

ANTI-CIRCUMVENTION INQUIRY 447

EXPORTS THROUGH ONE OR MORE THIRD COUNTRIES

Exporter Questionnaire

Product: ALUMINIUM EXTRUSIONS

From: THE PEOPLE'S REPUBLIC OF CHINA

Period of Inquiry: From 1 January 2015

Response due by: **30 November 2017**

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**Anti-Dumping
Commission website:** www.adcommission.gov.au

**Return completed
questionnaire to:** Anti-Dumping Commission
Level 35, 55 Collins Street
Melbourne VIC 3001
AUSTRALIA
Attention:
Director Operations 2

PUBLIC RECORD

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CONDUCT OF THE INQUIRY

The Commissioner of the Anti-Dumping Commission (the Commissioner) announced in Anti-Dumping Notice 2017/137 that he initiated the inquiry on 16 October 2017.

The inquiry will examine whether exporters of certain aluminium extrusions from China have engaged in the circumvention activity as outlined in section 269ZDBB of the *Customs Act 1901* (the Act) of exporting the goods to Australia from China through one or more third countries including Malaysia, Thailand, Indonesia, and the Philippines.

For the purposes of the inquiry, the inquiry period to determine whether anti-circumvention has occurred will be from **1 January 2015**.

After concluding the inquiry, the Commissioner will recommend to the the Assistant Minister for Industry, Innovation and Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science (the Parliamentary Secretary)¹ that the original duty notice:

- (i) remain unaltered; or
- (ii) be altered because the Commissioner is satisfied that circumvention activities in relation to the original notice have occurred.

The Commissioner must maintain a public record of the inquiry. Documents included in the public record may be examined at www.adcommission.gov.au or at the Commission's office by contacting the case manager.

Interested parties, as defined by subsection 269T(1) of the Act, are invited to lodge written submissions concerning this inquiry, no later than the close of business on **22 November 2017**, addressed to:

The Director
Operations 2
Anti-Dumping Commission
Level 35
55 Collins Street
Melbourne VIC 3001

or email operations2@adcommission.gov.au.

Interested parties wishing to participate in the inquiry must ensure that submissions are lodged promptly. Interested parties should note that the Commissioner is not obliged to have regard to a submission received after the date mentioned above if to do so would, in the Commissioner's opinion, prevent the timely placement of the statement of essential facts (SEF) on the public record.

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. For the purposes of this investigation, the Minister is the Parliamentary Secretary to the Minister for Industry, Innovation and Science.

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The public record must contain, among other things, a copy of all submissions from interested parties.

Interested parties claiming that information contained in their submission is confidential, or that the publication of the information would adversely affect their business or commercial interests, must:

- (i) provide a summary containing sufficient detail to allow a reasonable understanding of the substance of the information that does not breach that confidentiality or adversely affect those interests; or
- (ii) satisfy the Commissioner that there is no way such a summary can be given to allow a reasonable understanding of the substance of the information.

Submissions containing confidential information must be clearly marked **·FOR OFFICIAL USE ONLY·**.

Interested parties must lodge a non-confidential version or a summary of their submission in accordance with the requirement above (clearly marked **·PUBLIC RECORD·**).

Statement of Essential Facts

The dates specified in this notice for lodging submissions must be observed to enable the Commissioner to report to the Parliamentary Secretary within the legislative timeframe. An SEF will be placed on the public record by 3 February 2018, or by such later date as the Parliamentary Secretary may allow in accordance with section 269ZH1 of the Act. The SEF will set out the essential facts on which the Commissioner proposes to base a recommendation to the Parliamentary Secretary. The SEF will invite interested parties to respond to the issues raised within 20 days of the SEF being placed on the public record.

Report to the Parliamentary Secretary

Submissions received in response to the SEF will be taken into account in completing the report and recommendation to the Parliamentary Secretary.

A recommendation to the Parliamentary Secretary will be made in a report on or before 20 March 2018 (or such later date as the Parliamentary Secretary may allow).

The Parliamentary Secretary must make a declaration within 30 days after receiving the report, or due to special circumstances, such longer period as the Parliamentary Secretary considers appropriate.

Anti-Dumping Commission contact

Enquiries about this notice may be directed to the Case Manager on telephone number +61 3 8539 2428 or email operations2@adcommission.gov.au.

GOODS SUBJECT OF THE INQUIRY

The goods, subject of the inquiry (the goods), are:

Aluminium extrusions that:

- *are produced by an extrusion process;*
- *are of alloys having metallic elements falling within the alloy designations published by The Aluminium Association commencing with 1, 2, 3, 5, 6 or 7 (or proprietary or other certifying body equivalents);*
- *have finishes being:*
 - *as extruded (mill);*
 - *mechanically worked*
 - *anodized; or*
 - *painted or otherwise coated, whether or not worked;*
- *have a wall thickness or diameter greater than 0.5 mm;*
- *have a maximum weight per metre of 27 kilograms; and*
- *have a profile or cross-section fitting within a circle having a diameter of 421 mm.*

Table provides examples of the coverage of the goods and like goods (and intended end-use applications) and is being used for this investigation. Examples of the goods and like goods are outlined in columns 1 to 4 and non-subject goods are outlined in columns 5 to 7.

< GUC >				< Non GUC >		
1	2	3	4	5	6	7
Aluminium extrusions	Aluminium extrusions with minor working	Aluminium extrusions that are parts intended for use in intermediate or finished products	Aluminium extrusions that are themselves finished products	Unassembled products containing aluminium extrusions, e.g. 'kits' that at time of import comprise all necessary parts to assemble finished goods	Intermediate or partly assembled products containing aluminium extrusions	Fully assembled finished products containing aluminium extrusions
< Examples >						
Mill finish, painted, powder coated, anodised, or otherwise coated aluminium extrusions	Precision cut, machined, punched or drilled aluminium extrusions	Aluminium extrusions designed for use in a door or window	Carpet liner, fence posts, heat sinks	Shower frame kits, window kits, unassembled unitised curtain walls	Unglazed window or door frames	Windows, doors

Table 1 - The goods and like goods

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The goods are classified to the following tariff subheadings in Schedule 3 to the Customs Tariff Act 1995:

Tariff code	Statistical code	Description
7604.10.00	06	Non alloyed aluminium bars, rods and profiles
7604.21.00	07	Aluminium alloy hollow angles and other shapes
7604.21.00	08	Aluminium alloy hollow profiles
7604.29.00	09	Aluminium alloy non hollow angles and other shapes
7604.29.00	10	Aluminium alloy non hollow profiles
7608.10.00	09	Non alloyed aluminium tubes and pipes
7608.20.00	10	Aluminium alloy tubes and pipes
7610.10.00	12	Doors, windows and their frames and thresholds for doors
7610.90.00	13	Other

Table 2 - Tariff classifications of the goods

EXISTING MEASURES

Anti-dumping measures in the form of dumping and countervailing duties on aluminium extrusions exported to Australia from China were imposed on 28 October 2010 by the then Attorney-General.

On 28 October 2015, the Assistant Minister for Industry, Innovation and Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science (the Parliamentary Secretary)² continued anti-dumping measures on aluminium extrusions exported from China in the forms of:

- interim dumping duties, except for exports by Tai Ao Aluminium Tai Shan Co Ltd and Guangdong Zhongya Aluminium Company Limited; and
- interim countervailing duties, except for exports by Tai Ao Aluminium Tai Shan Co Ltd.

On 22 June 2017 the Parliamentary Secretary imposed:

- dumping duties on the goods exported to Australia by the category of 'uncooperative and all other exporters' from Malaysia and countervailing duties on the goods exported to Australia by the category of 'non-cooperative and all other exporters' from Malaysia; and
- dumping duties on the goods exported to Australia from Vietnam.

Further details of the measures in place are available in the *Dumping Commodity Register* on the Commission's web site.

²On 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. For the purposes of this investigation, the Minister is the Parliamentary Secretary to the Minister for Industry, Innovation and Science.

INSTRUCTIONS

Why you have been asked to fill out this questionnaire?

The Anti-Dumping Commission (the Commission) is responsible for assisting the Commissioner in conducting an inquiry into alleged circumvention activity.

The inquiry follows an application made by an Australian industry member manufacturing the goods. The application alleges that the goods are exported from China to a third country such as Malaysia, Thailand, Indonesia, or the Philippines and then exported from that country to Australia, thereby avoiding the measures.

The Commission will examine your exports to Australia from **1 January 2015** (the inquiry period) and imports of the goods during the inquiry period to determine whether the prescribed anti-circumvention activity of export of goods through one or more third countries has occurred.

At the end of the inquiry a report will be provided to the Parliamentary Secretary. After considering the report and any other information that the Parliamentary Secretary considers relevant, the Parliamentary Secretary may leave the original notices unaltered or alter the original notices accordingly.

The Commission inquiry will be carried out under the provisions of the Part XVB of the *Customs Act 1901*.

What happens if you do not respond to this questionnaire?

If you do not respond, do not provide all of the information sought, do not provide information within a reasonable time period, or do not allow the Commission to verify the information, the Commission may be required to rely on information supplied by other parties (possibly information supplied by the Australian industry) to assess if circumvention of the measures has occurred.

It is in your interest, therefore, to provide a complete and accurate submission, capable of verification.

Due date for response

You are requested to respond to this questionnaire and return it to the Commission within the time specified on the cover page. There is a statutory time limit imposed for the inquiry. The Commission may not be able to consider questionnaires received after the due date.

If you cannot lodge your questionnaire by the due date you must advise the inquiry case manager prior to the due date.

Confidential and non-confidential submissions

You are required to lodge one confidential version (for official use only) and one non-confidential version (for public record) of your submission by the due date.

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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.

Please note that Australia's anti-dumping and countervailing legislation requires that to the extent that information given to the Commission is claimed to be confidential or whose publication would adversely affect a business or commercial interest, the person giving the information must ensure that a summary of that information contains sufficient detail to allow a reasonable understanding of the substance of the information, but does not breach confidentiality nor adversely affect those interests.

The legislation allows for a person not being required to provide a summary for the public record if the Commission can be satisfied that no such summary can be given that would allow a reasonable understanding of the substance of the information. However, such a summary would add considerably to an interested party's understanding of information contained in a document.

As provided for in Australia's anti-dumping and countervailing legislation, all submissions are required to have a bracketed explanation of deleted or blacked out information for the non-confidential version of the submission. Note that if such an explanation is not provided, the Commission may disregard the information in the submission. An example of a statement to accompany deleted or blacked out text is:

[explanation of arrangements with customers].

If, for some reason, you cannot produce a non-confidential summary, please contact the inquiry case manager.

Declaration

At section E, you are required to make a declaration that the information contained in your submission is complete and correct. Alternatively, if you did not export the goods during the period of inquiry, you may make a declaration to that effect.

You must return a signed declaration with your response to the questionnaire.

Verification of the information that you supply

The Commission may seek to verify the information provided in your submission. Where there is a large number of exporters, the Commission may have to verify information from selected exporters only. The purpose of a verification visit is to verify the information submitted in response to this questionnaire.

If you do not manufacture the goods

If you export, but do not produce or manufacture the goods (for example, you are a trading company, broker, or vendor dealing in the goods), it is important that you forward a copy of this questionnaire to the relevant manufacturers **immediately**. You should also inform the inquiry case officer of the contact details for these manufacturers.

You should complete those sections of the questionnaire that you are reasonably able to complete. If you are unable to supply certain details, you should clearly explain why the section does not apply to your company.

Some general instructions for preparing your response

When answering the questionnaire please carefully read all instructions. The Commission requires a response to *all* sections of this questionnaire. Please provide an explanation if a question is not relevant to your situation.

Answer questions in the order presented in the questionnaire. Please ensure that information submitted conforms to the requested format and is clearly labelled.

Identify source documents and advise where they are kept. During on-site verification you should be prepared to substantiate all the information you have submitted. Every part of the response should be traceable to company documents that are used in the ordinary course of business.

We recommend that you retain all work sheets used in answering the questionnaire, in particular those linking the information supplied with management and accounting records. This will help us to verify the information.

Clearly identify all units of measurement and currencies used. Apply the same measurement consistently throughout your response to the questionnaire.

Instructions on providing electronic data

It is important that information is submitted in electronic format.

Electronic data should be emailed or submitted on a CD-ROM, in *IBMMS-DOS* format, or another operating system whose disk format is compatible with this *MS-DOS* version.

The data must be created as spreadsheet files, preferably in *Microsoft Excel*, or alternatively in an *Excel* compatible format (for example, *Excel* can normally access data in *Dbase* or as an *ASCII* file).

The *Excel* files must be compatible to the USA version.

If you cannot present electronic data in the requested format contact the inquiry case officer as soon as possible.

Further information

If you require further assistance, or you are having difficulties completing your response to this questionnaire, please contact the inquiry case manager. The Commission will need to know the reasons.

Please note that the Commission may identify further information needs in the course of the inquiry and may contact you again.

SECTION A

A-1 Identity and communication

Please nominate a person within your company who can be contacted for the purposes of this inquiry:

Head Office:

Name: [Director's Name]

Position in the company: Executive Director

Address: [Head Office Address]

Facsimile number: [Contact Details]

E-mail address of contact person: [Contact Details]

Factory:

Address: [Factory Address]

Telephone: [Contact Details]

Facsimile number: [Contact Details]

E-mail address of contact person:

A-2 Representative of the company for the purpose of inquiry

If you wish to appoint a representative to assist you in this inquiry, provide the following details:

Name: Mr. Bowornsith Nitiyavich

Company Name: General Counsel

Address: [Contact Details]

Telephone: [Contact Details]

Facsimile/Telex number:

E-mail address of contact person: [Contact Details]

Note that in nominating a representative, The Commission will assume that confidential material relating to your company in this inquiry may be freely released to, or discussed with, that representative.

A-3 Company information

1. What is the legal name of your business? What kind of entity is it (eg. company, partnership, sole trader)? Please provide details of any other business names that you use to export or sell goods.

Answer: The legal name is "Schimmer Metal Standard Co., Ltd" (SMS). SMS is a private limited company registered and incorporated under Thai laws in Thailand. All of our products were wholly sold or exported by SMS.

2. Provide a diagram showing all associated or affiliated companies and your company's place within that corporate structure.

Answer: SMS has an affiliated company namely [affiliated company's name]. Majority shareholders of SMS, [majority shareholders' name], hold 45% of Artclad (Thailand) Co., Ltd's total equity.

3. Describe the nature of your company's business. Explain whether you are a producer or manufacturer, distributor, trading company, etc.

Answer: SMS wholly produce and sell all aluminium extrusions without third party distributor. SMS solely operates its business of selling its aluminium extrusions directly to its customers.

4. If your business does not perform all of the following functions in relation to the goods under inquiry, then please provide names and addresses of the companies which perform each function:

- produce or manufacture
- sell in the domestic market
- export to Australia, and
- export to countries other than Australia.

Answer: SMS performs all the above functions in relation to the goods under consideration.

5. Provide a copy of your most recent annual report together with any relevant brochures or pamphlets on your business activities.

Answer: Please refer to Exhibit 1 for brochures of SMS or our website: www.schimmermetal.co.th

A-4 Further information

1. Provide any further information that you may consider is relevant to this inquiry.

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2. Provide any information you may be aware of about other parties that you may consider is relevant to this inquiry.

During the period of enquiry, SMS operated via a proprietary company:

SMS engages its business specialising in the production and distribution of aluminium extrusions. The company was established in 1992 in the Kingdom of Thailand under Thai law. Our manufacturing operations are wholly conducted in our Ayutthaya province approximately of 90 kilometres north of Bangkok. Our head office is situated in Bangkok. Our company is fully equipped in all facets of the extrusion process, including in-house die production, thermally broken extrusions, precision machining, anodising, powder coating, and fluorocarbon and woodgrain finishing. SMS services a broad spectrum of industry groups including architectural, construction, automotive, industrial, furniture and electronics and a range of distribution networks. SMS predominately provides its services and trade of aluminium extrusion product over Thailand domestic market and exports its aluminium extrusions to various international markets.

For aluminium extrusions market in Australia, SMS engages its business primarily on aluminium extrusions sale, directly to its Australian private company customers, under wholesale and end-user level of trade.

Circumvention

SMS submits that it has not engaged in dumping of any of its aluminium extrusions during the period of enquiry. SMS submits that SMS is wholly owned by Thai individual shareholders. It does not have business activity in term of joint venture, sole trader, supplier, trust with any Chinese individual or corporate entity in PRC. All exported goods to Australia, during the period of enquiry, were produced by SMS at its factory located in Ayutthaya province in Thailand. None of our supplier provided raw material for manufacturing process is from PRC.

I. Exported Goods Manufacturing Process

SMS has been individually engaging its manufacturing process of all exported goods in its factory in its factory in Thailand. SMS has none of business engagement with Chinese Exporter where the goods in consideration were exported to Thailand for further shipment to Australia.

II. Raw Material (Billet)

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There are 4 raw material suppliers (Aluminium Billet Suppliers) sold aluminium extrusion material to SMS for its product manufacturing process according to the confidential Exhibit no. 3. None of these suppliers are from PRC. Furthermore, SMS purchased such raw material at the market price based on LME standard plus billet conversion cost.

III. Price

SMS always imposes its selling price of those exported goods under its certain pricing method (LME + Conversion Cost + Packing and Shipping Cost). SMS submits that SMS has not engaged in dumping of any of its aluminium extrusions price in Australia.

SECTION B EXPORTED GOODS

B-1 Exported Goods to Australia

Describe the goods you have exported to Australia during the inquiry period. Include specification details and model numbers as well as any marketing, technical and illustrative material that may be helpful in identifying, or classifying, the exported goods.

Answer: SMS supplies mill finish, Powder coated and Anodised extrusions during the investigation period.

SECTION C SALES TO AUSTRALIA

C-1 For each customer in Australia to whom you shipped goods in the inquiry period, list:

(1)

Name: [Company Name]

Address1: [Company Address]

Address2: [Company Address]

Contact name: [Contact Person]

Phone number: [Contract Details]

Trade level: Wholesaler

(2)

Name: [Company Name]

Address1: [Company Address]

Address2: [Company Address]

Contact name: [Contact Person]

Phone number: [Contract Details]

Trade level: Wholesaler

(3)

Name: [Company Name]

Address1: [Company Address]

Contact name: [Contact Person]

Phone number: [Contract Details]

Trade level: End User

C-2 For each customer identified in C1 please provide the following information.

(a) Describe how the goods are sent to each customer in Australia, including a diagram if required.

DESCRIPTION GOODS: ALUMINIUM EXTRUSIONS

[Packing Method Photos]

(b) Identify each party in the distribution chain and describe the functions performed by them.

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1. [Company Name] : Wholesaler. Direct sale transaction.
2. [Company Name] : Wholesaler. Direct sale transaction.
3. [Company Name] : End user. Direct sale transaction.

(c) Indicate whether the goods you exported to each customer in Australia were manufactured by you.

Answer: All the goods SMS exported to Australia were manufactured and exported by SMS.

(d) If the goods you exported to Australia were not manufactured by you, indicate which country they were manufactured in and who they were manufactured by.

Answer: please see answer in C-2 (c).

(e) If the goods you exported to Australia were not manufactured by you, indicate please indicate if the goods are further processed, re-packaged, held under bond or are cleared through Customs to enter the economy of that your country.

Answer: please see answer in C-2 (c).

(f) Explain who retains ownership of the goods at each stage of the distribution chain. In the case of DDP sales, explain who retains ownership when the goods enter Australia.

Answer: SMS has never engaged its sale under DDP arrangement. SMS retains ownership of goods until fully paid by its customer(s) unless the commercial agreed otherwise under special arrangement.

(g) Describe any agency or distributor agreements or other contracts entered into in relation to the Australian market (supply a copy of the agreement if possible).

Answer: SMS has no agency or distribution agreements in relation to the Australian market.

(h) Provide company and contact details of relevant agents, freight forwarders or logistics providers.

Answer: SMS has no agency or freight forwarders or logistics providers in relation to the Australian market.

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- (i) Explain in detail the process by which you negotiate price, receive orders, deliver, invoice and receive payment. If export prices are based on price lists, supply copies of those lists.

Answer: Selling price is negotiated by our customers based on LME plus relevant conversion cost. Orders are received electronically. Delivery of Goods shall be based on requirement of particular customer i.e. LCL, FCL, air freight. The invoices are typically sent to the customer by email reflecting the amount of goods - to be delivered - and the negotiated price. The payment shall be made by bank transfer (T/T). The goods are not sold based on the published price list.

- (j) State whether your firm is related to any of its Australian customers. Give details of any financial or other arrangements (eg free goods, rebates, or promotional subsidies) with the customers in Australia (including parties representing either your firm or the customers).

Answer: SMS does not have any corporate relationship, financial/other arrangement with its customers in Australia.

- (k) Details of the forward orders to Australia of the goods under inquiry (include quantities, values and scheduled shipping dates).

Answer: SMS does not sell its goods under forward order basis.

In the worksheet entitled *Sales to Australia*, which is in the supplied *Excel* workbook entitled *Exhibit 2 to Third Country Exporter Questionnaire*:

- list all purchases of final products for sales from your country and from foreign countries;
- list all shipments transaction by transaction to Australia of the goods under inquiry in the inquiry period. Provide this list in electronic format.

Answer: Please refer to confidential *Exhibit 2 to Third Country Exporter Questionnaire* indicating the *Sales to Australia* spreadsheets completed in the prescribed format. These spreadsheets are also provided in electronic format.
[For official use only]

In the worksheet entitled *Production and Purchases*, which is in the supplied *Excel* workbook entitled *Exhibit 2 to Third Country Exporter Questionnaire*:

- provide a summary of your company's production and purchases of the goods.

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Answer: Please refer to confidential *Exhibit 2 to Third Country Exporter Questionnaire* indicating the Production and Purchases spreadsheets completed in the prescribed format. These spreadsheets are also provided in electronic format.
[For official use only]

SECTION D IMPORTS FROM CHINA

D-1 Did you import any of the goods from China?

ANSWER: SMS does not import the Aluminium extrusion (the goods) from China.

D-2 For each supplier in China from whom you imported goods in the inquiry period, list:

Contact person name

Position in the company

Address

Telephone

E-mail address of contact person

ANSWER: Not applicable

D-3 Were any of the goods that you exported to Australia imported from China? Do you make any alterations to the goods prior to sale?

ANSWER: Not applicable

D-4 If any of the goods that you exported to Australia were imported from China, indicate who the supplier is that you imported the goods from. State whether your firm is related to the supplier and give details of any financial or other arrangements.

ANSWER: Not applicable

D-5 If any of the goods that you exported to Australia were imported from China, indicate please indicate if the goods are further processed, re-packaged, held under bond or are cleared through Customs to enter the economy of your country.

ANSWER: Not applicable

**SECTION E
DECLARATION**

I hereby declare that Schimmer Metal Standard Co., Ltd did, during the period of inquiry export the goods under inquiry and have completed the attached questionnaire and, having made due inquiry, certify that the information contained in this questionnaire is complete and correct to the best of my knowledge and belief.

I hereby declare that.....(company)
did not, during the period of inquiry, export the goods under inquiry and therefore have not completed the attached questionnaire.

Name : Piboon Kovitkanit

Signature : 



Position in

Company : Executive Director

Date : 14 December 2017

SECTION F CHECKLIST

This section is an aid to ensure that you have completed all sections of this questionnaire.

Section	Please tick if you have responded to all questions
Section A - COMPANY STRUCTURE	✓
Section B - EXPORTED GOODS	✓
Section C - SALES TO AUSTRALIA	✓
Section D - IMPORTS FROM CHINA	✓
Section E - EXPORTER'S DECLARATION	✓

Electronic Data	Please tick if you have provided spreadsheet
Sales to Australia	✓
Production and Purchases	✓