**ANTI-CIRCUMVENTION INQUIRY 447**

EXPORTS THROUGH ONE OR MORE THIRD COUNTRIES

Exporter Questionnaire

**Product: ALUMINIUM EXTRUSIONS** tomatoes

**From:** THE PEOPLE’S REPUBLIC OF CHINA

Period of Inquiry: From 1 January 2015

1-November-99

**Response due by:** **30 November 2017**7-November-99

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**E-mail**: lilly.tacksharp@customs.gov.au operations2@adcommission.gov.au

|  |  |
| --- | --- |
| Anti-Dumping Commission website:  Return completed questionnaire to: | [www.adcommission.gov.au](http://www.adcommission.gov.au)  Anti-Dumping Commission  Level 35, 55 Collins Street  Melbourne VIC 3001  AUSTRALIA  Attention: Director Operations 4Director Operations 2 |

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# CONDUCT OF the inquiry

The Commissioner of the Anti-Dumping Commission (the Commissioner) announced in Anti-Dumping Notice 2017/137 that he initiated the inquiry on **16 October 2017**.

The inquiry will examine whether exporters of certain aluminium extrusions from China have engaged in the circumvention activity as outlined in section 269ZDBB of the *Customs Act 1901* (the Act) of exporting the goods to Australia from China through one or more third countries including Malaysia, Thailand, Indonesia, and the Philippines.

For the purposes of the inquiry, the inquiry period to determine whether anti‑circumvention has occurred will be from **1 January 2015**.

After concluding the inquiry, the Commissioner will recommend to the the Assistant Minister for Industry, Innovation and Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science (the Parliamentary Secretary)[[1]](#footnote-1) that the original duty notice:

1. remain unaltered; or
2. be altered because the Commissioner is satisfied that circumvention activities in relation to the original notice have occurred.

The Commissioner must maintain a public record of the inquiry. Documents included in the public record may be examined at [www.adcommission.gov.au](http://www.adcommission.gov.au) or at the Commission’s office by contacting the case manager.

Interested parties, as defined by subsection 269T(1) of the Act, are invited to lodge written submissions concerning this inquiry, no later than the close of business on **22 November 2017**, addressed to:

The Director

Operations 2

Anti-Dumping Commission

Level 35

55 Collins Street

Melbourne VIC 3001

or email [operations2@adcommission.gov.au](mailto:operations2@adcommission.gov.au).

Interested parties wishing to participate in the inquiry must ensure that submissions are lodged promptly. Interested parties should note that the Commissioner is not obliged to have regard to a submission received after the date mentioned above if to do so would, in the Commissioner’s opinion, prevent the timely placement of the statement of essential facts (SEF) on the public record.

The public record must contain, among other things, a copy of all submissions from interested parties.

Interested parties claiming that information contained in their submission is confidential, or that the publication of the information would adversely affect their business or commercial interests, must:

* provide a summary containing sufficient detail to allow a reasonable understanding of the substance of the information that does not breach that confidentiality or adversely affect those interests; or
* satisfy the Commissioner that there is no way such a summary can be given to allow a reasonable understanding of the substance of the information.

Submissions containing confidential information must be clearly marked ‘**FOR OFFICIAL USE ONLY**’.

Interested parties must lodge a non-confidential version or a summary of their submission in accordance with the requirement above (clearly marked ‘**PUBLIC RECORD**’).

## Statement of Essential Facts

The dates specified in this notice for lodging submissions must be observed to enable the Commissioner to report to the Parliamentary Secretary within the legislative timeframe. An SEF will be placed on the public record by 3 February 2018, or by such later date as the Parliamentary Secretary may allow in accordance with section 269ZHI of the Act. The SEF will set out the essential facts on which the Commissioner proposes to base a recommendation to the Parliamentary Secretary. The SEF will invite interested parties to respond to the issues raised within 20 days of the SEF being placed on the public record.

## Report to the Parliamentary Secretary

Submissions received in response to the SEF will be taken into account in completing the report and recommendation to the Parliamentary Secretary.

A recommendation to the Parliamentary Secretary will be made in a report on or before 20 March 2018 (or such later date as the Parliamentary Secretary may allow).

The Parliamentary Secretary must make a declaration within 30 days after receiving the report, or due to special circumstances, such longer period as the Parliamentary Secretary considers appropriate.

## Anti-Dumping Commission contact

Enquiries about this notice may be directed to the Case Manager on telephone number + 61 3 8539 2428 or email [operations2@adcommission.gov.au](mailto:operations2@adcommission.gov.au).

# Goods subject of the inquiry

The goods, subject of the inquiry (the goods), are:

Aluminium extrusions that:

* + are produced by an extrusion process;
  + are of alloys having metallic elements falling within the alloy designations published by The Aluminium Association commencing with 1, 2, 3, 5, 6 or 7 (or proprietary or other certifying body equivalents);
  + have finishes being:
    - as extruded (mill);
    - mechanically worked
    - anodized; or
    - painted or otherwise coated, whether or not worked;
  + have a wall thickness or diameter greater than 0.5 mm;
  + have a maximum weight per metre of 27 kilograms; and
  + have a profile or cross-section fitting within a circle having a diameter of 421 mm.

Table 1 provides examples of the coverage of the goods and like goods (and intended end-use applications) and is being used for this investigation. Examples of the goods and like goods are outlined in columns 1 to 4 and non-subject goods are outlined in columns 5 to 7.

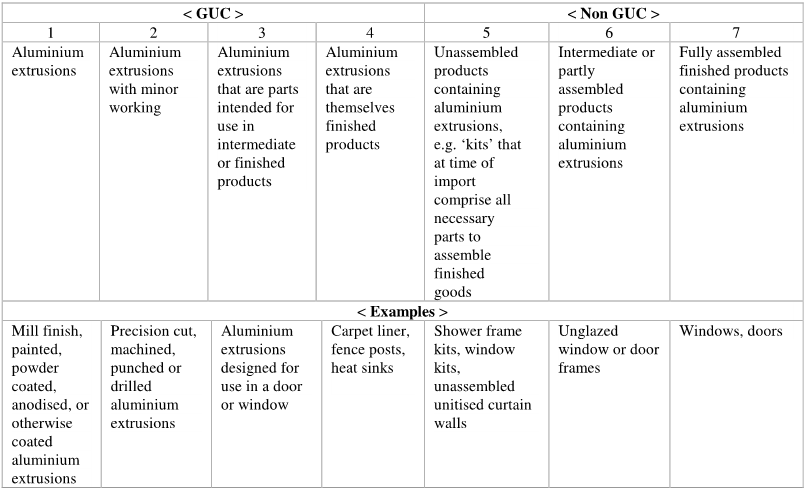


Table 1 - The goods and like goods

The goods are classified to the following tariff subheadings in Schedule 3 to the Customs Tariff Act 1995:

|  |  |  |  |
| --- | --- | --- | --- |
| ***Tariff code*** | ***Statistical code*** | ***Unit*** | ***Description*** |
| 7604.10.00 | 06 | Kg | Non alloyed aluminium bars, rods and profiles |
| 7604.21.00 | 07 | Kg | Aluminium alloy hollow angles and other shapes |
| 7604.21.00 | 08 | Kg | Aluminium allow hollow profiles |
| 7604.29.00 | 09 | Kg | Aluminium alloy non hollow angles and other shapes |
| 7604.29.00 | 10 | Kg | Aluminium alloy non hollow profiles |
| 7608.10.00 | 09 | Kg | Non alloyed aluminium tubes and pipes |
| 7608.20.00 | 10 | Kg | Aluminium alloy tubes and pipes |
| 7610.10.00 | 12 | Kg | Doors, windows and their frames and thresholds for doors |
| 7610.90.00 | 13 | Kg | Other |

Table 2 - Tariff classifications of the goods

# Existing Measures

Anti-dumping measures in the form of dumping and countervailing duties on aluminium extrusions exported to Australia from China were imposed on 28 October 2010 following consideration of *Anti-Dumping Commission Report No. 148* by the then Attorney-General.

The original notices the subject of the application that indicates they were made under subsections 269TJ(1), 269TJ(2), 269TG(1) and 269TG(2) of the *Customs Act 1901* (the Act) and published on 28 October 2010 following investigation number 148.

On 28 October 2015, anti-dumping measures in the form of interim dumping duties (IDD) were continued by the Assistant Minister for Industry, Innovation and Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science (the Parliamentary Secretary)[[2]](#footnote-2)on aluminium extrusions exported from China, except for exports by Tai Ao Aluminium Tai Shan Co Ltd and Guangdong Zhongya Aluminium Company Limited.

Anti-dumping measures in the form of interim countervailing duties (ICD) were also continued on aluminium extrusions exported from China, except for exports by Tai Ao Aluminium Tai Shan Co Ltd. For more information on the continuation of measures, refer to Final Report REP 287 and Anti-Dumping Notice 2015/125.

Further details of the measures in place are available in the *Dumping Commodity Register* on the Commission’s web site.

# Instructions

## Why you have been asked to fill out this questionnaire?

The Anti-Dumping Commission (the Commission) is responsible for assisting the Commissioner in conducting an inquiry into alleged circumvention activity.

The inquiry follows an application made by an Australian industry member manufacturing the goods. The application alleges that the goods are exported from China to a third country such as Malaysia, Thailand, Vietnam, Indonesia, the Philippines and Bangladesh and then exported from that country to Australia, thereby avoiding the measures.

The Commission will examine your exports of the goods from **1 January 2015** (the inquiry period) to determine whether the prescribed anti-circumvention activity of export of goods through one or more third countries has occurred.

At the end of the inquiry a report will be provided to the Parliamentary Secretary. After considering the report and any other information that the Parliamentary Secretary considers relevant, the Parliamentary Secretary may leave the original notice unaltered or alter the original notice accordingly.

The Commission inquiry will be carried out under the provisions of the Part XVB of the *Customs Act 1901*.

## What happens if you do not respond to this questionnaire?

You do not have to complete the questionnaire. However, if you do not respond, do not provide all of the information sought, do not provide information within the requested time period, or do not allow the Commission to verify the information, we may deem you uncooperative. In that case the Commission may be required to rely on information supplied by other parties to assess if circumvention of the measures has occurred.

It is in your interest, therefore, to provide a complete and accurate submission, capable of verification.

## Due date for response

You are requested to respond to this questionnaire and return it to the Commission within the time specified on the cover page. There is a statutory time limit imposed for the inquiry. The Commission may not be able to consider questionnaires received after the due date.

If you cannot lodge your questionnaire by the due date you must advise the inquiry case manager prior to the due date.

## Confidential and non-confidential submissions

You are required to lodge one confidential version (for official use only) and one non-confidential version (for public record) of your submission by the due date.

Please ensure that *each page* of information you provide is clearly marked either ‘**FOR OFFICIAL USE ONLY**’ or ‘**PUBLIC RECORD**’.

All information provided to the Commission in confidence will be treated accordingly. The non-confidential version of your submission will be placed on the public record.

Please note that Australia’s anti-dumping and countervailing legislation requires that to the extent that information given to the Commission is claimed to be confidential or whose publication would adversely affect a business or commercial interest, the person giving the information must ensure that a summary of that information contains sufficient detail to allow a reasonable understanding of the substance of the information, but does not breach confidentiality nor adversely affect those interests.

The legislation allows for a person not being required to provide a summary for the public record if the Commission can be satisfied that no such summary can be given that would allow a reasonable understanding of the substance of the information. However, such a summary would add considerably to an interested party’s understanding of information contained in a document.

As provided for in Australia’s anti-dumping and countervailing legislation, all submissions are required to have a bracketed explanation of deleted or blacked out information for the non-confidential version of the submission. Note that if such an explanation is not provided, the Commission may disregard the information in the submission. An example of a statement to accompany deleted/blacked out text is:

[*explanation of arrangements with customers*].

If, for some reason, you cannot produce a non-confidential summary, please contact the inquiry case manager.

## Declaration

At section G, you are required to make a declaration that the information contained in your submission is complete and correct. Alternatively, if you did not export the goods during the period of inquiry, you may make a declaration to that effect.

You must return a signed declaration with your response to the questionnaire.

## Verification of the information that you supply

The Commission may seek to verify the information provided in your submission. Where there is a large number of exporters, the Commission may have to verify information from selected exporters only. The purpose of a verification visit is to verify the information submitted in response to this questionnaire.

## If you do not manufacture the goods

If you export, but do not produce or manufacture the goods (for example, you are a trading company, broker, or vendor dealing in the goods), it is important that you forward a copy of this questionnaire to the relevant manufacturers **immediately.** You should also inform the inquiry case officer of the contact details for these manufacturers.

You should complete those sections of the questionnaire that you are reasonably able to complete. If you are unable to supply certain details, you should clearly explain why the section does not apply to your company.

## Some general instructions for preparing your response

When answering the questionnaire please carefully read all instructions. The Commission requires a response to *all* sections of this questionnaire. Please provide an explanation if a question is not relevant to your situation.

Answer questions in the order presented in the questionnaire. Please ensure that information submitted conforms to the requested format and is clearly labelled.

Identify source documents and advise where they are kept. During on-site verification you should be prepared to substantiate all the information you have submitted. Every part of the response should be traceable to company documents that are used in the ordinary course of business.

We recommend that you retain all work sheets used in answering the questionnaire, in particular those linking the information supplied with management and accounting records. This will help us to verify the information.

Clearly identify all units of measurement and currencies used. Apply the same measurement consistently throughout your response to the questionnaire.

## Instructions on providing electronic data

It is important that information is submitted in electronic format.

Electronic data should be emailed or submitted on a CD-ROM, in *IBM/MS-DOS* format, or another operating system whose disk format is compatible with this *MS-DOS* version.

The data must be created as spreadsheet files, preferably in *Microsoft Excel*, or alternatively in an *Excel* compatible format (for example, *Excel* can normally access data in *Dbase* or as an *ASCII* file).

The *Excel* files must be compatible to the USA version.

If you cannot present electronic data in the requested format contact the inquiry case officer as soon as possible.

## Further information

If you require further assistance, or you are having difficulties completing your response to this questionnaire, please contact the inquiry case manager. The Commission will need to know the reasons.

Please note that the Commission may identify further information needs in the course of the inquiry and may contact you again.

# Section A

## A-1 Identity and communication

Please nominate a person within your company who can be contacted for the purposes of this inquiry:

*Head Office:*

Contact person name

Position in the company

Address

Telephone

E-mail address of contact person

*Factory:*

Contact person name

Position in the company

Address

Telephone

E-mail address of contact person

## A-2 Representative of the company for the purpose of inquiry

If you wish to appoint a representative to assist you in this inquiry, provide the following details:

Contact person name

Position in the company

Address

Telephone

E-mail address of contact person

Note that in nominating a representative, the Commission will assume that confidential material relating to your company in this inquiry may be freely released to, or discussed with, that representative.

## A-3 Company information

1. What is the legal name of your business? What kind of entity is it (eg. company, partnership, sole trader)? Please provide details of any other business names that you use to export or sell goods.

Provide a diagram showing all associated or affiliated companies and your company’s place within that corporate structure.

Describe the nature of your company’s business. Explain whether you are a producer or manufacturer, distributor, trading company, etc.

If your business does not perform all of the following functions in relation to the goods under inquiry, then please provide names and addresses of the companies which perform each function:

* produce or manufacture
* sell in the domestic market
* export to Australia, and
* export to countries other than Australia.

Provide a copy of your most recent annual report together with any relevant brochures or pamphlets on your business activities.

## A-4 Further information

Provide any further information that you may consider is relevant to this inquiry.

Provide any information you may be aware of about other parties that you may consider is relevant to this inquiry.

# Section B EXPORTED GOODS

**B-1** **Exported Goods to Australia**

Fully describe or attach relevant information regarding the goods you have exported to Australia during the inquiry period. Include specification details and model numbers as well as any marketing, technical and illustrative material that may be helpful in identifying, or classifying, the exported goods.

**B-2** **Exported Goods to Malaysia**

Fully describe or attach relevant information regarding the goods you have exported to Malaysia during the inquiry period. Include specification details and model numbers as well as any marketing, technical and illustrative material that may be helpful in identifying, or classifying, the exported goods.

**B-3** **Exported Goods to Thailand**

Fully describe or attach relevant information regarding the goods you have exported to Thailand during the inquiry period. Include specification details and model numbers as well as any marketing, technical and illustrative material that may be helpful in identifying, or classifying, the exported goods.

**B-4** **Exported Goods to other countries including Indonesia and the Philippines**

Fully describe or attach relevant information regarding the goods you have exported to other countries including Indonesia and the Philippines during the inquiry period. Include specification details and model numbers as well as any marketing, technical and illustrative material that may be helpful in identifying, or classifying, the exported goods.

# Section C Sales to Australia

**C-1** For each customer in Australia to whom you shipped goods in the inquiry period, list:

Contact person name

Position in the company

Address

Telephone

E-mail address of contact person

**C-2** For each customer identified in C1 please provide the following information.

1. Describe how the goods are sent to each customer in Australia, including a diagram if required.
2. Identify each party in the distribution chain and describe the functions performed by them.
3. Explain who retains ownership of the goods at each stage of the distribution chain. In the case of DDP sales, explain who retains ownership when the goods enter Australia.
4. Describe any agency or distributor agreements or other contracts entered into in relation to the Australian market (supply copy of the agreement if possible).
5. Provide company and contact details of relevant agents, freight forwarders or logistics providers.
6. Explain in detail the process by which you negotiate price, receive orders, deliver, invoice and receive payment. If export prices are based on price lists supply copies of those lists.
7. State whether your firm is related to any of its Australian customers. Give details of any financial or other arrangements (eg free goods, rebates, or promotional subsidies) with the customers in Australia (including parties representing either your firm or the customers).
8. Provide details of forward orders of the goods under inquiry (include quantities, values and scheduled shipping dates).

In the worksheet entitled *Sales to Australia*, which is in the supplied *Excel* workbook entitled *Attachment 1 to Originating Exporter Questionnaire*, list all shipments transaction by transaction to Australia of the goods under inquiry in the inquiry period. Provide this list in electronic format.

# Section d Sales to Malaysia

**D-1** For each customer in Malaysia to whom you shipped goods in the inquiry period, list:

Contact person name

Position in the company

Address

Telephone

E-mail address of contact person

**D-2** For each customer identified in D1 please provide the following information.

1. Describe how the goods are sent to each customer in Malaysia, including a diagram if required.
2. Identify each party in the distribution chain and describe the functions performed by them.
3. Are you aware of any of your customers in Malaysia importing goods for the purpose of exporting the goods to Australia?
4. If you are aware of any of your customers in Malaysia importing goods for the purpose of exporting the goods to Australia, please provide the names and contact details of those customers.
5. If you are aware of any of your customers in Malaysia importing goods for the purpose of exporting the goods to Australia, please indicate if the goods are further processed, re-packaged, held under bond or are cleared through Customs to enter the economy of Malaysia.
6. Explain who retains ownership of the goods at each stage of the distribution chain. In the case of DDP sales, explain who retains ownership when the goods enter Malaysia.
7. Describe any agency or distributor agreements or other contracts entered into in relation to the Malaysian market (supply copy of the agreement if possible).
8. Provide company and contact details of relevant agents, freight forwarders or logistics providers.
9. Explain in detail the process by which you negotiate price, receive orders, deliver, invoice and receive payment. If export prices are based on price lists supply copies of those lists.
10. State whether your firm is related to any of its Malaysian customers. Give details of any financial or other arrangements (eg free goods, rebates, or promotional subsidies) with the customers in Malaysia (including parties representing either your firm or the customers).
11. Provide details of forward orders of the goods under inquiry (include quantities, values and scheduled shipping dates).

In the worksheet entitled *Sales to Malaysia*, which is in the supplied *Excel* workbook entitled *Attachment 1 to Originating Exporter Questionnaire*, list all shipments transaction by transaction to Australia of the goods under inquiry in the inquiry period. Provide this list in electronic format.

# Section E Sales to thailand

**E-1** For each customer in Thailand to whom you shipped goods in the inquiry period, list:

Contact person name

Position in the company

Address

Telephone

E-mail address of contact person

**E-2** For each customer identified in E1 please provide the following information.

1. Describe how the goods are sent to each customer in Thailand, including a diagram if required.
2. Identify each party in the distribution chain and describe the functions performed by them.
3. Are you aware of any of your customers in Thailand importing goods for the purpose of exporting the goods to Australia?
4. If you are aware of any of your customers in Thailand importing goods for the purpose of exporting the goods to Australia, please provide the names and contact details of those customers.
5. If you are aware of any of your customers in Thailand importing goods for the purpose of exporting the goods to Australia, please indicate if the goods are further processed, re-packaged, held under bond or are cleared through Customs to enter the economy of Thailand.
6. Explain who retains ownership of the goods at each stage of the distribution chain. In the case of DDP sales, explain who retains ownership when the goods enter Thailand.
7. Describe any agency or distributor agreements or other contracts entered into in relation to the Australian market (supply copy of the agreement if possible).
8. Provide company and contact details of relevant agents, freight forwarders or logistics providers.
9. Explain in detail the process by which you negotiate price, receive orders, deliver, invoice and receive payment. If export prices are based on price lists supply copies of those lists.
10. State whether your firm is related to any of its Thai customers. Give details of any financial or other arrangements (eg free goods, rebates, or promotional subsidies) with the customers in Thailand (including parties representing either your firm or the customers).
11. Provide details of forward orders of the goods under inquiry (include quantities, values and scheduled shipping dates).

In the worksheet entitled *Sales to Thailand*, which is in the supplied *Excel* workbook entitled *Attachment 1 to Originating Exporter Questionnaire*, list all shipments transaction by transaction to Australia of the goods under inquiry in the inquiry period. Provide this list in electronic format.

# Section F Sales to other countries other countries including VIETNAM, Indonesia and the Philippines

(Other countries may also include other countries in the Asian region. Sales to Europe, Africa and the Americas need not be included.)

**F-1** For each customer in another country to whom you shipped goods in the inquiry period, list:

Contact person name

Position in the company

Address

Telephone

E-mail address of contact person

**F-2** For each customer identified in F1 please provide the following information.

1. Describe how the goods are sent to each customer in the other country, including a diagram if required.
2. Identify each party in the distribution chain and describe the functions performed by them.
3. Are you aware of any of your customers in other countries importing goods for the purpose of exporting the goods to Australia?
4. If you are aware of any of your customers in other countries importing goods for the purpose of exporting the goods to Australia, please provide the names and contact details of those customers.
5. If you are aware of any of your customers in other countries importing goods for the purpose of exporting the goods to Australia, please indicate if the goods are further processed, re-packaged, held under bond or are cleared through Customs to enter the economy of that other country.
6. Explain who retains ownership of the goods at each stage of the distribution chain. In the case of DDP sales, explain who retains ownership when the goods enter other countries.
7. Describe any agency or distributor agreements or other contracts entered into in relation to the other market (supply copy of the agreement if possible).
8. Provide company and contact details of relevant agents, freight forwarders or logistics providers.
9. Explain in detail the process by which you negotiate price, receive orders, deliver, invoice and receive payment. If export prices are based on price lists supply copies of those lists.
10. State whether your firm is related to any of its customers in other countries. Give details of any financial or other arrangements (eg free goods, rebates, or promotional subsidies) with the customers in other countries (including parties representing either your firm or the customers).
11. Provide details of forward orders of the goods under inquiry (include quantities, values and scheduled shipping dates).

In the worksheet entitled *Sales to Other Countries*, which is in the supplied *Excel* workbook entitled *Attachment 1 to Originating Exporter Questionnaire*, list all shipments transaction by transaction to other countries of the goods under inquiry in the inquiry period. Provide this list in electronic format.

# 

# Section G Exporter's declaration

I hereby declare that.............................................................(company)

did, during the period of inquiry export the goods under inquiry and have completed the attached questionnaire and, having made due inquiry, certify that the information contained in this submission is complete and correct to the best of my knowledge and belief.

I hereby declare that.............................................................(company)

did not, during the period of inquiry, export the goods under inquiry and therefore have not completed the attached questionnaire.

Name :.............................................................................

Signature :.............................................................................

Position in

Company :.............................................................................

Date :.............................................................................

# 

# Checklist

This section is an aid to ensure that you have completed all sections of this questionnaire.

|  |  |
| --- | --- |
| **Section** | **Please tick if you have responded to all questions** |
| Section A – COMPANY STRUCTURE |  |
| Section B – EXPORTED GOODS |  |
| Section C – SALES TO AUSTRALIA |  |
| Section D – SALES TO MALAYSIA |  |
| Section E – SALES TO THAILAND |  |
| Section F – SALES TO OTHER COUNTRIES |  |
| Section G – EXPORTER’S DECLARATION |  |

|  |  |
| --- | --- |
| **Electronic Data** | **Please tick if you have provided spreadsheet** |
| SALES TO AUSTRALIA |  |
| SALES TO MALAYSIA |  |
| SALES TO THAILAND |  |
| SALES TO OTHER COUNTRIES |  |

# 

1. On 19 July 2016, the Prime Minister appointed the Parliamentary Secretary to the Minister for Industry, Innovation and Science as the Assistant Minister for Industry, Innovation and Science. For the purposes of this investigation, the Minister is the Parliamentary Secretary to the Minister for Industry, Innovation and Science. [↑](#footnote-ref-1)
2. On 19 July 2016, the Prime Minister appointed the Parliamentary Secretary to the Minister for Industry, Innovation and Science as the Assistant Minister for Industry, Innovation and Science. For the purposes of this inquiry the Minister is the Parliamentary Secretary to the Minister for Industry, Innovation and Science. [↑](#footnote-ref-2)