

TARIFF CONCESSION ORDER

Under Section 269P of the Customs Act 1901, I, s 22(1)(a)(ii) a delegate of the Chief Executive Officer declare that the goods specified in Column 1 of THE TABLE are goods to which the item in Part III of Schedule 4 to the Customs Tariff Act 1995 specified in Column 2 of THE TABLE applies. This Order shall have effect from 19.08.14 and continue in force until revoked under sections 269SC or 269SD of the Act, or the date, if any, specified in Column 2.

THE TABLE

COLUMN 1		COLUMN 2
Description of Goods including the Customs Tariff Classification		Schedule 4 Item Number Last date of effect
8309.90.00	SUMP PLUGS, incorporating an O-ring	50
	Op. 19.08.14	- TC 1429286

This is page 1 of 1 Page of the above Table.

Dated 10 November 2014

s 22(1)(a)(ii)

Delegate of the Chief Executive Officer

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Description of Goods including the
Customs Tariff Classification

Schedule 4 Item Number

8309.90.00 SUMP PLUGS, incorporating a o-ring
Op. 19.08.14

- TC 1429286

50

Stated Use:

To contain oil within a car sump

Applicant:

PHENIX INDUSTRIES PTY LIMITED

Description of Goods including the Customs Tariff Classification		Schedule 4 Item Number
8309.90.00	SUMP PLUGS, incorporating a o-ring Op. 19.08.14 Stated Use: To contain oil within a car sump Applicant: PHENIX INDUSTRIES PTY LIMITED	- TC 1429286 50

01AM F26>

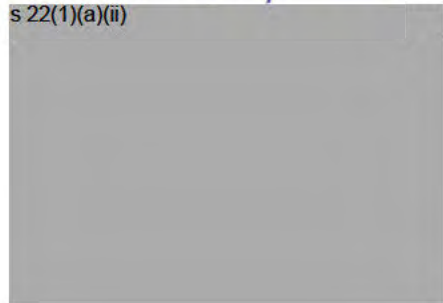
0 SEE EMAIL RE WORD REMOVAL F41

s 22(1)(a)(ii)



Lms 2 F38, 36.

s 22(1)(a)(ii)



s 22(1)(a)(ii)

From: s 22(1)(a)(ii)
Sent: Tuesday, 9 September 2014 3:22 PM
To: s 22(1)(a)(ii)
Subject: RE: URGENT: Amended wording - TCO 1429286 - Smart o sump plug [SEC=UNCLASSIFIED]

s 22(1)(a)(ii) I am happy with that. Thanks another job well done! ✓

Regards

s 22(1)(a)(ii)

Ross Fehlberg Pty Ltd
 Austorient Freight Services
 ABN 26000617890
 Unit 1 19-21 Bourke Road,
 ALEXANDRIA NSW 2015

s 22(1)(a)(ii)

Switch: +61 2 9310 3599
 Fax: +61 2 9310 2181

s 22(1)(a)(ii)

Website: www.fehlberg.com.au



**ROSS FEHLBERG
 AUSTORIENT**

International Cargo Logistics & Customs Brokers

All business is conducted under our standard trading terms and conditions as available on our website or upon request

From: s 22(1)(a)(ii)
Sent: Tuesday, 9 September 2014 2:41 PM
To: s 22(1)(a)(ii)
Subject: URGENT: Amended wording - TCO 1429286 - Smart o sump plug [SEC=UNCLASSIFIED]
Importance: High

Good afternoon s 22(1)(a)(ii)

Please see below amended wording for your possible agreement. I've removed both 'Smart O' and 'Dupont' as these are trademark names.

SUMP PLUGS, incorporating a o-ring
 Op. 19.08.14 - TC 1429286

Stated Use:
 To contain oil within a car sump

Regards,

s 22(1)(a)(ii)

s 22(1)(a)(ii) | Industry Assistance | Trade Branch | Australian Customs and Border Protection Service

Please note: I work part-time Monday to Thursday.

s 22(1)(a)(ii)

From: s 22(1)(a)(ii)
Sent: Tuesday, 9 September 2014 2:41 PM
To: s 22(1)(a)(ii)
Subject: URGENT: Amended wording - TCO 1429286 - Smart o sump plug
[SEC=UNCLASSIFIED]

Importance: High

Good afternoon s 22(1)(a)(ii)

Please see below amended wording for your possible agreement. I've removed both 'Smart O ' and 'Dupont' as these are trademark names.

SUMP PLUGS, incorporating a o-ring
Op. 19.08.14 - TC 1429286

stated Use:
To contain oil within a car sump

Regards,

s 22(1)(a)(ii)

Industry Assistance | Trade Branch | Australian Customs and Border Protection Service |

s 22(1)(a)(ii)

Please note: I work part-time Monday to Thursday.



Australian Government
Australian Customs and
Border Protection Service

Trade
Branch

This Site: Trade Branch



Trade Branch > TCO > Smart O Sump Plug

TCO: Smart O Sump Plug

[New Item](#) | [Edit Item](#) | [Delete Item](#) | [Alert Me](#) | [Version History](#)

TCO Number	TC14/29286
Title	Smart O Sump Plug
Centre	NTAC
OP Date	19/08/2014
28 Day Due Date	16/09/2014
Date Sent	20/08/2014
Date Due	27/08/2014
Applicant	Phenix Industries
Broker/Agent	s 22(1)(a)(ii)
Goods	Smart O Sump Plug
Claimed Classification	8309.90.00
Tariff Screening Officer	
IDM Rejection	
Open TA	
Are the Goods Classifiable	YES
Comments	
Does Wording Reflect Tariff Class	YES
Tariff Classification	8309.90.00
Is TCO Restricted by Reg. 185 (EGS)	No
Comments	
General Duty Rate	5%
Identification of Goods	Smart O Sump Plug: being a steel threaded sump plug with a plastic O ring that is designed to be screwed into the oil pan/sump to act as a leak-proof barrier and to facilitate oil drainage. The good is identified as a sump plug/sump bung.
Tariff Advice No(s)	20523100
Headings Considered	8309 and 8409
Comments and Chapter Notes	IRs 3 (a) & 6 8409 is rejected vide IR3 (a) as heading 8309 provides a more specific description of the goods. Research indicates that a number of manufacturers/suppliers refer to sump plugs as "sump bungs".
Query Date	

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Tariff Officer	s 22(1)(a)(ii)
Finalisation Date	22/08/2014
Version Updates	s 22(1)(a)(ii)
Application	Accepted
Attachments	FW phenix tco smart o plug.msg
s 22(1)(a)(ii)	



Australian Government
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TAPIN

Tariff Advice Application Number 20523100

Tariff Advice Details:

Previous Tariff Advice Number	0
Status	FINALISED
Changed Status	
Type	TARIFF ADVICE
State	NSW
Confidential	NO
Input Date	25 JUL 2012

Company and Contact Details:

Importer	PHENIX INDUSTRIES PTY LIMITED	
Importer ABN / CAC	59138958862	CCID
Supplier	s 22(1)(a)(ii)	
Supplier ABN / CAC		CCID s 22(1)(a)(ii)
Applicant	ROSS FEHLBERG PTY LTD	
Applicant ABN / CAC	26000617890	CCID
Applicant Contact Name	s 22(1)(a)(ii)	
Applicant Phone		Fax
Applicant Reference		
Broker Box No		

Goods Details:

Goods Description	Smart-O sump plug for motor vehicle engines Described as a steel threaded plug with a Dupont plastic O ring designed to expand once screwed into the oil pan/sump of the engine it acts as a leak proof barrier
Claimed Tariff Classification	8409.99.90
Claimed Instrument	
Claimed Schedule 4 Item	
Claimed Reasons	Determine to be a part of an engine oil pan or sump CHAPT 84. Review CHAPT 73, and CHAPT 87

Lodgement Details:

Lodge Date	03 SEP 2012	
Sample Provided	NO	
Illustrative Descriptive Material	YES	
Additional Info Requested	NO	Requested on
Additional Info Received	NO	Received on



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TAPIN

Tariff Advice Application Number 20523100

Acquittal Details:

Acquit Date 04 MAR 2013
Given Tariff Classification 8309.90.00

Given Instrument

Given Schedule 4 Item

Given Reasons **DETAILED DESCRIPTION OF GOODS**

A Smart-O sump plug for oil pan/sumps of motor vehicle engines. Consisting of a steel threaded plug with a DuPont plastic O ring designed to expand once screwed into the oil pan/sump of an engine to act as a leak proof barrier. The sump plugs are specifically manufactured to fit a range of motor vehicle engine oil pan/sumps. Model numbers:

R1, R3, R4, R5, R6, R9, R11, R16, R20, R21, R22, R23, R24, F1, F3, S13 and S18

IDENTIFICATION OF GOODS

A steel threaded plug with DuPont plastic O ring that is used in oil pans and sumps to provide a leak proof barrier.

HEADINGS CONSIDERED

7318: SCREWS, BOLTS, NUTS, COACH SCREWS, SCREW HOOKS, RIVETS, COTTERS, COTTER- PINS, WASHERS (INCLUDING SPRING WASHERS) AND SIMILAR ARTICLES, OF IRON OR STEEL.

8309: STOPPERS, CAPS AND LIDS (INCLUDING CROWN CORKS, SCREW CAPS AND POURING STOPPERS), CAPSULES FOR BOTTLES, THREADED BUNGS, BUNG COVERS, SEALS AND OTHER PACKING ACCESSORIES, OF BASE METAL.

8409: PARTS SUITABLE FOR USE SOLELY OR PRINCIPALLY WITH THE ENGINES OF HEADING 84.07 OR 84.08

HEADINGS REJECTED AND REASONS WHY

7318 Not considered to be used to assemble or fasten goods.

8409 More appropriate heading

APPROPRIATE HEADING AND REASONS WHY

8309 IR3(a) Most specific description. Section XV Note 2 and Note 3 applicable. Goods not excluded by Chapter 83 Note 1. The goods are steel threaded plugs with a Dupont plastic O ring which is designed to expand when in contact with oil and act as a leak proof barrier. The O ring provides a leak proof barrier. HSEN to 8309 used for guidance and covers 'a range of articles of base metal (often with washers or other fittings of plastic, rubber, cork, etc.)'

APPROPRIATE SUBHEADING AND REASONS WHY

8309.90.00 TOSH IR6 The goods are not Crown corks so fall to 'Others'

TCO ELIGIBILITY OR OTHERWISE AND REASONS WHY:

No TCO applicable.



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Border Protection Service

TAPIN

Tariff Advice Application Number 20523100

This decision only applies to the goods as detailed in this application from the supplier nominated in this application and imported by the owner nominated in this application. This decision is valid in all Australian ports for five (5) years from the date of this decision

Decision Officer Name s 22(1)(a)(ii)

Decision Officer Phone

Registry File Number

Multiple Classification NO

Rejection Reason

30

Description of Goods including the
Customs Tariff Classification

Schedule 4 Item Number

8309.90.00 SMART O PLUG, being a steel threaded plug with dupont plastic O ring 50

Op.19.08.14

- TC 1429286

Stated Use:

The sump plug with a particular O ring which expands to prevent oil leaks

Applicant: PHENIX INDUSTRIES PTY LTD

Notes

TCOs existing NO

Tariff Advice NO

Q5&6 F 5-6

LM Searches F 10-20

IDM F 21-26

Please check words and use

s 22(1)(a)(ii)

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Australian Customs and
Border Protection Service

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Reply to the Chief Executive Officer

Quote: TC 1429286
Your Ref: Smart Plug

Australian Customs and
Border Protection Service
Customs House
5 Constitution Avenue
CANBERRA ACT 2601
Ph: (02) 6275 6404
Fax: (02) 6275 6376
Email: tarcon@customs.gov.au

28 August 2014

s 22(1)(a)(ii)

ROSS FEHLBERG PTY LTD
PO BOX 218
ALEXANDRIA NSW 1435

s 22(1)(a)(ii)

TARIFF CONCESSION SYSTEM
APPLICATION ACKNOWLEDGEMENT

Your application for a Tariff Concession Order, details of which are shown below, was received in this office on 19 August 2014. The TC number TC 1429286 has been allocated to your application.

Date Received:	19 August 2014
Applicant:	PHENIX INDUSTRIES PTY LTD
Goods:	SMART O SUMP PLUG
Applicant ABN/CAC	59138958862/001

Yours sincerely,

s 22(1)(a)(ii)

s 22(1)(a)(ii)

Tariff Concessions Section
Trade Branch
Australian Customs and Border Protection Service
Canberra ACT

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Solution

**anti-vibration function
ing via high-tech O-ring
upon contact with engine oil**

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International - English

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[Application Tools](#)
[Tech Reference Material](#)
[POS, Promo & Sales Material](#)
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Risk Reduction & Environmental Protection

- Engineered to prevent engine oil loss
- Reduces risk of engine damage through oil outs
- Less oil leaks = less water pollution



Complete Solutions For Professionals



SMART-O plug is the most advanced oil drain plug in the market, offering unique advantages of regular Oil Drain Plugs.

Your car and the environment deserve the safest and best performing components. Car owners are familiar with oil loss horror stories, where sump plug / Oil Drain Plugs fail due to mismatching, under tightening or overtightening. This often results in damaged oil pans, sudden oil loss, costly engine replacements and complicated insurance claims.

Part Search

Search the right plug for your vehicle

Select Make
 Select Model
 Select Year
 Select Engine

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News



Save yourself the hassle and enjoy driving with the ultimate oil drain safety system

24

[Read more >>](#)

LC12-09-36 SMART-O distribution awarded to
Tabernacle Auto in Singapore

[Read more >>](#)

Stops Oil Leaks and Prevent Engine Damage

Safe-sealing and anti-vibration function prevents catastrophic oil loss due to negligent installation.

[Share](#)[Share](#)[Share](#)[Share](#)[More](#)[Read more >>](#)

Complete Range

Comprehensive range of 17 Oil Drain Plugs which cover 30 000+ models - worldwide! SMART-O is the most comprehensive solution in this area.

[Read more >>](#)

Green Oil Change Solution

Offer SMART-O together with re-refined oil, long life oil filters for a greener ride, reducing environmental impact.

[Read more >>](#)

Products

Oil Drain Plugs
Advantages
Performance
FAQ - SMART-O plug
Part Search

Solutions

Engine Protection
Risk Reduction
Auto Service Solutions
ECO-protection
Inventory Solutions
Marketing Solutions
Customized Solutions

Where to Buy

Auto Service Workshops
Retailers
Online Retailers
Resellers
Distributors

Media Center

News
Tech News
Media Reviews
Videos
Promotions
Event Calendar
Social Media
Investor Relations

About

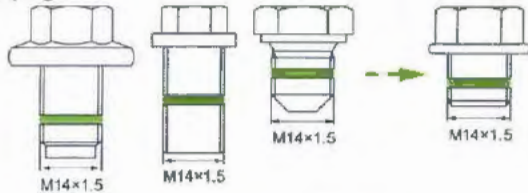
SMART-O Brand
Vision
SMART-O Team

Contact



○ The Programme

Consolidated range – less inventory: Clever engineering work has eliminated overlapping plug sizes to consolidate the range. Now covering the same amount of vehicles with less plugs!



Complete coverage: The plugs fit 30,000+ European, British, American, Japanese and Korean car makes and models – offering one of the most comprehensive drain plug ranges.



Use our online parts finder to check which plug fits your vehicle:
www.smart-o.info/partsearch

○ SMART-O fits all service areas and markets



Service install Display to build value Service desk sales Retail sales

Assortment Case + Refill packs



Blister packs for retail display



Get your business listed for FREE on our website!
Benefit from extra web marketing and make it easier for your customers to find you.

Complete Drain Plug Kit Solution:

Get started with the most powerful drain plug programme in the market. Offer the safest and most environmentally friendly oil change service to your customers!

- Assortment cases (12 / 17 plug sizes)
- Kits contain 60 / 51 pcs of plugs in total
- Gauge tool
- Plug overview chart
- Promotional poster (*optional)
- DVD with training video and plug (*optional)
- Refill box (only order the plugs you need)



Contact us for further information and pricing:

www.smart-o.info

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SMART-O

THE INTELLIGENT DRAIN PLUG

Performance, Protection and Customer Retention
The Professionals' Choice

SMART-O = added protection + benefits
Regular plug = risk & no extra protection

- Superior performance without extra cost
- Anti-leak + anti-vibration function
- Innovative patented design

16 of 26 (FA 16/10/00254)

Common Problems

RISK:

- Damaged oil pan
- Oil pan replacement



RISK:

- Engine oil loss
- Environmental damage

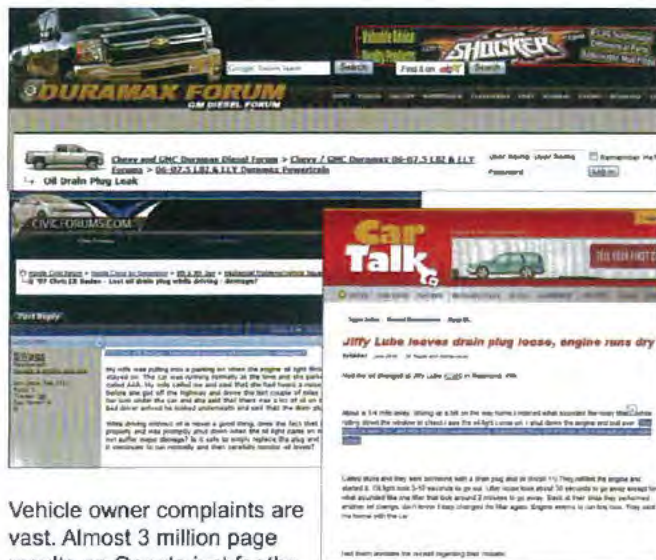


RISK:

- Negligent installation
- Catastrophic oil loss
- Engine replacement



Oil leak – engine damage



Vehicle owner complaints are vast. Almost 3 million page results on Google just for the search term "oil drain plug leak". (Google January 2012)

SMART-O advantages:

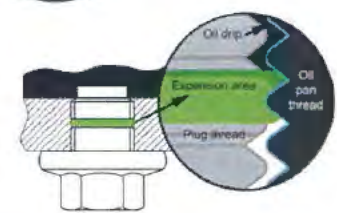


The Smart Solution

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Anti-leak:

Intelligent material O-ring expands automatically upto 10% when exposed to engine oil. This seals the oil pan from inside the thread rather than just from the outside.



Anti-vibration:

Tested by the Oakland University Fastening & Joining Institute and Spectrum Technologies, Michigan. Proven to resist excessive vibration forces. This prevents SMART-O from falling out due to vibration over time, if not tightened properly.



Clever plug ID:

Every plug has an easily identifiable head mark which prevents mixing up similar-looking but wrong plugs. Aids easy part search, quick matchup & installation!



Thread guard:

The sealing mechanism may eliminate the urge of some mechanics to overtighten the plug since a more powerful seal is in place. Using a special, softer alloy steel poses less risk of wear to the oil pan.



ECO-protection:

Engine oil is a major water pollutant – 1 liter oil can pollute 1 Million liter drinking water. SMART-O® is the most effective sealing plug offering maximum protection against sudden loss of engine oil. The black coating is free of the toxic Cr6 chrome plating.





Australian Government
Australian Customs and
Border Protection Service

APPLICATION FOR TARIFF
CONCESSION ORDER (TCO)

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

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 inquiries 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 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 contained in the Schedule of Concessional Instruments (SCI), which is available on the Internet at www.customs.gov.au.

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 of the *Customs Act 1901* states "It is the responsibility of an applicant for a TCO to establish, to the satisfaction of the Chief Executive Officer (CEO), that, on the basis of:
- (i) all information that the applicant has, or can reasonably be expected to have; and
 - (ii) all inquiries 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.
- 14/29286

Completing the application

- (d) Section 269F of the *Customs Act 1901* 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) Section 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 inquiries made by the applicant (including inquiries 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.
- RECEIVED 19/8/14

Question 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) Customs and Border Protection may require an applicant to substantiate, with documentary evidence, any information provided in the application form. Customs and Border Protection may also undertake its own inquiries 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) Further Information on the Tariff Concession System is available in Part XVA of the *Customs Act 1901*; in relevant Australian Customs Notices (ACNs), Practice Statements and related Instructions and Guidelines on the Internet at www.customs.gov.au; by e-mailing tarcon@customs.gov.au; or by phoning the Customs and Border Protection Information Centre 1300 363 263.
- (k) Attached to this form are extracts from relevant legislation. Also please refer to Australian Customs Notice 2010/03 containing advice as to what Customs and Border Protection considers to be 'reasonable inquiries', advice on conducting searches on national and international search engines and a suggested format letter that you might choose to use when contacting potential local manufacturers to determine if it produces substitutable goods.

APPLICANT DETAILS

Applicant's Name: PHENIX INDUSTRIES PTY LIMITED	Australian Business Number (A.B.N): 59138958862
Postal Address: 19b Dickson Ave, Artarmon, NSW, 2064	
Applicant's Reference: SMART O PLUG	Company Contact: s 22(1)(a)(ii)
Telephone Number: 61 2 9437 0666	Position Held: DIRECTOR
Mobile Telephone Number:	Email Address: sales@phenixindustries.com.au
Facsimile Number:	

If the applicant (as named above) does not intend to use the TCO to import into Australia the goods the subject of the application, you must provide, in the section below, the identity of the importer for whom you are acting (refer to paragraph 296F(3)(c) of the Customs Act 1901.

IMPORTER DETAILS

If same as applicant write "as above" Importer's Name: AS ABOVE	Australian Business Number (A.B.N):
Postal Address:	
Importer's Reference:	Company Contact:
Telephone Number:	Position Held:
Mobile Telephone Number:	Email Address:
Facsimile Number:	

AGENT/BROKER DETAILS (If applicable)

Agent's Name: ROSS FELBERG PTY LIMITED	Australian Business Number (A.B.N): 26000617890
Postal Address: PO BOX 218 ALEXANDRIA NSW 1435	
Agent's Reference: SMART O PLUG	Agency Contact: s 22(1)(a)(ii)
Telephone Number:	Position Held: CUSTOMS BROKER
Mobile Telephone Number: 61 2 93103599	Email Address: s 22(1)(a)(ii)
Facsimile Number:	

Is this application intended to support an application for a concession under the Enhanced Project By-law Scheme?

☐ YES☒ NO

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 of the Customs Act 1901, the CEO 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 be extended.
- 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 of goods is contained in relevant Practice Statements and/or Instructions and Guidelines on the Internet at www.customs.gov.au. Failure to comply with Customs and Border Protection requirements may result in rejection of the application.

Describe the goods as you would propose the wording to appear if the Tariff Concession Order is granted.

SMART O SUMP PLUG, BEING A STEEL THREADED PLUG WITH DUPONT PLASTIC O RING.

2. ILLUSTRATIVE MATERIAL

Attach technical and illustrative descriptive material (IDM) as well as any extracts from the relevant industry standard (if referred to in the description of the goods) and/or a sample 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 that simply supplying a reference to a website is not acceptable

3. TARIFF CLASSIFICATION

- (a) Identify the tariff classification (to 8 figure subheading level)
- (b) Identify the General Duty rate 5 %
- (c) If a Tariff Advice 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.

THE SUMP PLUG WITH A PARTICULAR O RING WHICH EXPANDS TO PREVENT OIL LEAKS

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 that they have with regard to the presence of Australian manufacturers of substitutable goods or potentially 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 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. INQUIRIES 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 inquiries that the applicant and/or importer have made to assist the CEO 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, or potentially substitutable goods.

6A - PRESCRIBED ORGANISATIONS - Prescribed organisations, such as the Industry Capability Network, are listed in Regulation 179A of Customs Regulations 1926.

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 inquiries 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 Kompass, search engines such as Google, and websites listing Australian products such as www.australianmade.com.au. Please refer to ACN 2010/03 for guidance as to what Customs and Border Protection considers to be a reasonable search.

1 - Name of database:

Search terms used in database: GOOGLE

SUMP PLUGS WITH O RINGS

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

2 - Name of database:

AUSTRALIAN MADE

Search terms used in database

SUMP PLUGS WITH O RINGS

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

3 - Name of database:

KOMPASS

Search terms used in database:

SUMP PLUGS WITH O RINGS

THE WEB SITE WAS NOT COMPLETED

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

6C. INDUSTRY ASSOCIATIONS

Has the applicant and/or importer made inquiries 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.

NO KNOWN MANUFACTURERS

7. NOTIFICATION OF POTENTIAL AUSTRALIAN MANUFACTURES

If any of the answers to questions 5 or 6 identified any potential local manufacturers of substitutable goods, please provide details of the inquiries that you undertook to notify those local manufacturers of your application and to seek advice as to whether they believe they manufacture any substitutable goods. Please refer to Australian Customs Notice 2010/03 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 as to 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'

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APPLICANT'S DECLARATION

I, s 22(1)(a)(ii)	Position Held s 22(1)(a)(ii)
Company: (if applicable) ROSS FELBERG PTY LIMITED	
declare that:	
<ol style="list-style-type: none">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;3. I have ensured that questions 1 to 8 are completed and supporting documents are provided; and4. I agree, in submitting this form by electronic means (including facsimile) that, for the purposes of Sub-section 14(3) 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 and Border Protection, or if by e-mail to tarcon@customs.gov.au, when it is first accessed by an officer of Customs and Border Protection, as specified in Sub-Section 269F(4) of the Customs Act 1901.5. I have read the relevant Australian Customs Notice headed Applicant's Obligations in Making a TCO application and the definitions attached to this form and understand my obligations under Section 269FA with regard to the making and processing of Tariff Concession Order applications.6. I acknowledge that I understand that under Section 269M(6) of the <i>Customs Act 1901</i> that at any time during the period of 150 days from the gazettal day, the CEO may, for the purpose of dealing with a TCO application, and despite section 16 of the Customs Administration Act 1985, give a copy of all or of a part, of the application to a prescribed organisation with a view to obtaining information to the question whether there are any producers in Australia of substantially similar goods to the goods to which the application relates.	
Signature of Applicant/Agent/Broker:	19, 03, 2014

NOTE:

Section 234 of the Customs Act 1901 provides that it is an offence to make a statement to an officer that is false or misleading in a material particular.

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

- ☐ Attached IDM/Samples?
- ☐ Attached Local Manufacturer search results?
- ☐ Application signed & dated?
- ☐ Questions 1-8 answered?
- ☐ All enquiries requested undertaken?

When this form has been completed please lodge it with Customs and Border Protection by:

- | | | |
|--|----|---|
| •posting it by prepaid post to:
Director
Tariff Concession Section
Trade Services Branch
Australian Customs and
Border Protection Service,
Customs House
5 Constitution Avenue
CANBERRA ACT 2601 | OR | •delivering it to the ACT Regional Office located at:
Customs House, Canberra

OR
•sending it by facsimile to: (02) 6275 6376

OR
•e-mailing it to: tarcon@customs.gov.au |
|--|----|---|

FOR OFFICE USE ONLY AUSTRALIAN CUSTOMS AND BORDER PROTECTION SERVICE STAFF

269(H) Screening the Application

- Is the CEO satisfied that the application complies with Section 269F? ☐ YES ☐ NO
- Is the CEO satisfied that the applicant has discharged all responsibilities referred to in section 269FA? ☐ YES ☐ NO
- Is the CEO aware of any producer in Australia of substitutable goods? ☐ YES ☐ NO
- Are the goods on the Excluded Goods Schedule (Regulation 185)? ☐ YES ☐ NO
- Does a TCO already exist for these goods? ☐ YES ☐ NO

Information for applicants - some useful definitions from the Customs Act 1901

269B Interpretation

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.

- (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 Interpretation - 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 Interpretation - 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:
- (a) the goods are wholly or partly manufactured in Australia, and
 - (b) not less than $\frac{1}{4}$ of the factory or works costs of the goods is represented by the sum of:
 - (i) the value of Australian labour; and
 - (ii) the value of Australian materials; and
 - (iii) the factory overhead expenses incurred in Australia in respect of the goods.
- (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.
- (4) For the purposes of this section, the CEO may, by instrument in writing published in the *Gazette*:
- (a) direct that the factory or works cost of goods is to be determined in a specified manner; and
 - (b) direct that the value of Australian labour, the value of Australian materials or the factory overhead expenses incurred in Australia in respect of goods is to be determined in a specified manner;
- and those directions have effect accordingly.
- (5) The provisions of sections 48 (other than paragraphs (1)(a) and (b) and subsection (2)), 48A, 48B, 49A and 50 of the *Acts Interpretation Act 1901* apply in relation to directions given under subsection (4) as if:
- (a) references in those provisions to regulations were references to directions; and
 - (b) references in those provisions to the repeal of a regulation were references to the revocation of a direction.

269E Interpretation - 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, goods that
- (a) are substitutable goods in relation to goods the subject of a TCO application, and
 - (b) are made to order capital equipment;
- are taken to be produced in Australia in the ordinary course of business if
- (c) a producer in Australia:
 - (i) has made goods requiring the same labour skills, technology and design expertise as the substitutable goods in the 2 years before the application was lodged; and
 - (ii) could produce the substitutable goods with existing facilities; and
 - (d) the producer is prepared to accept an order to supply the substitutable goods.
- (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.