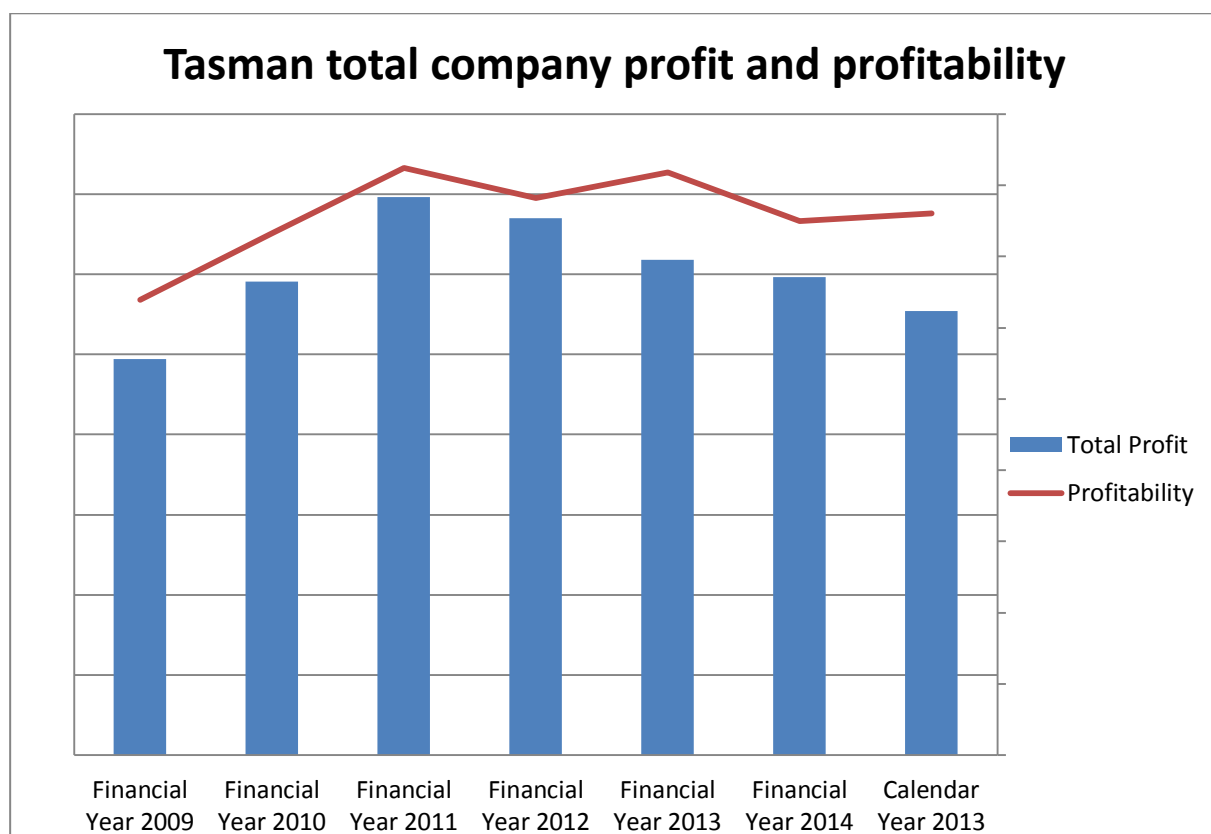


Figure 4 – Tasman’s unit price by model number – top 20 selling models

Tasman’s sales of manufactured deep drawn stainless steel sinks accounted for the majority of the company’s total revenue during the above-charted periods and thus the profit and profitability of manufactured deep drawn stainless steel sinks is likely to have a significant impact on the overall profit and profitability of the business.

Figure 4 shows an overall improvement in the profit and profitability of the whole of Tasman’s operations from FY2009 to calendar year 2013. However, both profit and

profitability levels peaked in FY2011, and have experienced an overall decrease since that period, with total profit declining in each period from FY2011 onwards and profitability fluctuating during this period, but ending at levels lower than the FY2011 peak.

9.7.1 Conclusion – profit and profitability

Based on analysis of Tasman's operations as a whole, there appears to be sufficient grounds to support the claim that the Australian industry has experienced declines in profit and profitability during the period calendar year 2009 to calendar year 2013.

9.8 Other economic factors

In its application, Tasman completed Appendix A7 (other injury factors) for deep drawn stainless steel sinks for the period FY2009 – FY2013, at an aggregate (all deep drawn stainless steel sinks) level.

The data in Tasman's Appendix A7 was verified with Tasman during the verification visit, as discussed in the *Australian Industry Verification Visit Report*.

The Commission observes the following trends shown in Tasman's Appendix A7 data over the period FY2009 – FY2013:

- capacity utilisation halved;
- the number of employees engaged in making deep drawn stainless steel sinks decreased;
- productivity increased;
- revenue for deep drawn stainless steel sinks decreased;
- capital investment decreased;
- the value of production assets used in the manufacture of deep drawn stainless steel sinks decreased; and
- total wages paid to employees involved in the production of deep drawn stainless steel sinks remained relatively stable, though employment numbers decreased, increasing the average wage per employee.

The data also demonstrated reduced return on investment for Tasman (as a whole company, not split into deep drawn stainless steel sinks and other production) over the period.

9.8.1 Conclusion – other economic factors

Based on this analysis, there appears to be sufficient grounds to support the claim that during the period calendar year 2009 to calendar year 2013 the Australian industry has experienced:

PUBLIC RECORD

- reduced capacity utilisation;
- reduced capital investment;
- reduced value of production assets;
- reduced revenue; and
- reduced employment numbers.

10 PRELIMINARY CAUSATION ASSESSMENT

10.1 Preliminary assessment

Based on verified and unverified information and data available at the time of making the PAD, the Commission has made a preliminary assessment that deep drawn stainless steel sinks exported to Australia from China at dumped prices caused material injury to the Australian industry producing like goods.

Section 269TAE outlines the factors that the Minister may take into account in determining whether material injury to an Australian industry has been or is being caused or threatened. The following section of this report provides a summary of the Commission's key considerations in its causation assessment.

The Commission is continuing to investigate, analyse and assess all causation factors.

10.2 Size of the dumping margins

Subsection 269TAE(1)(aa) requires the Minister to have regard to the size of each of the dumping margins, worked out in respect of goods of that kind that have been exported to Australia.

The dumping margins outlined in Chapter 7 for all exporters except Jiabaolu, ranging between 19.4 and 61.5 per cent, are above a negligible level (two per cent) and enabled importers of deep drawn stainless steel sinks to have a competitive advantage on price compared to the Australian industry.

10.3 Price effects

At the verification meeting, Tasman submitted that substantial price injury, in the form of price depression and suppression, has been suffered due to consistent price undercutting of its prices and downwards price pressure exerted by Chinese imported deep drawn stainless steel sinks.

Tasman explained that although there may be design, quality and warranty differences between its Australian-made deep drawn stainless steel sinks and Chinese imports, price is the main determining factor for end users when deciding which sink to purchase. Discussions with importing parties have confirmed that price is a key factor in the purchasing decisions of end users of deep drawn stainless steel sinks.

The Commission understands that pricing is particularly important to the plumbing and housing development customers, who install sinks for their customers in projects (such as apartment blocks) and tend to be price sensitive to increase their own margins.

In its investigations with importers, the Commission has observed that price is acknowledged as a key determinant in the purchasing decision of the end users of sinks, along with other notable factors such as:

PUBLIC RECORD

- design;
- quality (though Tasman considers that the 'lay person' making a purchasing decision at a retail outlet would not be able to discern quality differences between similar-tier sinks);
- inclusion of accessories and the quality of these;
- availability; and
- fitness for purpose (i.e. small kitchens will look for/need smaller dimension sinks than larger areas).

10.3.1 Price undercutting

For the purposes of the PAD, the Commission has undertaken preliminary analysis of price undercutting claims by Tasman. The analysis is based on verified sales data from importers visited by the Commission and Tasman and forms **Confidential Appendix 5** of this report.

The Commission compared quarterly weighted average net delivered into store prices (AUD per sink) of the imported goods sold by importers, to Tasman's net selling price (AUD per sink) delivered for each product, at a comparable level of trade. To conduct this analysis, the Commission used verified domestic sales of Tasman's manufactured goods during the investigation period and the verified sales data of three major importers, which collectively accounted for approximately one-quarter of imports of stainless steel sinks from China during the investigation period.

In doing so, the Commission took into account, as far as possible, the various product characteristics known to impact selling prices, namely:

- number of bowls (i.e. single bowl to single bowl, one-and-a-half to one-and-a-half, etc.)
- number of drainer boards (i.e. none to none, one to one, etc.);
- the inclusion of accessories or not; and
- product tier (i.e. entry level to entry level, mid-range to mid-range).

The need to conduct pricing analysis at this more detailed level is supported by the Commission's investigations with Tasman and major importers of the goods, who acknowledge that price is impacted by several product characteristics as well as market positioning (or tier).

The Commission's analysis found that the prices of the imported goods from China undercut Tasman's domestic selling prices in all except two instances (out of 69 comparisons). The net unit sales price of Chinese imported sinks was significantly below that of Tasman's comparable product price, with an average percentage of price undercutting being 50 per cent.

The Commission is therefore preliminarily satisfied that, throughout the investigation period, imports of deep drawn stainless steel sinks from China significantly undercut the sales prices of the Australian industry's own production of like goods.

10.3.2 The Commission's assessment

As outlined in Chapter 9, the Commission has found sufficient grounds to establish that Tasman has experienced price depression (during the period July 2012 to December 2013), as well as declines in profit and profitability.

Noting the size of the above-examined price undercutting, and the reported importance of price in purchasing decisions, the Commission is satisfied, for the purposes of the PAD, that the Australian industry has been forced to reduce its selling prices in order to compete with imported goods from China to seek to maintain sales volume and market share.

Further, the Commission is satisfied that the preliminary dumping margins ranging from 19.4 to 61.5 per cent (excluding one exporter, Jiabaolu - as outlined in Chapter 7) improved the pricing position of imported deep drawn stainless steel sinks. This improved pricing position is likely to have contributed to the price undercutting examined above.

Imports from Jiabaolu, the one exporter preliminarily found to not have exported goods at dumped prices, account for a comparatively significant proportion of total imports under the relevant tariff classification as reported in the ACBPS import database (noting the abovementioned issues with this import data). This exporter is therefore understood to represent a significant proportion of imports of the goods.

The Commission's preliminary assessment of available data indicates that un-dumped goods exported by Jiabaolu significantly undercut the prices of Tasman-produced sinks when sold into the Australian market. However, this undercutting was, in the majority of cases, to a lesser extent than that observed for sinks supplied by exporters that have preliminarily been assessed to have dumped those goods. In relation to some models and quarters, the undercutting of Tasman's production by goods exported by Jiabaolu was over 60 per cent less than the undercutting demonstrated by goods exported by exporters that have been preliminarily assessed to have been dumping.

As a result, the Commission preliminarily determines that a proportion of the price undercutting experienced by Tasman can be directly attributed to dumping.

The Commission is therefore preliminarily satisfied that dumping caused price injury, in terms of price depression, to the Australian industry.

10.4 Volume injury

Tasman's claims in relation to effects on volume caused by the dumped imports of deep drawn stainless steel sinks from China are detailed in *Consideration Report 238* and the *Australian Industry Verification Visit Report*. In brief, Tasman claim that it

PUBLIC RECORD

experienced loss of sales volume is a reflection of the increase in cheaper priced imported goods being obtained by the Australian end users of deep drawn stainless steel sinks instead of sourcing Tasman products, and displacing sales of Tasman products that the company previously achieved.

During its verification meeting, Tasman provided specific case evidence of the displacement of Australian-manufactured deep drawn stainless steel sinks to Chinese imported goods, at a range level (e.g. LakeLand range being effectively replaced by imported goods that Tasman has sourced to maintain volume) and at the specific customer level.

The Commission notes that it is not able to perform accurate analysis of the size of the Australian deep drawn stainless steel sinks market over the injury analysis period, due to the limitations of the ACBPS import and ABS data available to it (as discussed previously in this report). Consequently, the Commission is not able to accurately assess using available data whether the market for Australian deep drawn stainless steel sinks has expanded, contracted or declined over the injury analysis period to compare this with the declining sales volume trend observed in Tasman's sales volume data.

However, the Commission has examined other market size indicators for the purpose of this report (see below),

10.4.1 Market size and trends

In its discussions with major importers of deep drawn stainless steel sinks and Tasman itself, the Commission has been advised the following in relation to the period from 1 January 2009.

Market drivers and key changes

- The deep drawn stainless steel sink market in Australia is driven by the residential construction (new dwellings) and renovations sector.
- Improving occupational health and safety standards (requiring hand basins in offices and other commercial premises) has contributed to rising demand in recent years.
- Changing trends in construction have influenced the demand for sinks, with the move towards customisation of dwellings allowing for buyers of new homes and off-the-plan apartments to choose the type of sink that they want (meaning sink types sold by retailers are more varied than previously).
- There have been changes in the composition of the suppliers in the market over the last five years, with a growth in the number of importers sourcing Chinese product.
- The number of deep drawn stainless steel sinks in each new house or installed as part of renovations has increased in recent years, traditionally being limited to a kitchen and laundry sink but now including additional sinks for butler's pantries and alfresco cooking areas.

PUBLIC RECORD

- With the increase in the interest in home cooking and kitchen renovations in recent years, there has been some shifts in consumer preferences from traditional deep drawn stainless steel sinks to ‘tight corner radius’ deep drawn stainless steel sinks (which Tasman does not supply – see Section 10.5.3 for further discussion), fabricated sinks, or other types of sinks (e.g. ceramic), as well as a trend towards undermount deep drawn stainless steel sinks.

However, tight corner radius, fabricated and ceramic sinks are in general more expensive than deep drawn stainless steel sinks, which limits their applicability to more high-end renovations and new dwellings. Traditional deep drawn stainless steel sinks remain prevalent in the mid and low end of the market that represents the majority of new dwelling construction.

Market size trends

- New housing builds peaked in 2010, with 2009 and 2010 being reasonably good years nationally for deep drawn stainless steel sinks.
- Some entities consider that there has been a ‘drop off’ in the market since 2010 (though not marked), while others have observed indications of an increase in recent years.
- Generally, there is consensus that, over the last five years, the market size has ebbed and flowed but there has been an overall lift in the market following the global financial crisis.

10.4.2 Housing statistics

In addition to the above general market information gathered from interested parties, the Commission has accessed publicly available ABS data¹⁴ of the number of new housing starts (building approvals) during the injury analysis period, charted in the below graph. This data forms **Non-Confidential Attachment 3**.

The Commission has been unable to access similar reliable statistics on housing renovation numbers over the injury analysis period, noting that the size of the deep drawn stainless steel sinks market is impacted by both new housing starts and existing dwelling renovations.

¹⁴ Available at <http://www.abs.gov.au/ausstats/abs@.nsf/mf/8731.0>

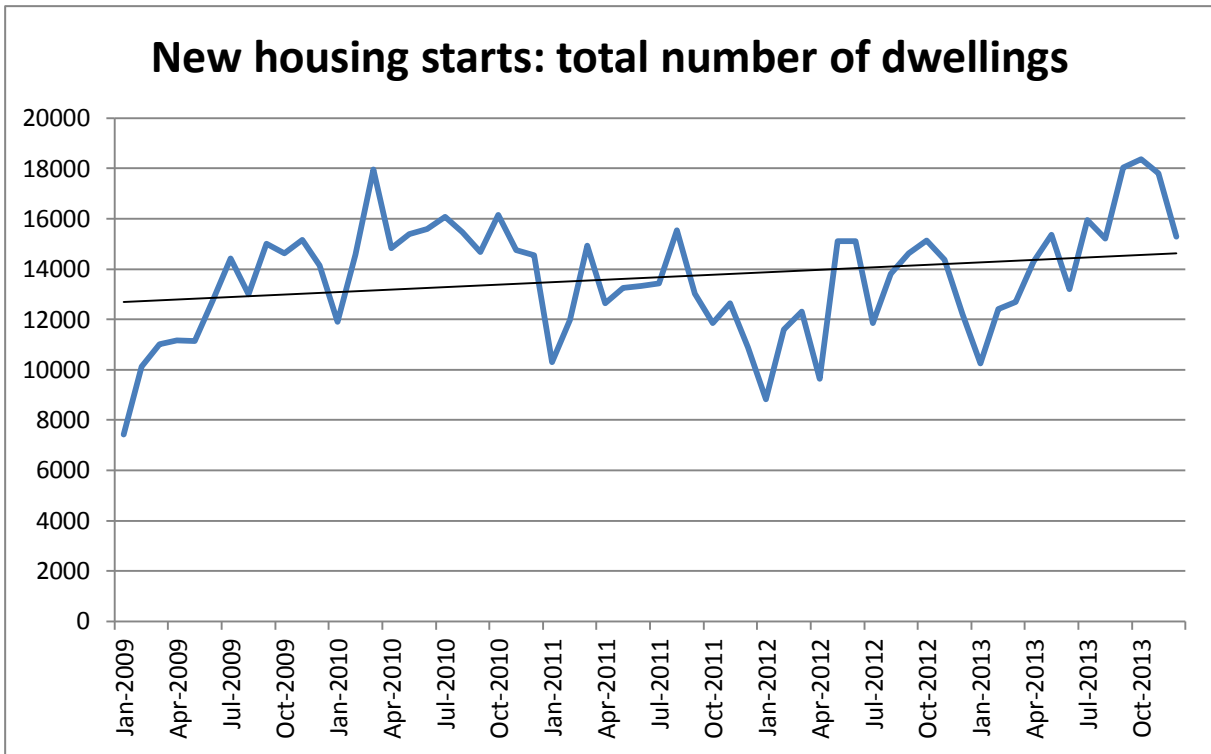


Figure 5 – ABS new housing starts, total number of dwellings, all sectors

Figure 5 demonstrates that, while fluctuations have existed in the number of new housing starts by month throughout the injury analysis period, the overall trend is an increase in housing starts over the period.

10.4.3 Commission’s assessment

Noting in the submissions that the deep drawn stainless steel sinks market size is driven in part by the number of new housing starts, and that the number of sinks per new dwelling and renovation is increasing due to housing trends, the Commission considers the above to be evidence to support a conclusion that the overall size of the Australian deep drawn stainless steel sinks market did not experience a decline over the injury analysis period that would correspond to the year-on-year decline observed to have been experienced by Tasman (see Section 9.5.1).

While there may be some shift towards alternatives to traditional deep drawn stainless steel sinks (tight corner radius, fabricated or ceramic), the information available to the Commission does not suggest that this is pronounced enough to have significantly displaced the volume of deep drawn stainless steel sinks in the Australian market, noting that interested parties have explained there has been an increase in the number of deep drawn stainless steel sinks installed per dwelling, which would logically counteract some of this preference towards non-deep drawn sinks.

The Commission is therefore preliminarily satisfied that that evidence exists to demonstrate that, during the injury analysis period:

PUBLIC RECORD

- there was no significant decline in the size of the Australian stainless steel sinks market; and
- Tasman experienced a decline in sales volumes that was inconsistent with overall market size trends.

Noting the significant price undercutting observed in Section 10.3.1, the Commission preliminarily considers it reasonable to conclude that the decline in sales volumes experienced by Tasman was due to the displacement of sales of deep drawn stainless steel sinks produced by the Australian industry to imported Chinese goods.

As discussed in Section 10.3.2, the size of the dumping margins are preliminarily considered to have improved the pricing position of imported deep drawn stainless steel sinks, facilitating this price undercutting and hence the loss of sales volume observed by Tasman.

The Commission therefore preliminarily concludes that dumping has caused volume injury, in terms of loss of sales volumes, to the Australian industry.

10.5 Injury caused by factors other than dumping

Under s. 269TAE(2A) of the Act, the Minister must consider whether any injury to an industry, or hindrance to the establishment of an industry, is being caused or threatened by a factor other than the exportation of those goods. Any such injury or hindrance must not be attributed to the dumping.

The Commission has considered all factors outlined in s. 269TAE(2A) and provides the following summary at this stage of the investigation to those factors considered relevant to this PAD.

The Commission has also examined other potential causes of injury to Tasman other than dumped goods from China.

10.5.1 Volume and prices of like goods that aren't dumped – s. 269TAE(2A)(a)

In its application, Tasman identified China as a major source of supply of imported deep drawn stainless steel sinks. The Commission's assessment of ACBPS import data (noting this also includes irrelevant imports of fabricated sinks) as well as discussions with importers has shown that Thailand is likely to be another significant source of import supply.

ABS data submitted by Tasman in Appendix A2 of its application, and data obtained from the ACBPS database indicates that the percentage of total imports by country under the relevant tariff classification for deep drawn stainless steel sinks (but also including fabricated sinks) was as follows over the period FY 2009 to calendar year 2013.

PUBLIC RECORD

	FY2009	FY2010	FY2011	FY2012	FY2013	Calendar year 2013
China	66%	72%	75%	82%	80%	81%
Thailand	18%	18%	19%	11%	12%	11%
Other imports	15%	10%	6%	8%	8%	8%

Table 7 – percentage of total import volume by country

This analysis forms **Confidential Appendix 6**.

Given that the data used includes significant volumes of fabricated sinks, the Commission observes that the volume of imports from China is likely to significantly exceed the volume of imports from Thailand or any other source and hence Chinese deep drawn stainless steel sinks are likely to be the dominant source of supply in the Australian market.

The Commission considers that, due to the inclusion of irrelevant data in the above ABS and ACBPS data, as well as the fact that when comparing the prices of deep drawn stainless steel sinks a number of characteristics must be taken into account that cannot be discerned from this data, the Commission considered there is limited use in adopting this import data to determine possible export prices of deep drawn stainless steel sinks from Thailand to compare with Australian industry or Chinese prices. This exercise has therefore not been undertaken for the purposes of this report.

The quantum of dumping of Chinese deep drawn stainless steel sinks preliminarily assessed in this report is not insignificant and the Chinese goods are the dominant source of import supply to the Australian market. The Commission preliminarily determines that there is sufficient evidence to suggest that, even if Thai imports of deep drawn stainless steel sinks significantly undercut Tasman's prices, material injury is likely to have been caused by the dumping of Chinese goods in and of themselves regardless of the presence of Thai imports.

10.5.2 Contractions in demand or changes in patterns of consumption – s.269TAE(2A)(c)

Tasman commented on possible contractions in market size during the period FY2009 to FY2013 in its application, noting that while market contractions had been observed along with a more recent recovery, it did not experience a recovery in its own sales volume in line with market size expansion. The Commission notes that these observations by Tasman were based on its own sales data and ABS imports data. As observed previously, the ABS import data is considered unreliable for the purposes of assessing market size, and hence considers Tasman's observations based on this data to be of limited utility.

As discussed in Section 10.4, the Commission does not consider that there has been any significant drop in the size of the Australian deep drawn stainless steel market during the injury analysis period. While some changes in consumer preference

PUBLIC RECORD

towards alternative sinks are noted, the increased number of new dwelling starts and the reported increase in the number of deep drawn stainless steel sinks installed in dwellings would likely counteract this change of preference to some extent.

It is therefore considered that contractions in demand or changes in patterns of consumption are not likely to have significantly contributed to the injury experienced by Tasman during the examined period.

10.5.3 Developments in technology - s.269TAE(2A)(c)

The Commission has received representations from interested parties that Tasman has not kept abreast of certain technological innovations in the manufacture of deep drawn stainless steel sinks and that this may be contributing to the company's injury. Specifically, these relate to:

- employing robotics in the manufacturing process to reduced production costs; and
- adopting new two-step deep drawing technology (including an annealing process) to manufacture deep drawn stainless steel sinks with a tighter corner radius than traditional deep drawn stainless steel sinks.

In relation to the adoption of robotics, the Commission has observed the manufacturing process at Tasman's Regency Park premises. The Commission is preliminarily satisfied that Tasman is employing a high degree of robotic technology in its manufacturing process and hence failure to adopt this technology is not considered to be at issue in this case.

In relation to the technology used to draw tight corner radius deep drawn stainless steel sinks, the Commission is aware that Tasman does not currently use this process or supply these types of products, while certain imported goods from China have been manufactured in this way (see *Submission lodged by Wickes & Associates on behalf of Abey Australia, dated 30 April 2014* – available on the Public Record).

The Commission has received submissions that these tight corner radius sinks are a growing consumer preference because they look similar to fabricated sinks but are lower in cost and hence price. They are likely to be higher in cost and price than traditional deep drawn stainless steel sinks. Not all of the three major importers that provided data to the Commission and were visited imported these tight corner radius sinks, indicating that these goods are not yet dominant in the market.

The Commission is continuing to assess the impact of the emergence of tight corner radius deep drawn stainless steel sinks on the Australian market, noting that it is possible that some of Tasman's injury could be attributed to the introduction of these new sinks.

However, based on the quantum of dumping preliminarily determined in this report and the marked decrease in Tasman's sales volume over the injury analysis period, the Commission preliminarily considers that there is sufficient evidence to preliminarily find that dumping in and of itself has caused material injury to Tasman.

10.5.4 Other matters

Australian dollar

Tasman claims that a strong Australian dollar during the injury analysis period made it more attractive for importers of deep drawn stainless steel sinks to seek supply from overseas, consequently increasing competition for sales. Tasman noted that it had not observed an increase in imports from any country other than China and questioned the significance of the Australian dollar as a result.

The Commission recognises that the strong Australian dollar will have impacted on the prices of imports, making them more price-competitive. However, in the context of deep drawn stainless steel sinks being exported to Australia from China at dumped prices, the strong Australian dollar has served to amplify the increased affordability arising from the dumped export prices.

Failure to keep up with design trends

Certain interested parties have explained that a factor contributing to the decline in Tasman's prominence in the Australian deep drawn stainless steel sinks market is the company's failure to keep up with design trends. They claim that Tasman continues to sell less-modern design sinks while imported sinks have updated their designs on a regular basis.

The Commission acknowledges that design will have an impact on the end user's decision as to which sink they will purchase. However, it is difficult to assess whether the designs currently offered by Tasman are so out-dated that this would be a significant cause of Tasman's injury such that materially injury can no longer be attributed to the dumping of Chinese goods.

The Commission has evidence that shows:

- sinks that appear to be very physically similar in design to some of Tasman's current range of sinks have been imported from China during the injury analysis period (refer to Section 10.2 of the *Australian Industry Verification Visit Report*, and
- while design is an important factor, purchase price has consistently been explained to be a key purchasing decision for end users and this purchase price has preliminarily determined to have been influenced by the quantum of preliminarily assessed dumping.

The Commission therefore considers that claims of materially injury by Tasman being attributed to out-dated product design cannot reasonably be said to have impacted the company's performance to such an extent that material injury can no longer be attributed to the dumping of Chinese goods.

11 PRELIMINARY NON INJURIOUS PRICE ASSESSMENT

11.1 Preliminary assessment

Noting the operation of s.8(5BAA)(a) of the *Customs Tariff (Anti-Dumping) Act 1975* and the Commission's ongoing assessment into the existence of a particular market situation in the Chinese deep drawn stainless steel sinks market as well as the receipt of countervailable subsidies, the Commission recommends that regard should not be had to the desirability of fixing a lesser rate of duty and the full preliminarily assessed dumping margin be applied to any securities taken in relation to deep drawn stainless steel sinks recommended in this report.

11.2 Relevant legislation

Duties may be applied where it is established that dumped imports have caused or threatened to cause material injury to the Australian industry producing like goods. The level of dumping duty imposed by the Minister cannot exceed the margin of dumping, but the Minister must have regard to the desirability of fixing a lesser amount of duty if it is sufficient to remove the injury.¹⁵

However, pursuant to s.8(5BAA)(a) of the *Customs Tariff (Anti-Dumping) Act 1975*, the Minister is not required to have regard to the desirability of fixing a lesser amount of duty in certain circumstances, including where it has been established that the normal value of the goods cannot be established under s.269TAC(1) of the Act due to the existence of a particular market situation in the domestic market of the goods or for non-notification of countervailable subsidies. However, this does not limit the Minister from having regard to fixing a lesser level of duty if considered reasonable in the circumstances.

11.3 The Commission's assessment

At the time of publishing this PAD, the Commission has not received any submissions from interested parties that address either the desirability of the Minister fixing a lesser amount of duty, or, if such an approach was to be taken, how this lesser amount of duty should be determined.

As outlined in Section 7.4, the Commission is still assessing whether a particular market situation exists in the Chinese deep drawn stainless steel sinks market. It is also still assessing the subsidy claims.

In light of the above, the Commission preliminarily considers that regard should not be had to the desirability of fixing a lesser rate of duty, and the full margin of the preliminarily assessed dumping should be applied to the collection of securities recommended in Chapter 13 of this report.

¹⁵ S.269TG(5)

12 REASONS FOR MAKING A PAD

The Commission has been able to complete preliminary assessments of dumping based on verified and unverified information. The Commission's assessment shows that exports of deep drawn stainless steel sinks from China in the investigation period were at dumped prices. The volume and dumping margins of the dumped goods were not negligible.

The available evidence indicates that competition from dumped imports has caused the Australian industry to suffer from lost sales volumes, price depression, and reduced profits and reduced profitability.

Based on the available information as at **13 August 2014**, the Commissioner is satisfied that for the purpose of the PAD:

- deep drawn stainless steel sinks have been exported from China at less than their normal value;
- there is an Australian industry producing like goods that is experiencing injury; and
- the dumped goods are causing material injury to the Australian industry.

Consequently, the Commissioner is satisfied there appear to be sufficient grounds for the publication of a dumping duty notice in respect of deep drawn stainless steel sinks exported to Australia from China.

In making the PAD, the Commissioner had regard to the application and submissions received within 40 days of the public notice of initiation. Additionally, the Commissioner has also had regard to other matters considered relevant including information and data gathered by the Commission or submitted by interested parties (where appropriate), including:

- data from importers;
- data from exporters;
- data submitted by the Australian industry; and
- submissions made to the investigations from day 40 of the investigation to the date of making the PAD (where possible).

13 PROVISIONAL DUMPING MEASURES

13.1 Preliminary finding

Based on verified and unverified information and data available at the time of making the PAD, the Commissioner has decided to request ACBPS to take securities in respect of imports of deep drawn stainless steel sinks from China entered for home consumption on or after **13 August 2014**.

13.2 Preliminary assessment

The Commission understands that importers continue to place orders for goods from exporters in China that, based on the findings in this report, the Commission preliminarily considers were dumped during the investigation period.

The Commissioner is satisfied that securities are warranted to prevent material injury being suffered by the Australian industry whilst the investigation continues.

The Commissioner considers that the ACBPS should require and take securities under s. 42 of the Act in respect of interim dumping duty that may become payable in relation to deep drawn stainless steel sinks exported from China.

13.3 Preliminary provisional measures

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

- combination of fixed and variable duty method (combination method);
- floor price duty method;
- fixed duty method (\$X per tonne); or
- ad valorem duty method (i.e. a percentage of the export price).

The Commission recommends that securities be calculated ad valorem (i.e. a proportion of export price). The ad valorem method is suitable for goods with many different product levels of varying unit prices. Securities will be at the level of the full dumping margins as tabulated in Table 8 below.

Exporter / Manufacturer	Level of securities
Zhuhai Grand Kitchenware Co., Ltd	19.4%
Primy Corporation Limited	42.4%
Zhongshan Jiabaolu Kitchen & Bathroom Products Co., Ltd	Negligible
Jiangmen New Star Hi-Tech Enterprise Ltd.	35.0%
Elkay (China) Kitchen Solutions Co., Ltd.	35.0%
Franke (China) Kitchen System Co., Ltd	35.0%
Xinhe Stainless Steel Products Co., Ltd	35.0%
Zhongshan Xintian Hardware Co., Ltd.	35.0%

PUBLIC RECORD

Rhine Sinkwares Manufacturing Ltd. Huizhou	35.0%
Yuyao Afa Kitchenware Co., Ltd	35.0%
Jiangmen City HeTangHengWeiDa Kitchen & Sanitary Factory	35.0%
Uncooperative and all other exporters	61.5%

Table 8 - Preliminary provisional measures summary

14 APPENDICES & ATTACHMENTS

<u>Appendices</u>	
Non-Confidential Appendix 1	Previous assessments of market situation and costs reasonableness
Confidential Appendix 2	MEPS composite prices
Confidential Appendix 3	Preliminary dumping margin calculations
Confidential Appendix 4	Preliminary economic condition of industry assessment
Confidential Appendix 5	Preliminary price undercutting analysis
Confidential Appendix 6	Import volume analysis
<u>Attachments</u>	
Confidential Attachment 1	Commissioner Determination for PAD No. 238
Non-Confidential Attachment 2	Public notice – PAD
Non-Confidential Attachment 3	ABS housing starts data and analysis

PREVIOUS INVESTIGATIONS INTO THE EXISTENCE OF A PARTICULAR MARKET SITUATION AND ASSESSMENTS OF RAW MATERIALS COST REASONABLENESS – CARBON STEEL PRODUCTS FROM CHINA

The below outlines the Commission's (or its predecessor, ACBPS) previous findings in relation to the existence of a particular market situation in relation to certain Chinese carbon-steel based goods, as well as the assessment of the reasonableness of raw material costs in constructing normal value under s.269TAC(2)(C).

Hollow structural sections (HSS)

The issue of a market situation in China was considered by ACBPS in Report No 177 (REP177) in regards to HSS exported from China during the investigation period of 1 July 2010 to 30 June 2011. In REP177 it was established that:

- the GOC had exerted numerous influences on the Chinese iron and steel industry, which are likely to have materially distorted competitive conditions within that industry and affected the supply of HSS, hot-rolled coil (HRC), narrow strip, and upstream products and materials; and
- these GOC influences in the Chinese iron and steel industry have created a 'market situation' in the domestic HSS market, such that sales of HSS in that market are not suitable for determining normal value under s.269TAC(1).

Specifically, REP177 examined the existence of macroeconomic policies and plans relevant to the Chinese iron and steel industry,¹⁶ and found evidence of numerous implementing measures put in place by the GOC¹⁷ that have impacted the Chinese iron and steel industry, leading to the finding that:

... Customs and Border Protection's analysis of the information available indicates that prices of HSS in the Chinese market are not substantially the same (likely to be artificially low), as they would have been without the GOC influence. Customs and Border Protection considers that GOC influences in the Chinese iron and steel industry have created a 'market situation' in the domestic HSS market, such that sales of HSS in that market are not suitable for determining normal value under s.269TAC(1).

Having made this assessment, REP177 goes on to find that the identified GOC influences have likely impacted the costs of certain inputs into the HSS manufacturing process such that they no longer reasonably reflect competitive market costs. ACBPS determined that this was most pronounced in relation to HRC (the major raw material for HSS), and the costs incurred by exporters for HRC was subsequently replaced by a competitive market cost.

¹⁶ Such as the National Steel Policy, the *Blueprint for Steel Industry Adjustment and Revitalisation Directory Catalogue* and national and regional five year plans/guidelines

¹⁷ Including the imposition of taxes, tariffs, and export quotas; measures to eliminate certain steelmaking capacity; market entry criteria; and directed mergers and restructuring.

PUBLIC RECORD

REP203 (the reinvestigation into HSS) affirmed the findings of REP177 in relation to these matters.

Aluminium zinc coated steel and zinc coated (galvanised) steel

The issue of a market situation in the Chinese aluminium zinc coated steel and galvanised steel markets was considered in Report No 190 (REP190) in relation to the investigation period of 1 July 2011 to 30 June 2012.

In REP190, it was considered reasonable to find that GOC influences in the Chinese iron and steel industry identified in REP177 continued to exist in relation to investigation 190's investigation period. It was further found that the findings of REP177 in relation to the Chinese iron and steel industry were found to apply to aluminium zinc coated steel and galvanised steel producers in China, and that a particular market situation existed in relation to domestic sales of galvanised steel and aluminium zinc coated steel.

As was the case with REP177, REP190 found that these GOC influences had also impacted the reasonableness of certain costs incurred by aluminium zinc coated and galvanised steel in China such that they were no longer considered reasonably competitive market costs, and were replaced by a competitive market cost.

Hot rolled plate steel

The Commission considered the existence of a market situation in the Chinese hot rolled plate steel market in Report No 198 (REP198) relating to the investigation period 1 January 2012 to 31 December 2012.

Appendix 1 to REP198 finds:

The Commission has determined that the GOC has exerted numerous influences on the Chinese iron and steel industry, which have substantially distorted competitive market conditions in the iron and steel industry in China.

In the current investigation, based on available information, the Commission determined that various GOC influences identified in INV 177 and again in INV 190 continued to apply in the Chinese iron and steel industry. These were in the form of broad, overarching GOC macroeconomic policies and plans that outline aims and objectives for the Chinese iron and steel industry and more specifically the 'implementing measures' that go towards actively executing the aims and objectives of these policies and plans.

The impact of the GOC's numerous broad and extensive overarching macroeconomic policies and plans, outlining the aims and objectives for the Chinese iron and steel industry, have not been insignificant. The various countervailable subsidies provided by the GOC have also influenced the costs of production of plate steel in China. The various taxes, tariffs, export and import quotas have influenced the price of raw materials used in production of plate steel which has led to a distortion in the selling prices of the plate steel itself.

PUBLIC RECORD

The Commission's assessment and analysis of the available information indicates that prices of plate steel in the Chinese market are not substantially the same as they would have been without the influences by the GOC. The Commission considers that GOC influences in the Chinese iron and steel industry have created a 'particular market situation' in the domestic plate steel markets such that sales of plate steel in China are not suitable for determining normal value under s.269TAC(1) of the Act.

As with REP177 and REP190, REP198 found that the reasonableness of certain costs incurred by exporters were impacted by the GOC influences, and competitive market costs were adopted for these costs instead.

Wind towers

The question of a market situation in relation to the Chinese domestic market for wind towers (which are manufactured from hot rolled plate steel) was considered in Report No 221 (REP221) in relation to the investigation period 1 January 2012 to 30 June 2013. However, in REP221 the Commission considered that domestic sales of Chinese wind towers were not suitable for determining normal values under s.269TAC(1) in any case, due to there being an absence of relevant sales of like goods on the domestic market in China, in line with s.269TAC(2)(a)(i) of the Act.

For this reason, REP221 did not make conclusions as to the existence of a particular market situation in the Chinese wind towers market as this was not relevant in the circumstances.

However, REP221 did go on to consider whether the costs of hot rolled plate steel incurred by Chinese exporters of wind towers reasonably reflected competitive market costs for the purposes of Regulation 180. REP221 found that, having regard to the findings of previous anti-dumping investigations where it was found that the GOC exerted significant influence on the Chinese iron and steel industry, sufficient evidence existed to find that the cost of plate steel (and flanges) reflected in the records of Chinese manufacturers do not reasonably reflect a competitive market cost for that input. This cost was subsequently substituted by a competitive market cost.