

RESPONSE TO APPLICATION FOR EXEMPTION FROM ANTI-DUMPING MEASURES 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).

Paragraphs 8(7)(a) and 10(8)(a) of the Dumping Duty Act provide a discretion for the Minister (or his or her delegate) to exempt goods from anti-dumping 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 an application for exemption from anti-dumping measures in respect of hot rolled plate steel (plate steel) for the goods described at section 5 of this form (the exemption goods).

You have been identified from the Commission's original investigation in respect of plate 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 Parliamentary Secretary to the Minister for Industry, Innovation and Science (as the relevant delegate of the Minister).¹

2 Measures on Hot Rolled Plate Steel

Anti-dumping measures, in the form of a dumping duty notice and a countervailing duty notice were initially imposed on plate steel by public notice on 19 December 2013 by the then Minister for Industry following consideration of the findings and recommendations in *International Trade Remedies Branch Report No. 198* (REP 198). The anti-dumping measures apply as follows:

- a dumping duty notice in respect of all exporters of plate steel to Australia from China, Indonesia, Japan and Korea with the exclusion of Hyundai Steel Company and POSCO Steel from Korea and Shandong Iron and Steel, Jinan Company from China; and
- a countervailing duty notice in respect of all exporters of plate steel exported to Australia from China.

Anti-Dumping Notice (ADN) No. 2013/72 was published notifying of this decision on 19 December 2013.

ADN No. 2013/72 contains details of the measures, including a description of the goods subject to the measures.

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.

3 Application for Exemption from Measures

On 17 November 2016, Bao Australia Pty Ltd, wrote to the Commission requesting an exemption from measures in relation to its imports of certain plate steel. The Commission accepted the application and advised that it would undertake an examination of the application to determine whether an exemption from duties should be recommended.

The Commission initially assessed the application under the statutory criterion that allows an exemption to be granted if a like or directly competitive goods are not offered for sale in Australia. This assessment included seeking the views of Australian industry.

4 Exemption Provisions

The Dumping Duty Act provides a discretion for the Minister to exempt goods from dumping and/or countervailing duties if one of the criteria in subsections 8(7) and 10(8) is met. The relevant parts of subsections 8(7) and 10(8) for current purposes are set out below.

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;
...

The exemption provisions are subject to the discretion of the Parliamentary Secretary and an exemption is not automatically granted, even where one of the criteria in the provisions is met.

5 The goods subject to the exemption application

The goods subject to this application for exemption (the exemption goods) are:

Steel, Hot Rolled micro alloyed non-heat treated steel sheet:

- *Conforming to steel grades BS700MCK2 and BS700MCK4;*
- *With a yield strength NOT less than 680 Mpa,;*
- *Of a thickness NOT less than 2.5 mm and NOT greater than 16mm;*
- *a Carbon Equivalent Value (CEQ) of less than or equal to .050;*

Goods produced by the Australian industry

The applicant has provided information that states that goods produced by the Australian industry are not like or directly competitive to the exemption goods.

Instructions on completing this 'Response to the Exemption Application'

The Commission's plate steel investigation, completed in December 2013, identified your company as an Australian producer of plate 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.

Due date for response

We request that you complete your response and return it to the Commission by **10 January 2017**.

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

Director Operations 3
Anti-Dumping Commission
PO BOX 1632
Melbourne VIC 3001
Australia

Email: Operations3@adcommission.gov.au

Verification of the information that you provide

The Commission may seek to verify some or all of the information that you provide. The Commission may request evidence, such as quotations and offers of sale, to support any claims you make.

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 the relevant information.

Confidential and non-confidential submissions

FOR OFFICIAL USE ONLY / PUBLIC RECORD

We request that you also lodge a non-confidential version of your response suitable for placement on the public record.

Please ensure that each page of any response you provide is clearly marked either “FOR OFFICIAL USE ONLY” (for the confidential version of your response) or “PUBLIC RECORD” (for the non-confidential version of your response).

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 information
Part B	Response to exemption application
Part C	Identical goods
Part D	Like or directly competitive goods
Part E	Capability to produce like or directly competitive goods
Part F	Additional comments
Part G	Your declaration

Response to Exemption Application

PART A – Company Information

A.1 Please provide the following company contact information;

Name:	Chad Uphill
Position in company:	Leader – Trade Affairs
Address:	Five Islands Road Port Kembla NSW
Telephone:	02 4275 4638
Facsimile number:	02 4275 7810
E-mail address of contact person:	chad.uphill@bluescopesteel.com

PART B – Response to Exemption Application

B.1

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

No.

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 – 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'?

No.

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?

No.

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;

FOR OFFICIAL USE ONLY / PUBLIC RECORD

- 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?

No.

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 regarding this application for exemption.

PART G – Declaration

I hereby declare that [BlueScope Limited](#), 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 [Chad Uphill](#)

Signature



**Position in
Company** **Leader – Trade Affairs**

Date **17 January 2017**