Australian
BORDER FORCE

Submission objecting to the making of a Tariff Concession Order (TCO)

Please open this form using Adobe Acrobat Reader.

Either type in the fields provided or print this form and complete it using a pen and BLOCK LETTERS. Tick where applicable ☑

This form must be completed by any person who considers there are reasons why the TCO should not be made.
The information provided on the **first two pages only** will be forwarded as advice to the applicant for the TCO.
All other material is regarded as "commercial-in-confidence" and treated in accordance with the Privacy statement on page 6.

The form should be read carefully before being completed. A reference to a Part, section or subsection in this form is a reference to a provision of Part XVA of the *Customs Act 1901*, unless otherwise specified.

If you require advice concerning this form, please email **tarcon@abf.gov.au**

Details of the TCO to which this submission refers

Gazette No:	Date: Day Month Year
Gazetted description of goods:	TC reference number:

Local manufacturer details

Name:			
Business address:			
Postal address (if the same as business address write "as above"):			
Australian Business Number (ABN):		Reference:	
Company contact:	Facsimile number:	Phone number:	Mobile number:
Email address:			

Agent / broker details (if applicable)

Name:			
Business address:			
Postal address (if the same as business address write "as above"):			
Australian Business Number (ABN):		Reference:	
Agency Point of Contact:	Facsimile number:	Phone number:	Mobile number:
Email address:			

Details of the substitutable goods produced in Australia

1. Describe your locally produced substitutable goods

"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".

NOTE: Substitutable goods do not have to be identical to the goods the subject of the TCO application or meet the terms of the wording of the TCO application.

2. State the use(s) to which the substitutable goods are put or are capable of being put

3. Attachments

Attach technical, illustrative descriptive material and/or a sample and/or coloured photographs to enable a full and accurate identification and understanding of the substitutable goods.

NOTE: A reference to a website only is not sufficient and may result in your objection being rejected without further consideration.

4. Local manufacturers

Are you aware of any other local manufacturers producing substitutable goods?

☐ YES ☐ NO If NO, go to question 6

5. If YES to question 4

If yes to question 4, please provide details of any goods produced in Australia which are substitutable for the goods covered/ described by the TCO, and the names and addresses of the manufacturers of those goods. This information may assist your objection to the making of the TCO if further information is required in respect of Australian production of substitutable goods.

6. Production of goods in Australia

Section 269D provides:

(1) For the purposes of this Part, goods, other than unmanufactured raw products, are taken to be produced in Australia if the goods are wholly or partly manufactured in Australia.

(2) For the purposes of this Part, goods are to be taken to have been partly manufactured in Australia if at least one substantial process in the manufacture of the goods was carried out in Australia.

(3) Without limiting the meaning of the expression ***substantial process in the manufacture of the goods***, any of the following operations or any combination of those operations does not constitute such a process:

(a) operations to preserve goods during transportation or storage;

(b) operations to improve the packing or labelling or marketable quality of goods;

(c) operations to prepare goods for shipment;

(d) simple assembly operations;

(e) operations to mix goods where the resulting product does not have different properties from those of the goods that have been mixed.

A **Are the goods wholly or partly manufactured in Australia?** ☐ YES ☐ NO

B **Is at least one substantial process in the manufacture of the goods carried out in Australia?** ☐ YES ☐ NO

If yes, please specify at least one major process involved. If available coloured photographs, diagrams or schematics relating to the production of your substitutable goods may also be attached.

7. Production of goods in the ordinary course of business

Answer 7.1 if you consider your substitutable goods are made-to-order capital equipment (see below).
For all other goods, go to 7.2 on page 6.

7.1 <u>Substitutable goods being made-to-order capital equipment</u>

(i) "made-to-order capital equipment" means a particular item of capital equipment that is made in Australia on a one-off basis to meet a specific order rather than being the subject of regular or intermittent production and that is not produced in quantities indicative of a production run.

(ii) "capital equipment" means goods which, if imported into Australia, would be goods to which Chapters 84, 85, 86, 87, 89 or 90 of Schedule 3 to the *Customs Tariff Act 1995* would apply.

If your goods do not fall into both (i) and (ii) above, go to 7.2 on page 6.

Substitutable goods that are made-to-order capital equipment are taken to have been produced in Australia in the ordinary course of business if:

(a) a producer in Australia could produce substitutable goods, in respect of the goods the subject of the TCO, with existing facilities; and

(b) the substitutable goods the producer could produce would be made-to-order capital equipment; and

(c) in the 5 years before the application was lodged, the producer has made goods requiring the same labour skills, technology and design expertise as the substitutable goods the producer could produce; and

(d) the producer is prepared to accept an order to supply the substitutable goods in respect of goods the subject of the TCO application.

A Could the applicant produce substitutable goods, in respect of the goods the subject of the TCO, with existing facilities? ☐ YES ☐ NO

B Would the substitutable goods the applicant could so produce be made-to-order-capital equipment? ☐ YES ☐ NO

C Has the applicant in the last 5 years made goods requiring the same labour skills, technology and design expertise as substitutable goods to the goods the subject of the TCO application? ☐ YES ☐ NO

If yes, describe the goods made during this period and the relevant labour skills, technology and design expertise related to the production of these goods.

Please provide an invoice, order or tender document for the goods.

D Is the applicant prepared to accept an order to supply substitutable goods for the goods the subject of the TCO? ☐ YES ☐ NO

7.2 Substitutable goods other than made-to-order capital equipment

Substitutable goods (other than made-to-order capital equipment and for goods sent out of Australia for repair) in relation to goods the subject of a TCO application are taken to be produced in Australia in the ordinary course of business if:

(a) they have been produced in Australia in the 2 years before the application was lodged; or

(b) they have been produced, and are held in stock in Australia; or

(c) they are produced in Australia on an intermittent basis and have been so produced in the 5 years before the application was lodged;

and a producer in Australia is prepared to accept an order to supply such goods.

A **Have the goods been produced in Australia in the last 2 years?** ☐ YES ☐ NO

B **Have the goods been produced and are they held in stock in Australia?** ☐ YES ☐ NO

C **If the goods are produced in Australia on an intermittent basis, have they been so produced in the 5 years before the application was lodged?** ☐ YES ☐ NO

D **Are you prepared to accept an order for the goods?** ☐ YES ☐ NO

Attach a copy of **at least one invoice** showing the sale of substitutable goods to customers in the 2 years prior to the date of the TCO application. If the goods are produced on an intermittent basis, then the invoice/s may be from the 5 years prior to the date. If production has ceased, but stock is still on hand in Australia, attach a copy of stock records to this effect. In the absence of a sale, please provide relevant advertising material, such as a catalogue, to demonstrate that you were prepared to accept an order for the substitutable goods in the above periods. An order cancelled by the customer may also suffice.

8. Commencement of production of substitutable goods

What was the date on which you were first prepared to accept an order?
This date **must** be before the date the TCO application was lodged.

Day / Month / Year

Are the goods still in production? ☐ YES ☐ NO

If the answer is no, when did production cease?

Day / Month / Year

9. Provide any additional information in support of your objection

Privacy statement

Information provided on this form may be disclosed to a number of agencies including the Department of Infrastructure, Transport, Regional Development, Communications and the Arts, the Australian Federal Police, the Australian Criminal Intelligence Commission, the Attorney-General's Department and the Department of Foreign Affairs and Trade. Any false or misleading statements may result in penalty action under section 243T or 243U of the *Customs Act 1901*. Personal information is collected, used, stored and disclosed by the Department of Home Affairs, including the Australian Border Force (the Department) in accordance with the Australian Privacy Principles in schedule 1 of the *Privacy Act 1988*. Further information regarding how the Department, collects, stores, uses and discloses personal information may be found in form 1442i *Privacy notice*. More
n can be found in the Department's Privacy policy at

Notes

(a) Section 269K and 269M require that a submission opposing the making of a TCO be in writing, be in an "approved form", contain such information as the form requires, and be signed in the manner indicated in the form.
This is the approved form for the purpose of those sections.

(b) A submission will be date stamped on the day it is first received by an officer of Customs. The submission is taken to have been lodged on that day.

(c) For the submission to be taken into account, it must be lodged with the Comptroller-General of Customs:

- no later than 50 days after the gazettal day for an application for a TCO;
- no later than 14 days after the gazettal day for an amended application for a TCO; or
- where the Comptroller-General of Customs has invited a submission, within the period specified in the invitation.

(d) **All questions relevant to your submission must be answered.**

(e) Where the form provides insufficient space to answer a question, an answer may be provided in an attachment. The attachment should clearly identify the question to which it relates.

(f) If you wish to provide any additional information in support of your request, that information may be provided in an attachment.

(g) The Australian Border Force may require a local manufacturer to substantiate, with documentary evidence and/or a site visit to your premises, information provided in relation to the objection.

(h) Further information on the Tariff Concession System is available in the *Domestic manufacturers: importers* page on the Internet at **https://www.abf.gov.au/importing-exporting-and-manufacturing/tariff-concessions-system/overview** or by emailing **tarcon@abf.gov.au**

(i) Decisions made as a result of an objection submission may, upon application, be subject to internal review within 28 days of gazettal of the decision pursuant to section 269SH and then possible further review by the Administrative Appeals Tribunal pursuant to section 269SHA and section 273GA.

Applicant's declaration

I,	Position held
Company (if applicable)	

declare that:

1. I have the authority to act on behalf of the company/applicant;
2. To the best of my knowledge and belief the information contained in this form including any attachments is correct and that no relevant information has been omitted;
3. I have ensured that all required questions are completed and supporting documents are provided; and
4. I agree, in submitting this form by electronic means (including facsimile) that, for the purposes of subsection 14(1) of the *Electronic Transactions Act 1999*, this application will be taken to have been lodged when it is first received by an officer of Customs, or if by email to **tarcon@abf.gov.au** when it is first accessed by an officer of Customs, as specified in subsection 269F(4) of the *Customs Act 1901*.

Signature of applicant / agent / broker	Date Day Month Year

NOTE: Section 234 of the *Customs Act 1901* provides that it is an offence to make a statement (or omission) to an officer that is false or misleading in a material particular or to omit or cause to be omitted from a statement any matter or thing reckless as to the fact that without the matter or thing the statement is misleading in a material particular.

Checklist

Before lodging your form please ensure that you have attached the following

☐ IDM / samples / photos ☐ Other supporting documents ☐ Invoices / orders / tender documents

WHEN THIS FORM HAS BEEN COMPLETED LODGE IT WITH THE COMPTROLLER-GENERAL OF CUSTOMS BY:

- emailing it to **tarcon@abf.gov.au** *(preferred)*
  or
- posting it by prepaid post to:
  Manager
  Tariff Concessions Administration
  Department of Home Affairs
  PO Box 25
  BELCONNEN ACT 2617