

RIGBY COOKE LAWYERS

Level 11, 360 Elizabeth Street
Melbourne Victoria 3000
GPO Box 4767
Melbourne Victoria 3001
T +61 3 9321 7888
F +61 3 9321 7900
www.rigbycooke.com.au
ABN 58 552 536 547
DX 191 Melbourne

Our ref: **ATH:20162884**
Your ref:

Direct dial: 03 9321 7851
Direct email: ahudson@rigbycooke.com.au
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23 December 2016

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

By Email: dale.seymour@adcommission.gov.au

Dear Sir

Application for Exemption from Anti-Dumping and Countervailing Duties

We act for the trustee of the TWA Trust, trading as Tyres 4 U.

Our client has instructed us to make an application (**Application**) for an exemption from anti-dumping and countervailing duties otherwise payable on certain aluminium road wheels (**ARW**) imported from the Peoples Republic of China.

Relevant Facts

In support of this Application we are instructed as follows:

- 1 Our client has imported and continues to import certain ARW from China which are more particularly described as aluminium truck/bus wheels with dimensions of 19.5 x 7.5 (495.3 mm v 190.5 mm) with 8 stud holes (**Goods**).
- 2 The Goods are currently subject to the payment of anti-dumping (**ADD**) and countervailing (**CV**) duties.
- 3 Our client is of the view that the Goods which it has imported and continues to import should not be subject to ADD and CV as they fall within TCO 9314927 (**TCO**) which has been confirmed in a Tariff Advice number 214690700 dated 1 February 2016 (**TA**). Copies of the TCO and TA are **attached**.
- 4 Details of Goods which have been imported by our client are included in the **attached** spreadsheet.
- 5 As you will note the TCO was granted before the last import of the Goods (**Last Import**). However, our client was unaware that it needed to make application to the

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Commission for a formal exemption from AD and CV based on the issue of the TCO to have the exemption in place before the importation of the Goods was recommenced.

- 6 There is also an import of Goods which arrived on 19 December 2016 (**Current Import**). The Full Import Declaration for the Current Import has yet to be finalised as our client is liaising with the Australian Border Force on how the import can be effected without payment of ADD and CV duties.

Application for Exemption and the effect of the Application

Based on the facts described above, our client has instructed us to make the Application seeking an exemption from ADD and CV for the Goods pursuant to subsections 8 (7) and 10 (8) of the *Customs Tariff (Anti – Dumping) Act 1975*.

For these purposes our client has also instructed us to request that the exemption be made to have effect, not just for future imports but with retrospective effect for all imports of the Goods including the Current Import. We acknowledge that seeking to have the exemption to have effect for all imports including the Current Import is not necessarily the normal circumstance, however the relevant grounds for the exemption were only formally confirmed once the TCO was granted and confirmation received in the TA that the TCO applied to the Goods. In our view, it is clear that the basis for the exemption had always existed in relation to imports of the Goods. It is our submission that it would defeat the purposes of the available exemption if the exemption did not have effect for all imports of the Goods especially taking into account the time which will be taken in considering the Application. Further it is relevant that our client and its licensed customs brokers expended significant time in seeking the TCO and the TA based on a suggestion from the ADC that our client should secure the TCO and the TA, including external review. That process started with discussions between Stephen Marshall of Meridian Freight (as the licensed customs broker for our client) and Tania Milovanovic of the Commission on 11 December 2015 in which advice was provided on availability of the exemption. Our client then took steps to secure the TA

We would be pleased to provide further details of the steps taken to secure the TCO and the TA however we are of the view that the main issue is that the TCO and the TA confirm that the grounds for the exemption always existed.

It is our view that failing such a grant of the exemption, with retrospectivity, the Commonwealth would receive and retain amounts of ADD and CV to which it should not be entitled and the applicant for the ADD and CV would continue to receive “protection” from imports which are not intended to be subject to ADD and CV. For these purposes it is also our view that our client should not be disadvantaged by the significant delays in finalising the TCO and the TA at the recommendation of the ADC.

We do not believe that these consequences should flow solely from the delays in securing the TCO and TA to enable our client to make the formal Application at this stage together

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with the time taken to process the Application. The aims of the system would be defeated if you were only to make the exemption have effect from the date of this Application.

We would be pleased to make further submission on this issue and otherwise look forward to hearing from you

Yours faithfully



Andrew Hudson
Partner

Encl.