

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 applications for exemption from anti-dumping and countervailing 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 to exercise a discretion to exempt goods from measures, where he or she is satisfied 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.

The Commission has received two applications for exemption from anti-dumping and countervailing measures in respect of aluminium zinc coated steel for the goods described at section 5 of this form ('the exemption goods').

You have been identified from the Commission's investigation in respect of aluminium zinc coated steel as the sole 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 duties may be recommended to the Parliamentary Secretary to the Minister for Industry (as the relevant delegate of the Minister).

2 Measures on aluminium zinc coated steel

In 2013, the Commission completed investigations into the alleged dumping and subsidisation of aluminium zinc coated steel exported to Australia from the People's Republic of China (China), the Republic of Korea (Korea) and Taiwan.

The then Attorney-General accepted the Commission's recommendations that:

- aluminium zinc coated steel from:
 - China had been dumped and subsidised;
 - Korea had been dumped; and
- dumping and subsidisation had caused material injury to the Australian industry.

Dumping and countervailing duty notices were published notifying of these decisions on 5 August 2013.

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

The reasons for the then Attorney-General's decision in this case are contained in the Commission's Final Reports No. 190 (REP 190) and No. 193 (REP 193).

3 Applications for Exemption from Measures

On 27 October 2014, Kasia Nominees Pty Limited (Kasia) wrote to the Commission requesting an exemption from measures in relation to its imports of certain aluminium zinc coated steel from China and Korea.

On 20 January 2015, Ace Gutters Coil Coaters Pty Limited (Ace Gutters) wrote to the Commission requesting an exemption from measures in relation to its imports of certain aluminium zinc coated steel from China.

The Commission accepted the applications and advised that it would undertake an examination of the applications to determine whether an exemption from duty should be recommended. The applications will be considered concurrently.

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.

Subsection 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.

Subsection 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;

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 the exemption inquiry (the exemption goods) are:

- unchromated aluminium zinc coated steel exported from China, and
- aluminium zinc coated steel having all of the following characteristics:
 - o width of 1,200 mm; and
 - o thickness of 1.60 mm;with a tolerance allowance for width and thickness of +/- 10%.

Goods produced by the Australian industry

The following is a summary of the applicants' claims and information provided to the Commission.

In relation to Ace Gutters' application:

- a request was made for purchase by the applicant of the relevant exemption goods from BlueScope (through an intermediary);
- BlueScope is no longer capable of producing the relevant exemption goods; and
- BlueScope can produce similar goods but has not accepted an order for the similar goods in unchromated form;

In relation to Kasia's application:

- a request was made for purchase by the applicant of the relevant exemption goods from BlueScope; and
- BlueScope does not produce the relevant exemption goods.

Non-confidential versions of the exemption applications are available on the Commission's Public Record.

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

The Commission's aluminium zinc coated steel investigation, completed in April 2013, identified your company as the sole Australian producer of aluminium zinc coated steel.

Consequently, 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 Australian producers 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.

This exemption inquiry is being conducted concurrently for both of the exemption goods described in section 5. Please respond to each questionnaire with respect to only the goods described at the top of the questionnaire.

Due date for response

You are requested to complete your response and return it to the Commission by 11 June 2015.

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

Director Operations 9
Anti-Dumping Commission
Cnr Bunda and Akuna Street
Canberra ACT 2601

Email: operations9@adcommission.gov.au
Fax: +61 3 8539 2499

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 placed on the public record.

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

Confidential and non-confidential submissions

You are required to lodge a non-confidential version of your response suitable for placement on the public record 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.

Outline of information required by the 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 – KASIA

Aluminium zinc coated steel having all of the following:

- o width of 1,200 mm;
 - o thickness of 1.60 mm;
- with tolerance allowance for width and thickness of +/- 10%

PART A - Company Information

A.1 Please provide the following company contact information;

Name:	Alan Gibbs
Position in company:	Development Manager – International Trade Affairs
Address:	Five Islands Road Port Kembla NSW
Telephone:	02 42753859
Facsimile number:	02 4275 7810
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?

No – provided the tolerance for thickness and width is reduced in line with Australian Standards.

Australian Standard AS/NZS 1365 has the following tolerances:-

- Thickness at 1.60mm. Tolerance= +/- 0.06mm (3.75%)
- Width at 1200mm. Tolerance = - 0.00mm / + 6mm (0.4%)

As such BlueScope steel would not oppose this request for exemption being

- aluminium zinc coated steel having all of the following characteristics:
 - width of 1,200 mm; and
 - thickness of 1.60 mm; and

on the basis of a supply tolerance being:-

- Thickness +/- 5% and
- Width +/- 1%

Refer to Confidential Attachment 1/. Demonstrating recent supply of 1.6mm Zincalume steel product into the Australian market, that supports this request for a tighter supply tolerance than stated in this exemption request.

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.

PART C - Identical Goods

C.1

Does your company produce, in Australia, goods that are identical in all respects to the relevant 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?

PUBLIC RECORD

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 Commission in reaching a recommendation to the Parliamentary Secretary to the Minister for Industry regarding this application for exemption.

PART G - Declaration

I hereby declare that BlueScope 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 : 26/05/2015