Australian
BORDER FORCE

Application for 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 ☑

IMPORTANT: Please read the information below carefully before completing this form. 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.

Are you aware that substitutable goods are produced in Australia in the ordinary course of business?

(a) If you are aware, based on information and your enquiries that substitutable goods are being produced in Australia in the ordinary course of business, then you should not lodge an application for a TCO.

Do you need to apply for a new TCO?

(b) Before lodging this application for a TCO, the applicant should determine whether a suitable TCO already exists. Information on existing TCOs is available on the ABF website at **https://www.abf.gov.au/importing-exporting-and-manufacturing/tariff-concessions-system/list-of-tcos**

Have you verified that there are no substitutable goods produced in Australia (refer to questions 5, 6 and 7 of the form)?

(c) Section 269FA states "It is the responsibility of an applicant for a TCO to establish, to the satisfaction of the Comptroller-General of Customs, that, on the basis of:

(a) all information that the applicant has, or can reasonably be expected to have; and

(b) all enquiries that the applicant has made, or can reasonably be expected to make;

there are reasonable grounds for asserting that the application meets the core criteria".

The application is taken to meet the core criteria if, on the day of lodgement of the application, **no substitutable goods** were produced in Australia in the ordinary course of business.

Completing the application

(d) Subsection 269F requires that a TCO application 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 purposes of that section.

(e) Subsection 269F(3) states that a TCO application must contain:

(a) a full description of the goods to which the application relates; and

(b) a statement of the tariff classification that, in the opinion of the applicant, applies to the goods; and

(c) if the applicant is not proposing to make use of the TCO to import the goods to which the application relates into Australia on the applicant's own behalf – the identity of the importer for whom the applicant is acting; and

(d) particulars of all enquiries made by the applicant (including enquiries made of prescribed organisations) to assist in establishing that there were reasonable grounds for believing that on the day on which the application was lodged, there were no producers in Australia of substitutable goods.

Questions 1 to 8 must be answered

(f) Failure to supply the information required by this form will result in rejection of the application (and in the loss of operative date).

(g) The Comptroller-General of Customs may require an applicant to substantiate, with documentary evidence, any information provided in the application form. The Comptroller-General of Customs may also undertake its own enquiries as allowed under section 269M.

(h) Receipt of your application will be acknowledged. Any resultant TCO will operate from the date of receipt.

(i) Where an application is accepted as being a valid application, the identity of the applicant and of the importer for whom the applicant is acting will be published in the Commonwealth of Australia Tariff Concessions Gazette (the Gazette).

(j) Attached to this form are extracts from Part XVA of the *Customs Act 1901*. For further information on the Tariff Concession System, please refer to the ABF website **https://www.abf.gov.au/importing-exporting-and-manufacturing/tariff-concessions-system/overview** or email **tarcon@abf.gov.au**

B443 (Design date 01/23)

Applicant details

Name:	Australian Business Number (ABN):
Postal address:	
Reference:	Company Point of Contact:
Telephone number:	Position held:
Mobile number:	Email address:
Fax number:	

If the applicant (as named above) is not an importer intending to use the TCO to import the goods the subject of the application, please complete the Importer details section below (refer to paragraph s.269F(3)(c)).

Importer details

Name (if same as applicant, write “as above”):	Australian Business Number (ABN):
Postal address:	
Reference:	Company Point of Contact:
Telephone number:	Position held:
Mobile number:	Email address:
Fax number:	

Agent / broker details (if applicable)

Name:	Australian Business Number (ABN):
Postal address:	
Reference:	Agency Point of Contact:
Telephone number:	Position held:
Mobile number:	Email address:
Fax number:	

1. Description of goods

(a) The description of the goods in the application may be used as the description of the goods in the TCO (if made).

(b) The application must provide a full description of the goods, including the physical features of the various components of the goods. It must not describe the goods in terms of what they do.

(c) In accordance with section 269SJ, the Comptroller-General of Customs must not make a TCO in respect of goods:

(i) described in terms other than in generic terms; or

(ii) described in terms of their intended end use; or

(iii) declared by the regulations to be goods to which a TCO should not extend.

Goods will be taken to be described in terms other than in generic terms if, for example, their description, either directly or by implication, indicates that they are goods of a particular brand or model, or that a particular part number applies to the goods.

(d) Guidance on the drafting of the description can be found at **https://www.abf.gov.au/importing-exporting-and-manufacturing/tariff-concessions-system/overview**. Failure to comply with the Comptroller-General of Customs' requirements may result in rejection of the application.

Provide a full description of the goods to which the application relates

2. Illustrative descriptive material

Attach technical and illustrative descriptive material (IDM). If an industry standard is referred to in the description of the goods, attach extracts from the relevant industry standard, details of the relevant industry organization that has approved the standard, the standards reference number and date of publication. If appropriate include a sample or, alternatively, detailed coloured photos to enable full and accurate identification of the goods the subject of the application. This application will be rejected if insufficient or inadequate IDM is provided.

Please note, simply providing a reference to a website is not acceptable and may result in the application being rejected.

3. Tariff classification

(a) Identify the tariff classification (to 8 figure subheading level)

(b) Identify the General Duty rate _____%

(c) If a Tariff Advice (TA) for the goods has been sought or obtained, please provide the TA No or attach a copy.

4. Uses of the imported goods

Describe ALL uses (including design uses) to which the goods can be put

5. Information that the applicant and importer has, regarding Australian manufacturers of substitutable goods or potentially substitutable goods

The following questions require the applicant and the importer (if a different party to the applicant) to provide details of all information they have with regard to the presence of Australian manufacturers of substitutable goods.

5A. Applicant

In considering the goods which are the subject of this TCO application, is the applicant aware of any Australian manufacturers or producers of substitutable goods, or of potentially substitutable goods?

☐ YES ☐ NO If YES, please provide the names of these Australian manufacturers or producers.

5B. Importer

In considering the goods which are the subject of this TCO application, is the importer (as listed on page 2) aware of any Australian manufacturers or producers of substitutable goods or potentially substitutable goods?

☐ YES ☐ NO If YES, please provide the names of these Australian manufacturers or producers.

5C. Please provide details of other information that the applicant and/or importer may have to assist in locating any local manufacturers

(i) Is the applicant and/or importer a member of a relevant industry association and, if so, what is the name of the association?

☐ YES ☐ NO

If YES, what is the name of the association(s):

(ii) Has the applicant and/or importer attended, in the past year, any trade fairs or industry events where Australian manufacturers and producers of goods that may be substitutable have been exhibitors?

☐ YES ☐ NO

If YES, what is/are the name/s of relevant Australian manufacturers of potentially substitutable goods that may have exhibited?

(iii) In the past two years has the applicant and/or importer participated in government and/or trade procurement processes (for example, tenders for made-to-order capital equipment) which might indicate the existence of Australian manufacturers or producers of goods that are substitutable, or potentially substitutable, for the goods that are the subject of this TCO application?

☐ YES ☐ NO

If YES, describe each procurement process, and type of goods, including made-to-order capital goods, that were the subject of each procurement process and any Australian manufacturers or producers known to have participated in each procurement process.

6. Enquiries that the applicant and/or importer has made regarding local manufacturers of substitutable goods, or of potentially substitutable goods

The following questions require you to provide details of all enquiries that the applicant and/or importer have made to assist the Comptroller-General in establishing that there are reasonable grounds for believing that, on the day on which the application was lodged, there were no producers or manufacturers in Australia of substitutable goods.

6A. Prescribed organisations, such as the Industry Capability Network, are listed in Regulation 144 of Customs Regulation 2015

Have you asked a prescribed organisation to obtain advice about whether there are manufacturers or producers in Australia of substitutable goods, or of potentially substitutable goods?

☐ YES — Please attach a copy of the terms of the request and all advice received. If you have obtained a report from a prescribed organisation, you are not required to answer 6B.

☐ NO — If you have not obtained a report from a prescribed organisation you are required to answer 6B.

6B. Searches of three different databases contained in trade directories, public search engines or websites listing australian products

If you have not obtained a report from a prescribed organisation, you must make enquiries in at least three databases to locate the possible existence of Australian manufacturers or producers of goods that may be substitutable for the goods the subject of the TCO application. Examples of these databases may include trade directories such as **Australian B2B**, search engines such as **Google**, and websites listing Australian products such as **Australian Made**. For further guidance regarding what is considered to be a reasonable search, please refer to **https://www.abf.gov.au/importing-exporting-and-manufacturing/tariff-concessions-system/overview**.

Please attach printouts of the search results. For search engines such as Google, please supply only the first three pages.

1. Name of database: _____

Search terms used in database: _____

2. Name of database: _____

Search terms used in database: _____

3. Name of database: _____

Search terms used in database: _____

6C. Industry associations

Has the applicant and/or importer made enquiries of industry associations in Australia representing suppliers, manufacturers of the goods that may be substitutable to those the subject of the TCO?

☐ YES — Please attach a copy of the terms of the request and any response received.

☐ NO — Please explain why you have not made enquiries.

7. Notification of potential Australian manufacturers

If any of the answers to questions 5 or 6 identified any potential local manufacturers of substitutable goods, please provide details of the enquiries that you undertook to notify those local manufacturers of your application and to seek advice whether they believe they manufacture any substitutable goods. Please refer to **https://www.abf.gov.au/importing-exporting-and-manufacturing/tariff-concessions-system/overview** for a suggested format of a letter to a potential local manufacturer of substitutable goods.

Please provide a copy of your request to each business. Please provide the business names, details of the contact that you made and all responses received at the time of lodging this application.

1. Name and address of business: _____

Please provide a copy of your request to each business. Is the copy attached? ☐ YES ☐ NO

Please provide a copy of the response provided, if any. Is their response attached? ☐ YES ☐ NO

2. Name and address of business: _____

Please provide a copy of your request to each business. Is the copy attached? ☐ YES ☐ NO

Please provide a copy of the response provided, if any. Is their response attached? ☐ YES ☐ NO

3. Name and address of business: _____

Please provide a copy of your request to each business. Is the copy attached? ☐ YES ☐ NO

Please provide a copy of the response provided, if any. Is their response attached? ☐ YES ☐ NO

4. Name and address of business: _____

Please provide a copy of your request to each business. Is the copy attached? ☐ YES ☐ NO

Please provide a copy of the response provided, if any. Is their response attached? ☐ YES ☐ NO

8. Justification for application

Where potential Australian producers or manufacturers have been identified in questions 5, 6 or 7, please provide details why you believe that they do not produce substitutable goods in Australia in the ordinary course of business.

Please refer to the attached definitions for the legislative definitions of ‘core criteria’, ‘substitutable goods’, ‘goods produced in Australia’ and ‘the ordinary course of business’.

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*.

rmation can be found in the Department's Privacy policy at

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 questions 1 to 8 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).
5. I understand that it is my responsibility to establish to the satisfaction of the Comptroller-General of Customs that there are reasonable grounds for asserting that the application meets the core criteria for the grant of a TCO.
6. I acknowledge that I understand that under section 269M(6) that at any time during the period of 150 days from the gazettal day, the Comptroller-General of Customs may, for the purpose of dealing with a TCO application, and despite part 6 of the *Australian Border Force Act 2015*, give a copy of all, or of a part, of the application to a prescribed organisation with a view to obtaining the advice of the organisation in relation to the question whether there are any producers in Australia of substitutable goods.

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
- ☐ Local manufacturer search results
- ☐ Application signed and dated
- ☐ Questions 1-8 answered
- ☐ All enquiries requested undertaken

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

Information for applicants – some useful definitions from the *Customs Act 1901*

269B – Interpretation

Subsection 269B(1)

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.

Substitutable goods, in respect of goods the subject of a TCO application or of a TCO, means 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 the subject of the application or of the TCO can be put.

Subsection 269B(3)

In determining whether goods produced in Australia are put, or are capable of being put, to a use corresponding to a use to which goods the subject of a TCO, or of an application for a TCO, can be put, it is irrelevant whether or not the first mentioned goods compete with the second mentioned goods in any market.

269C – Core criteria

For the purposes of this Part, a TCO application is taken to meet the core criteria if, on the day on which the application was lodged, no substitutable goods were produced in Australia in the ordinary course of business.

269D – Goods produced in Australia

(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.

269E – The ordinary course of business

(1) For the purposes of this Part, other than section 269Q, goods (other than made-to-order capital equipment) that are substitutable goods 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 them.

(2) For the purposes of this Part, substitutable goods, in respect of goods the subject of a TCO application, are taken to be produced in Australia in the ordinary course of business if:

(a) a producer in Australia could produce substitutable goods, in respect of goods the subject of the TCO application, 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 substitutable goods in respect of goods the subject of the TCO application.

(3) In this section:
made-to-order capital equipment means a particular item of capital equipment:

(a) 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

(b) that is not produced in quantities indicative of a production run.

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