

## Response to Exemption Application – The Trade Consultant

### PART A - Company Information

A.1 Please provide the following company contact information;

Name:	Chad Uphill
Position in company:	Senior Finance Analyst: International 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?

YES.

**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 goods described in section 5 of this 'Response to Exemption Form'?

See Part F below.

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.

[See Part F below](#)

## 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.

[See Part F below](#)

## 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

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- 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.

[See Part F below](#)

**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.

<b>Characteristics</b>	<b>Description</b>

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.

[See Part F below](#)

**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

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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?

[See Part F below](#)

#### **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.

[See Part F below](#)

#### **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.

[See Part F below](#)

#### **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.

[See Part F below](#)

### **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.

### Error in Import Classification

In relation to this Exemption Application, it is BlueScope's view that the applicant has incorrectly coded the import parcel in question.

The imported goods in question have been described as 'hot dipped galvanized steel bar' (refer page 1 of the Exemption Application).

In contrast, the goods the subject of the exemption application are described as "STEEL, flat rolled, non-alloy, hot dipped galvanized..." (refer section 5 of the 'Response to Exemption Form').

### Correct Classification of Goods

Import statistical tariff codes 7214 and 7215 classify the importation of rod and bar steel products. Per page 2 of the Exemption Application:

*"There is no sibling for tariff code 7214 that describes the same genre of product in a galvanised finish. The goods in question have therefore been allocated a tariff code based on the surface finish rather than the intrinsic nature of the product. Statistical code 7212.30.00 in my opinion best describes galvanised sheet, plate and coils, not rod and bar. A separate tariff code 7214.91.00 clearly exists to describe uncoated rod and bar. Tariff code 7214.91.00 does not attract any anti-dumping or countervailing duty."*  
(emphasis added).

Statistical tariff code classification at the point of import should be declared as per the goods intrinsic value. In this case, 'flat bar' rather than 'zinc coated' flat steel.

The default position for any merchandise trade import, when no other code can be identified, is typically 'Other'. This is clearly the case in this instance – while the goods have been coated with zinc, their intrinsic nature as a bar product precludes their classification as flat-rolled galvanised steel. The correct HS code on import should have been 7215.90.00.55 – Other.

### Conclusion

BlueScope requests that Australian Customs & Border Protection look to review and amend the statistical code classification of this import transaction, and that this Exemption Enquiry be terminated.

### **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:** Chad Uphill

**Signature:**

A handwritten signature in black ink, appearing to read 'C Uphill', written in a cursive style.

**Position in**

**Company:** Senior Finance Analyst – International Trade Affairs

**Date:** 30 June 2015