

RESPONSE TO APPLICATION FOR EXEMPTION FROM DUTY UNDER THE CUSTOMS TARIFF (ANTI-DUMPING) ACT 1975

1 Introduction

The Anti-Dumping Commission (the Commission) requests your response to an application for exemption from anti-dumping measures under the *Customs Tariff (Anti-Dumping) Act 1975* (the Dumping Duty Act).

Sections 8(7) and 10(8) of the Dumping Duty Act allow the Minister for Industry (the Minister) to exercise a discretion to exempt goods from duty under certain conditions.

The Commission has received an application for exemption from dumping and countervailing duty in respect of zinc coated (galvanised) steel, for the goods described at section 5 of this form (hereafter referred to as the goods subject to the exemption application).

You have been identified from the Commission's investigation in respect of galvanized steel as an Australian producer of the goods.

The Commission seeks your assistance in this exemption inquiry by responding to the questions in this form. The Commission will use the information you provide in its assessment as to whether an exemption from dumping and countervailing duty may be recommended to the Minister.

2 Galvanised Steel Measures

In August 2013, the Commission completed an investigation into:

- the alleged dumping of galvanised steel and aluminium zinc coated steel exported to Australia from the People's Republic of China (China), the Republic of Korea (Korea) and Taiwan, the investigation of which commenced on 5 September 2012; and
- the alleged subsidisation of galvanised steel and aluminium zinc coated steel exported to Australia from China, the investigation of which commenced on 26 November 2012.

The Commission reported its findings and recommendations to the Attorney-General. The Attorney-General accepted the Commission's recommendation that galvanised steel and aluminium zinc coated steel had been dumped and subsidised and that dumping and subsidisation had caused material injury to the Australian industry. A dumping duty notice and countervailing duty notice in respect of the goods was published notifying of this decision on 5 August 2013.

Anti-Dumping Notice (ADN) No. 2013/66 contains details of the measures, including a description of the goods subject to measures.

The reasons for the Attorney-General's decision in this case are contained in Report 190 (REP 190) and Report 193 (REP 193).

3 Application for Exemption from Measures

On 31 May 2013, Wright Steel Sales Pty Ltd (Wright) wrote to the then International Trade Remedies Branch requesting an exemption from duty in relation to its imports of galvanised steel. As the investigation was still underway at that stage the application was not accepted, On 21 October 2013 (after the notices were published) Wright made further contact with the Commission and the Commission accepted Wright's email as an application for an exemption from duty, and advised that it would undertake an examination of the application to determine whether an exemption should be recommended.

4 Exemption Provisions

The Dumping Duty Act allows the Minister to exercise his or her discretion to exempt goods from dumping and/ or countervailing duties in the following circumstances relevant to this application:

Section 8

(7) The Minister may, by notice in writing, exempt goods from interim dumping duty and dumping duty if he or she is satisfied:

- (a) that like or directly competitive goods are not offered for sale in Australia to all purchasers on equal terms under like conditions having regard to the custom and usage of trade;
- (b) that a Tariff Concession Order under Part XVA of the Act in respect of the goods is in force;

Section 10

(8) The Minister may, by notice in writing, exempt goods from interim countervailing duty or countervailing duty if he or she is satisfied:

- (a) that like or directly competitive goods are not offered for sale in Australia to all purchasers on equal terms under like conditions having regard to the custom and usage of trade;
- (aa) that a Tariff Concession Order under Part XVA of the Act in respect of the goods is in force;

It is noted at the outset that these exemption provisions are subject to the discretion of the Minister and are not automatically granted where the criteria set out in the provision appear to be met.

5 The goods subject to the exemption application

The goods subject to this application for exemption are subject to Tariff Concession Order (TCO) 1318527.

Wright states that BlueScope Steel Limited (Bluescope), removed its objection to this TCO indicating that it could not produce the material in question. The TCO was granted on 21 October 2013.

TCO 1318527 covers the following:

STEEL, flat rolled, non-alloy, hot dipped galvanized, zinc coated, in coils, having ALL of the following:

- (a) yield strength NOT less than 120 MPa and NOT greater than 180 MPa;
- (b) tensile strength NOT less than 260 MPa and NOT greater than 350 MPa;
- (c) elongation NOT less than 37%;
- (d) total coating mass NOT less than 90 g/m²;
- (e) in ANY of the following sizes:
 - (i) thickness 0.75 mm and width 1 535 mm;
 - (ii) thickness 0.80 mm and width 1 640 mm;
 - (iii) thickness 0.90 mm and width 1 530 mm

For the purposes of this order, tolerances allowable for specification (e) are:

- (a) thickness +/- 10%
- (b) width +/- 1%

6 Instructions on Completing this 'Response to the Exemption Application'

The Commission has forwarded you this 'response to exemption' application (the response) to provide you with the opportunity to participate in this exemption inquiry.

The Commission will use the information provided by Bluescope to determine:

- whether like or directly competitive goods are offered for sale in Australia, and
- whether offers for sale of the goods are available to all purchasers on equal terms under like conditions having regard to custom and usage of trade; and
- whether TCO 1318527 applies to the goods imported by Wright.

Due date for response

We request a completed response be returned to the Commission by **13 November 2013**.

Responses may be lodged either by mail or by email to the following.

Director Operations 2
Anti-Dumping Commission
Australian Customs and Border Protection Service
Customs House
5 Constitution Avenue
Canberra ACT 2601
Australia

Email: operations2@adcommission.gov.au
Fax: +61 2 6275 6990

Verification of the information that you supply

The Commission may seek to verify some or all of the information supplied in the response. The Commission may request evidence to support the claims such as quotations and offers of sale. An onsite visit by the Commission may be required in some cases. A report will be prepared of visits conducted and a non-confidential version will be made available to the applicant for comment.

There is no legislative timeframe for completion of an exemption inquiry; however a recommendation to the Minister will be made as soon as practicable after obtaining all the relevant information.

Outline of information required by Response

Part A	Company contact information
Part B	Identical goods
Part C	Like or directly competitive goods
Part D	Capability to produce like or directly competitive goods
Part E	Additional comments
Part F	Your declaration

Response to Exemption Application

PART A - Company Information

A.1 Please provide the following company contact information;

Name:	Alan Gibbs
Position in company:	Development Mgr – International Trade Affairs
Address:	Five Islands Rd. Port Kembla NSW 2505
Telephone:	42 753859
Facsimile number:	
E-mail address of contact person:	Alan.Gibbs@bluescopesteel.com

PART B – Response to Exemption Application

B.1

Does your company oppose or not consent to the request for an exemption?

[BLUESCOPE STEEL DOES NOT OPPOSE EXEMPTIONS FOR GOODS UNDER TCO1318527](#)

NOTE: If your company does not oppose the request for an exemption, you do not need to complete the questionnaire. Please indicate that you do not oppose the request, sign and return the form as soon as possible.

B.2

If your company opposes or does not consent to the request wholly or in part, provide a description of that part of the request to which your company opposes or does not consent.

PART C - Identical Goods

C.1

Does your company produce, in Australia, goods that are identical in all respects to the goods described in section 5 of this 'Response to Exemption Form'?

If no, go to Part D - Like or directly competitive goods.

C.2

Please provide evidence that you have produced and sold in Australia, in the last 12 months, goods that are identical in all respects to the goods subject to this application for exemption.

Evidence can be in the form of production reports and sales invoices. To the extent that production reports or sales invoices do not refer to the goods in the same detail as set out in the description of the goods (section 5), please provide additional information that indicates that identical goods have been produced or sold. The evidence should be attached to this form to ensure that it can be linked to this specific response. Please also include any available product literature respecting the identical goods you have produced and sold.

C.3

Provide evidence of the terms and conditions of sale of these identical goods. Are these products available to all purchasers on equal terms under like conditions? If so, provide evidence and explain why you consider that these products are available to all purchasers on equal terms under like conditions.

Evidence can be in the form of sales invoices, sales contracts, sales reports or advertisements and brochures.

PART D - Like or Directly Competitive Goods

D.1

If your company does not produce identical goods, does it produce and sell in Australia goods that are like or directly competitive to the goods subject to this application for exemption?

In determining whether the goods are like or directly competitive, the Commission will consider whether the goods have characteristics closely resembling each other and are substitutable.

The Commission may also consider;

- Whether physical characteristics of the goods are similar (including size, weight, shape, content, appearance, grade, standards, age, strength and purity);
- Whether the goods are commercially alike, this may include consideration of the following;
 - whether the goods directly compete in the same market sector;
 - the extent to which participants in the supply chain are willing to switch between the goods and the goods subject to the application for exemption;
 - how the price of the goods and goods subject to the application influences consumption;
 - whether the goods share similar distribution channels; and
 - whether the goods are similarly packaged.
- Functional likeness – whether the goods are suitable with regard to end use, this may include an assessment of;
 - the extent to which the goods are functionally substitutable;
 - the extent to which the goods are capable of performing the same or similar function;
 - whether the goods have the same or similar quality standards; and
 - consumer behavior in relation to the goods and goods subject to this application for exemption.

- Production likeness, this may include an assessment of;
 - the extent to which the goods are constructed of the same or similar materials;
 - the manufacturing process of the goods; and
 - whether any patented processes or inputs are involved in the production of the goods.

D.2

If you answered yes to question D.1, please provide a description of the goods produced by your company that you consider to be like or directly competitive to the goods subject to this application. Your description of the goods your company produces should refer to all aspects of the goods as set out in the description of the goods in section 5.

Characteristics	Description

Please provide evidence that the goods you consider like or directly competitive to the goods subject to this application for exemption have recently been produced or sold in Australia by your company. Evidence can be in the form of production reports and sales invoices. To the extent that production reports or sales invoices do not refer to the goods described in the above table, please provide additional information that indicates that the goods have been produced or sold. The evidence should be attached to this form to ensure that it can be linked to this specific response. Please also include any available product literature concerning the like or directly competitive goods you produced and sold.

D.3

Provide evidence of the terms and conditions of sale of these like or directly competitive products. Are these products available to all purchasers on equal terms under like conditions? If so, provide evidence and explain why you consider that these products are available to all purchasers on equal terms under like conditions.

Evidence can be in the form of sales invoices, sales contracts, sales reports or advertisements and brochures.

PART E – Capability to Produce Identical or Like or Directly Products

E.1

If your company has not produced and sold in Australia products that are identical to, or like or directly competitive to the goods subject to this application for exemption, is your company capable of producing such goods?

E.2

If you answered yes to question E.1, indicate whether the product that you can produce is identical to, or like or directly competitive to the goods subject to this application for exemption.

E.3

If you are capable of producing identical, like or directly competitive goods, explain why you have not produced such goods.

Provide evidence of your production capability, including evidence of the production and sale of similar products, certification of the identical, like or directly competitive goods and at what cost they could be produced, as well as any plans for the imminent production of the goods or orders for the goods and any relevant information.

E.4

If you are capable of producing identical, like or directly competitive goods, provide reasonable evidence of likely terms and conditions of sale for these goods.

PART F – Additional Comments

F.1

Provide any additional comments including any other information that will assist the Commission in reaching a recommendation to the Minister regarding this application for exemption.

PART G - Declaration

I hereby declare that.....(company)
has completed the attached response to application for exemption 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.

Name : Alan Gibbs

Signature : 

Position in Company : Development Manager - International Trade Affairs

Date : 31 October 2013