

IN THE AUSTRALIAN ANTI-DUMPING COMMISSION
CERTAIN DEEP DRAWN STAINLESS STEEL SINKS
EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA

TASMAN SINKWARE PTY LTD

Australian industry

AND

SHRIRO AUSTRALIA PTY LTD

Importer

RESPONSE OF THE AUSTRALIAN INDUSTRY TO THE SUBMISSIONS OF THE IMPORTER

This submission is made on behalf of the Australian industry producing certain deep drawn stainless steel sinks in Australia, specifically the applicant to *Dumping and Countervailing Investigation ADC 238*, Tasman Sinkware Pty Ltd.

The Australian industry makes this submission in response to the submissions of the Importer dated 22 May 2014 and 9 September 2014.

In reply to the Importer's submissions, the Australian industry responds as follows:

1. Qualitative features of the GUC and "like goods"

In its May 2014 submission, the Importer alleges "[i]t is not clear that the sinks purchased from Blanco [presumably of German source] and manufactured in China are the same standard or quality of the sinks manufactured by Tasman" [p.1]. The Importer, further alleges [at p.2], that "the sale of the product as imported does not compete with or displace Tasman's product, which may well be of a different quality and style in any event".

The Importer neglects or fails to identify any physical or other features that differentiate the GUC from the "like goods" produced by the Australia industry. In its application, the Australian industry identified the degrees of likeness between the imported goods and their like goods, and the characteristics closely resembling the GUC. To the extent that the Importer appears to suggest that there are qualitative differences between the goods, in the absence of further information it is impossible for the Australian industry to respond to this claim. Indeed, the Commission should treat the Importer's claim as unsubstantiated without more information.

In its submission dated 9 September 2014, the Importer, identifies the features of products within its *Supertub* range.

PUBLIC FILE VERSION

The Importer describes the goods as a “fully assembled standalone laundry unit”, although it uses the brand ‘Supertub’, which suggests the primary use and purpose of the goods, namely that of a sink. The Importer describes the accessories that accompany the importation of the goods. The Importer asserts that the goods as imported do not compete in a relevant sense with the locally manufactured Tasman product. As such, the Importer seeks to differentiate the deep drawn stainless steel bowls that are imported together with the accessories that make the so-called “standalone laundry units” or ‘Supertubs’, as not the goods under consideration (**GUC**).

The Australian industry is unable to accept this argument, and submits that it should be rejected by the Commission.

For the avoidance of doubt, the goods (or GUC) are defined as:

“... 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.**” [emphasis added]

- Refer ADN No. 2014/20 (18 March 2014)

What the Importer is describing as “standalone laundry units” are in fact deep drawn stainless steel sinks with accessories. The imported deep drawn stainless steel sinks, the subject of the Importer’s submission, are indeed substitutable for the following like goods manufactured by the Australian industry:

- TI45;
- TI45S;
- TI45S/OF;
- TI70; and
- TI70S.

To accept the Importer’s argument that the accessories change the nature of the deep drawn stainless steel sinks imported, is to suggest that the GUC no longer perform the function of a sink, and are no longer substitutable for the like goods produced by the Australian industry.

The Australian industry does not discourage the Importer from importing the accessories identified in its submission, namely “flexible water hoses, washing machine hose tap connections, side apertures for washing machine hoses, satin finish powder-coated galvanized steel cabinets and adjustable rubber feet” and in some cases “drawer storage, cupboard storage, goose-neck taps, single lever mixer taps, two handle mixer taps”. However, the

Australian industry does not accept that this changes the nature of the "seamless stainless steel bowls" imported with these accessories from coming within the description of the goods. At any time, the Importer may substitute the deep drawn stainless steel sinks that it imports with one either produced by the Australian industry or capable of being produced by the Australian industry.

Indeed, the Australian industry anticipated examples like this posed by the Importer, when drafting its application and describing the goods. The Australian industry consciously devised a goods description in its application (and accepted by the Commission on initiation) that covered the inclusion or exclusion of accessories (together with a non-exhaustive list of accessories). The goods description is designed to capture deep drawn stainless steel bowls that are imported with accessories, whether designed to make up "kitchen starter packs" or "standalone laundry units", as the case is for the Importer here. Fundamentally, the essential characteristic of the goods remain the same, that is to perform the primary function of collecting and draining a controlled volume of water in a manner consistent with plumbing standards.

The importer has several options open to it to ensure that the security rates currently applicable to it (and assuming a positive final outcome, interim duties) are properly applied to the deep drawn stainless steel sinks that are subject to its import consignment. However, it would be a case of circumvention, to simply treat the imports as not the goods, by reason of the inclusion of accessories that were always within the contemplation of the Australian industry and the Commission.

2. Allegation of insufficient production capacity

The Australian industry rejects the Importer's unsubstantiated allegation that the Australian industry has insufficient production capacity to meet the demand of the Australian market for the goods.

Indeed, this is inconsistent with the conclusion of the Commission contained in its *Visit Report – Australian Industry (May 2014)*, that the Australian industry's capacity utilization has halved during the injury analysis period.

3. Allegation of 'off-shoring' production capacity

The Australian industry rejects the Importer's unsubstantiated allegation that the Australian industry has "itself shifted capacity to Thailand and China".

The Australian industry has not reduced its domestic production capacity in preference to Thailand or China. The Australian industry has at all times disclosed that it imports a minority of the goods from China, in order to compete with dumped imports. The Australian industry

has always maintained that this practice is transitional and contingent upon the imposition of anti-dumping duties. Since the imposition of the PAD the Australian industry has already increased local production of sinks to replace those that it imported from China.

4. Allegation of monopolistic market behaviour

The Australian Industry rejects the Importer’s suggestion that the imposition of anti-dumping duties creates a “monopoly position in Australia”. The Australian industry is currently, and remains subject to import competition from various sources including China. The Australian industry simply rejects the unfair price competition from Chinese sourced deep drawn stainless steel sinks that are exported to Australia at dumped and subsidised prices.**5. Factors other than dumping**

The Australian Industry rejects the Importer’s assertion that exchange rates are responsible for the its material injury.

The Australian industry notes that it has continued to lose volume and market share to the dumped imports notwithstanding movements in the exchange rate. Further, imports from countries other than China have also lost volume and market share over the injury analysis period in favour of Chinese allegedly dumped imports.

Conclusions

In summary, the Australian industry asserts that:

- The imported goods remain subject to securities and measures whether or not they are imported with accessories, and this is consistent with the definition of the GUC;
- The Australian industry produces like goods that are substitutable for the deep drawn stainless steel sinks imported by the Importer, albeit with accessories;
- It has not reduced capacity across the injury analysis period;
- It has not transferred production capacity to Thailand or China;
- The imposition of measures would not create a ‘monopoly’ for the Australian industry; and
- The material injury suffered by the Australian industry was caused by dumped imports and not the strength of the Australian currency.

DATED 22 September 2014

SIGNED:

International Trade Remedies Advisor.....

for the Australian industry