

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

Exemption inquiries EX0043 and EX0044 – response requested by 11 March 2016

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 discretion to exempt goods from measures, where he or she is satisfied that a Tariff Concession Order (TCO) under Part XVA of the *Customs Act 1901* in respect of the goods is in force.

The Commission has received applications for exemption from anti-dumping and countervailing measures in respect of Hollow Structural Sections 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 hollow structural sections (HSS) as an Australian producer of the goods.

The Commission seeks your assistance in these exemption inquiries by responding to the questions in this form. The Commission will use the information you provide in its assessment as to whether exemptions from dumping and countervailing duty may be recommended to the Parliamentary Secretary to the Minister for Industry and Science (as the relevant delegate of the Minister).

2 Measures on Hollow Structural Sections

In June 2012, the Commission completed an investigation (original investigation) into the alleged dumping and subsidisation of HSS exported to Australia from the Republic of China (China), the Republic of Korea (Korea), Malaysia and Taiwan.

The then Minister for Home Affairs accepted the Commission's recommendations that HSS from China, Korea, Malaysia and Taiwan had been dumped and subsidised and that dumping and subsidisation had caused material injury to the Australian industry. Dumping and countervailing duty notices were published notifying of this decision on 3 July 2012.

Anti-Dumping Notice (ADN) No. 2012/31 contains details of the measures, including a description of the goods subject to the measures.

The reasons for the Minister's decision in this case are contained in the then International Trade Remedies Branch's Final Report No. 177 (REP 177).

3 Application for Exemption from Measures

On 17 December 2015 and 31 December 2015, ThyssenKrupp Mannex, wrote to the Commission requesting exemptions from measures in relation to its imports of certain HSS products. The Commission has accepted the applications and will now undertake an examination of the applications to determine whether it should recommend the requested exemptions.

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:

- (b) that a Tariff Concession Order under Part XVA of the *Customs Act 1901* in respect of the goods is in force

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:

- (aa) that a Tariff Concession Order under Part XVA of the *Customs Act 1901* in respect of the goods is in force;

We note that these exemption provisions are subject to the discretion of the Minister and are not automatically granted where the criterion set out in the provision are met.

5 The goods subject to the exemption applications

The goods the subject of the exemption inquiries (the exemption goods) are HSS meeting specific characteristics described in TCO numbers TC 1332191 (EX0043) and TC 1439520 (EX0044).

Details of the relevant TCOs, including the descriptions of the exemption goods, can be found in the Tariff Concession Gazette on the website of the Department of Immigration and Border Protection.

Goods produced in Australia

The applicant claims that valid TCOs now exist for the exemption goods, namely TC 1332191 and TC 1439520. TCOs are made on the basis that substitutable goods are not produced in Australia.

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

The Commission's original investigation identified your company as an Australian producer of HSS.

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 Australian industry's views on the TCOs that form the bases of the applications.

Due date for the response

We request that you complete your response and return it to the Commission by no later than the close of business on **11 March 2016**.

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

Director Operations 5
Anti-Dumping Commission
Industry House
10 Binara Street
Canberra ACT 2601
Australia

or

Email: operations5@adcommission.gov.au

Verification of the information that you supply

The Commission may seek to verify some 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 will be made as soon as practicable after obtaining all relevant information.

Confidential and non-confidential submissions

We request that you also lodge a non-confidential version of your response suitable for placement on the public record. The Commission puts greater weight on submissions that are available to other interested parties for comment.

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

Please provide separate responses to Parts B – E for each of TC 1332191 and TC 1439520 as applicable.

| | |
|---------------|-----------------------------------|
| Part A | Company contact information |
| Part B | Response to exemption application |
| Part C | Tariff concession order |
| Part D | Revocation of TCO |
| Part E | Additional comments |
| Part F | Your declaration |

Response to Exemption Application

PART A – Company contact information

A.1 Please provide the following company contact information;

| | |
|----------------------|--|
| Name: | Alan Gibbs |
| Position in company: | Development Manager – International Trade Aff |
| Address: | Five Islands Road Port Kembla NSW 2505 |

PUBLIC RECORD

| | |
|-----------------------------------|--|
| Telephone: | |
| Facsimile number: | |
| E-mail address of contact person: | |

PART B – Response to exemption application¹

B.1

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

YES

NOTE: If your company does not oppose the request for an exemption, you do not need to complete all parts of the questionnaire. Please indicate that you do not oppose the request (stating the reasons why), answer the questions that are relevant to your reasons for not opposing the request, sign and return the form as soon as possible.

PART C – Tariff concession order²

C.1

Is your company aware that the TCO is applicable to the goods?

YES and make the following comments in regards to these 2 TCO's:-

TC 1332191 – Notice of this TCO revocation was published in the TC 16/09 Tariff Concession Gazette on the 9th March 2016.

TC 1439520 – BlueScope steel has been informed that an application for the revocation of this TCO has been lodged with C&BP.

If no, go to Part D – Revocation of TCO.

C.2

Did your company object to the making of the TCO?

If yes, please include a copy of your objection made to the Australian Customs and Border Protection Service (Customs and Border Protection).

Please also include any available product literature in respect of the substitutable goods on which your objection was based.

If no, go to Part D – Revocation of TCO.

C.3

Please outline why your objection to the TCO was unsuccessful.

¹ Please provide separate responses for each of TC 1332191 and TC 1439520 as applicable.

² Please provide separate responses for each of TC 1332191 and TC 1439520 as applicable.

PART D – Revocation of TCO³

D.1

Does your company intend to seek revocation of the TCO?

If no, go to Part E – Additional Comments.

For more information, please see Customs and Border Protection website (<http://www.customs.gov.au/tariff/gazette.asp>), which includes the approved form required for seeking revocation.

D.2

Please include a copy of your request for revocation made to Customs and Border Protection.

Please also include any available product literature in respect of the substitutable goods on which your revocation request is based.

PART E – Additional Comments⁴

E.1

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

BlueScope believes that the Exemption requests Ex0043 and Ex0044 should be declined due to the fact that the Australian Pipe and Tube industry can produce like goods to these applications evidenced via recent or 'in-progress' revocations for these two TCO's

TC 1332191 – Notice of this TCO revocation was published in the TC 16/09 Tariff Concession Gazette on the 9th March 2016.

TC 1439520 – BlueScope steel has been informed that an application for the revocation of this TCO has been lodged with C&BP.

PART F – Declaration

I hereby declare that BlueScope steel 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**

³ Please provide separate responses for each of TC 1332191 and TC 1439520 as applicable.

⁴ Please provide separate responses for each of TC 1332191 and TC 1439520 as applicable.

Date