



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

### **1 Introduction**

The Anti-Dumping Commission (the Commission) has received an application from Kasia Nominees Pty Ltd (Kasia) for exemption from anti-dumping and countervailing measures under the *Customs Tariff (Anti-Dumping) Act 1975* (the Dumping Duty Act), in respect of certain hollow structural sections (HSS), for the sections exported to Australia from the People's Republic of China (China), the Republic of Korea (Korea), Malaysia and Taiwan.

Following receipt of this application, the Commissioner of the Anti-Dumping Commission has initiated an exemption inquiry .

Sections 8(7)(b) and 10(8)(a) of the Dumping Duty Act allow the relevant Minister (in this case the Parliamentary Secretary to the Minister for Industry (the Parliamentary Secretary), who has been delegated responsibility for anti-dumping matters) to exercise a discretion 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.

You have been identified from Australian Customs and Border Protection Service's (ACBPS) original investigation in respect of HSS (see below) as an Australian manufacturer of HSS. Consequently, 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 should be recommended to the Parliamentary Secretary.

### **2 Current HSS Measures**

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

The goods subject to this investigation (and later measures – see below) are

*certain electric resistance welded pipe and tube made of carbon steel, comprising circular and non-circular hollow sections in galvanised and non-galvanised finishes. The goods are normally referred to as either CHS (circular hollow sections) or RHS (rectangular or square hollow sections). The goods are collectively referred to as HSS (hollow structural sections). Finish*

*types for the goods include in-line galvanised (ILG), pre-galvanised, hot-dipped galvanised (HDG) and non-galvanised HSS.*

The then Minister for Home Affairs accepted ACBPS' recommendations at the conclusion of this investigation that certain HSS from China, Korea, Malaysia and Taiwan had been dumped and/or subsidised and that dumping and subsidisation had caused material injury to the Australian industry.

A dumping duty notice and countervailing duty notice were published notifying of this decision on 3 July 2012. Australian Customs Dumping Duty Notice (ACDN) 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 Trade Measures Report No.181 (REP 177).

### **3 The goods subject to the exemption application**

The goods subject to this application for exemption are:

*electric resistance welded pipe made of carbon steel, comprising circular and hollow sections normally referred to as CHS (circular hollow sections) having a hot-dipped galvanised (HDG) finish, and a nominal size (NB) of either 25, 32, 40 or 50 millimetres exported to Australia from China, Korea, Malaysia and Taiwan.*

This forms a sub-set of the above goods subject to measures.

### **4 Exemption Provisions**

The Dumping Duty Act allows the relevant Minister (or his delegate) to exercise his or her discretion to exempt goods from dumping and/or countervailing duties in certain circumstances, including the following.

#### *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;*

#### *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;*

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 Claims made in the application**

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

Kasia provided quotations for HDG HSS (the exemption goods) from Australian manufacturers of HSS indicating that, while the goods could be supplied, they are not manufactured in Australia.

Two separate mill test certificates of the goods were provided that indicate that the goods are produced overseas and available for export to Australia.

Kasia provided publicly-available information as to types of galvanised HSS that are manufactured in Australia, and submitted that these products are not directly competitive to the goods the subject of the exemption application because of different Australian standards, different production processes, different finishes and different end-uses.

A non-confidential version of the exemption application is available on the Commission's Public Record.

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

ACBPS' HSS investigation, completed in June 2012, identified you as an Australian producer of HSS.

Consequently, the Commission has forwarded you this 'Response to the 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 manufacturers 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**

Australian manufacturers are requested to complete the Response and return it to the Commission by **5 March 2014**.

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

Director Operations 2  
Anti-Dumping Commission  
Customs House  
5 Constitution Avenue  
Canberra ACT 2601  
Australia

Email: [operations2@adcommission.gov.au](mailto: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 Parliamentary Secretary to the Minister for Industry will be made as soon as practicable after obtaining all the relevant information.

## **Outline of information required within the Response**

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

# RESPONSE TO THE EXEMPTION APPLICATION

## **PART A – Company Information**

**A.1** Please provide the following company contact information

|                                   |  |
|-----------------------------------|--|
| Name:                             | JEFF M CEVOY.                                |
| Position in company:              | MANAGER INTERNATIONAL SUPPLY.                |
| Address:                          | BUILDING 3<br>121 EVANS ROAD SALISBURY 4107. |
| Telephone:                        | 07 32740570                                  |
| Facsimile number:                 | 07 32740587                                  |
| E-mail address of contact person: | j.mcevoy@offcon.com.au                       |

## **PART B – Response to the Exemption Application**

### **B.1**

Does your company oppose the exemption application wholly or in part? **No**

If your company does not oppose the application wholly or in part, you do not have to complete the remainder of this questionnaire.

If your company opposes or does not consent to the request for exemption 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 3 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 3), 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 3.

| 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**

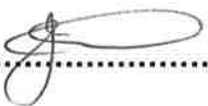
**F.1**

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

**PART G – Declaration**

I hereby declare that..... ORICON STEEL.....(company)  
has completed the attached response to application for exemption and,  
having made due inquiry, certify that the information contained in this  
Response is complete and correct to the best of my knowledge and  
belief.

Name : JEFF McEVoy.....

Signature : .....



Position in  
Company : MANAGER INTERNATIONAL SUPPLY

Date : 26/2/14