**Australian TRF Industry Questionnaire**

**Response to an Application for an Exemption from anti-dumping measures under the *Customs Tariff (Anti-Dumping) Act 1975***

1. **About this exemption inquiry**

## 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).

Paragraph 8(7)(b) of the Dumping Duty Act provides a discretion for the Minister (or his or her delegate) to exempt goods from anti-dumping measures, where he or she is satisfied;

*that a Tariff Concession Order under Part XVA of the Customs Act 1901 in respect of the goods is in force.*

The Commissioner has initiated an exemption inquiry via *Anti-Dumping Notice No. 2018/163* (ADN 2018/163) following an application from Visy Packaging Pty Ltd (Visy or the applicant) for exemption from anti-dumping measures in respect of certain resealable can end closures (referred to as tagger, ring and foil (TRF) ends, or TRFs) for the goods described at Section 1.5 of this questionnaire (the exemption goods).

## Your role in this exemption inquiry

You have been identified from Investigation 350 (the original investigation) as an Australian producer of the goods.

The Commission seeks your assistance with this exemption inquiry by responding to the questions in this form. The Commission will use the information you provide to make a recommendation as to whether an exemption from dumping duty may be granted by the Minister for Industry, Science and Technology (the Minister).

Specifically, the information provided by Australian TRF producers will assist the Commission in assessing whether the Minister should exercise discretion to exempt the goods when a TCO is in force.

## Measures on resealable can ends closures

Anti-dumping measures, in the form of a dumping duty notice, were initially imposed on TRFs by public notice on 24 March 2017[[1]](#footnote-1) by the then Parliamentary Secretary following consideration of the findings and recommendations in REP 350.

The anti-dumping measures that currently apply are:

* a dumping duty notice in respect of all exporters of TRFs to Australia from Malaysia, the Republic of the Philippines (the Philippines) and the Republic of Singapore (Singapore).

Details of the goods and existing measures are available on the Dumping Commodity Register on the Anti-Dumping Commission’s (the Commission) website ([www.adcommission.gov.au](http://www.adcommission.gov.au)).

## Exemption Provisions

The Dumping Duty Act provides a discretion for the Minister to exempt goods from dumping duty if one of the criteria in subsection 8(7) is met. The relevant parts of subsections 8(7) for this current inquiry are detailed 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:*

*…*

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

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 relevant provisions is met.

## The goods subject to this exemption inquiry

The goods subject to this exemption inquiry (the exemption goods) are:

*TRFs equal to or exceeding 103 mm in diameter.*

*Excluded goods, not subject to the measures and not included in the exemption goods are TRFs of nominal sizes 189mm and 198mm.*

## Goods produced by the Australian industry

The applicant provided evidence that a Tariff Concession Order exists for the subject goods (TC 1730996).

## Due date for response

We request that you complete your response and return it to the Commission by **12 December 2018**.

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

|  |  |
| --- | --- |
|  | The Director – Investigations 3 |
| *via email:* | [investigations3@adcommission.gov.au](mailto:investigations3@adcommission.gov.au) |
| *via post:* | Anti-Dumping Commission  GPO Box 2013  Canberra ACT 2601  AUSTRALIA |
| *via fax:* | (03) 8539 2499 or +61 3 8539 2499 (outside Australia). |

## 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. The Commission may also have regard to any other relevant information obtained during the original investigation and subsequent inquiries.

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

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** | Tariff Concession Order (TCO) |
| **Part D** | Revocation of TCO |
| **Part E** | Capability to produce the exemption goods or substitutable products |
| **Part F** | Additional comments |
| **Part G** | Your declaration |

1. **Response to Exemption Application**

**PART A – Company Information**

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

|  |  |
| --- | --- |
| **Name:** |  |
| **Position in company:** |  |
| **Address:** |  |
| **Telephone:** |  |
| **E-mail address of contact person:** |  |

**PART B – Response to Exemption Application**

**B.1** Does your company oppose or not oppose the request for an exemption?

|  |  |
| --- | --- |
|  | Oppose |
|  | Not oppose |

If your company does **not oppose** the request for an exemption, you do not need to complete all parts of the questionnaire. Please state your reasons why, answering 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 Order (TCO)**

**C.1** Is your company aware that the TCO is applicable to the goods?

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** If you answered **yes** at C.2, please outline why your objection to the TCO was unsuccessful.

**PART D – Revocation of TCO**

**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 the Department of Home Affairs website (<http://www.border.gov.au/Busi/domestic-manufacturers-and-importers>), which includes the approved form required for seeking revocation.

**D.2** Please include a copy of your request for revocation of the TCO.

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

**PART E – Production of the Exemption Goods or Substitutable Goods**

**E.1** If your company has not produced the goods the subject of this application for exemption, is your company capable of producing such goods or substitutable goods[[2]](#footnote-2)?

**E.2** If you are capable of producing the exemption goods or substitutable goods, explain why you have not produced such goods?

Provide evidence of your production capability and any plans to manufacture such goods, including orders, supply agreements, negotiations, sales contracts, certifications and any other relevant information.

**PART F – Additional Comments**

**F.1** Even with the TCO in force, are there other reasons which you consider relevant to the Minister exercising his or her discretion to not exempt the goods?

**F2.** Provide any additional comments including any other information that will assist the Commission in making a recommendation to the Minister regarding this application for exemption.

**PART G – Declaration**

I hereby declare that.............................................................(company)  
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:** |  |
| **Signature:** |  |
| **Position in company:** |  |
| **Date:** |  |

1. Refer ADN 2017/20 published on the Investigation 350 public record [www.adcommission.gov.au](file://prod.protected.ind/DATA_VI1/User/KMarnell/Downloads/www.adcommission.gov.au) [↑](#footnote-ref-1)
2. “Substitutable goods” are defined in subsection 269B(1) as “goods produced in Australia that are put, or are capable of being put, to a use that corresponds with a use (including a design use) to which the goods are the subject of the application or of the TCO can be put”. [↑](#footnote-ref-2)