



If this form was completed by a business with fewer than 20 employees, please provide an estimate of the time taken to complete this form.

Hours Minutes

MAIL

# APPLICATION FOR A TARIFF CONCESSION ORDER (TCO)

The form should be read carefully before being completed

- (a) Before lodging an 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), a copy of which is available at each Regional Office of Customs. A TCO can be used by any importer.
- (b) An application will be date stamped on the day it is first received in Canberra by an officer of Customs. Receipt of an application will be acknowledged. Any resultant TCO will operate from the date of receipt. Instructions on how to lodge this form are provided at the end of this form.
- (c) 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 *Gazette*.
- (d) Section 269F of the *Customs Act 1901* requires that a TCO application to 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 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.
- (f) **Every question on the form must be answered.** Failure to supply the information required by this form will result in rejection of the application (and in the loss of operative date).
- (g) 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.
- (h) All information about inquiries into the production of substitutable goods must relate to the date the application is lodged with Customs.
- (i) Customs may require an applicant to substantiate, with documentary evidence, any information provided in the application form.
- (j) Further information on the Tariff Concession System is available in Part XVA of the *Customs Act 1901*, in the foreword to the Schedule of Concessional Instruments, in the administrative guidelines in Volume 13 of the Australian Customs Service Manual, in Australian Customs Notice No. 98/19, on the internet at [www.customs.gov.au](http://www.customs.gov.au), by e-mailing [information@customs.gov.au](mailto:information@customs.gov.au) or by phoning the Customs Information Centre 1300 363 263.

## APPLICANT DETAILS (An agent/broker should provide details on the next page)

Applicant's Name		Australian Business Number (A.B.N.)	
Postal Address			
Applicant's Reference		Owner Code (if applicable)	
Company Contact		Position Held	
Telephone Number	Facsimile Number	E-mail Address	

If you do 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 269F(3)(c) of the *Customs Act 1901*).

## IMPORTER DETAILS

Importer's Name (If same as applicant, write "as above")		A.B.N.	
IPI AUSTRALIA CORPORATION PTY LTD		74007324021	
Postal Address			
PO Box 483 KILSYTH, VICTORIA, 3137			
Importer's Reference		Owner Code	
TRIGGER SPRAY GUN SET			
Company Contact		Position Held	
[Redacted]		MANAGING DIRECTOR	
Telephone Number	Facsimile Number		
[Redacted]	[Redacted]		



AGENT/BROKER DETAILS (if applicable)

Agent's Name <b>I. W. McARTHUR * CO PTY LTD</b>		A.B.N. <b>72004299110</b>
Postal Address <b>1<sup>st</sup> FLOOR, 200 UNION RD, ASCOT VALE, VICTORIA 3032</b>		
Agent's Reference <b>IPI - TRIGGER SPRAY GUN SET</b>		Agency Contact <b>[REDACTED]</b>
Telephone Number <b>[REDACTED]</b>	Facsimile Number <b>[REDACTED]</b>	E-mail Address <b>iwmcarthur@bigpond.com</b>

DESCRIPTION OF GOODS

- (a) The description of the goods in the application will be used as the description of the goods in the TCO (if made).
- (b) The application should provide a full description of the goods, including the physical features of the goods or the various components of the goods. It should 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 Volume 13 of the ACS Manual and in Australian Customs Notice No. 98/19.

1 Describe the goods

TRIGGER SPRAY GUN SET, IRRIGATION EQUIPMENT, put up for retail sale, comprising All of the following:

- (a) trigger spray gun
- (b) fittings, comprising ANY of the following
  - hose connector
  - tap adaptor
  - spray gun adaptor

ILLUSTRATIVE MATERIAL

2 Attach technical, illustrative descriptive material and/or a sample to enable a full and accurate identification of the goods the subject of the application. *Sample attached*

TARIFF CLASSIFICATION

3 Identify the tariff classification (to 8 figure subheading level) **84242000**  
 Identify the General Duty rate **05** %  
 If a Tariff Advice for the goods has been sought or obtained, please provide the TA No.  or attach a copy.

USES OF THE IMPORTED GOODS

4 Describe ALL uses (including design uses) to which the goods can be put.  
*The goods are designed to be held in the hand. They operate by squeezing a trigger. The spray guns are designed specifically as domestic irrigation equipment for watering lawns and gardens. They may also be used for washing cars or any other activity that involves a controlled dispersment of water.*



**SUBSTITUTABILITY OF LOCALLY PRODUCED GOODS**

- (a) A local manufacturer's goods are substitutable when they 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 can be put (subsection 269B(1) of the *Customs Act 1901*). Even if not identical, locally made goods may be substitutable.
- (b) In determining whether the uses of Australian produced goods correspond with the uses of the goods the subject of the application, the ability of the goods to compete with each other in any market is not relevant.
- (c) The applicant must provide written information as to the inquiries made to establish that there are reasonable grounds for believing that there are no producers of substitutable goods in Australia. The application must include a copy of the research material sourced and a copy of correspondence to, and replies from, potential local manufacturers or relevant industry associations. The application will be rejected if it fails to provide all written information as to the inquiries made.

**NOTE:** The Australian Customs Service suggests that potential local manufacturers should be given at least 10 working days to respond to inquiries concerning local manufacture.

**5 Provide details of the nature of ALL inquiries you have undertaken in order to establish that substitutable goods are not produced in Australia, and the results of those inquiries. Attach copies of all correspondence or directory searches, etc.**

*As attached*

**6 Provide any additional information in support of discharging your responsibility to establish that there are reasonable grounds for asserting that there are no substitutable goods produced in Australia in the ordinary course of business.**

*All possible local manufacturers were contacted in writing and by telephone. Although none of them returned an answer in writing, information was given verbally. Details attached.*



**PRESCRIBED ORGANISATIONS**

7 Have you made inquiries of a prescribed organisation to obtain advice about whether there are producers in Australia of substitutable goods?

YES  NO

If YES, attach a copy of the advice received.

Note that under subsection 269M(6) of the *Customs Act 1901*, the CEO may, 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.

**ADDITIONAL INFORMATION**

8 Provide any additional information in support of your application.

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**DECLARATION**

I, s47F Position Held **COMPILER/CLASSIFIER**

Company (if applicable) **I. W. McARTHUR & CO. PTY. LTD.**

declare that:

- 1 To the best of my knowledge and belief the information contained in this form is correct; and
- 2 I have the authority to act on behalf of the company/applicant; and
- 3 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, this application will be taken to have been lodged when it is first received by an officer of Customs, or if by e-mail, when it is first accessed by an officer of Customs, as specified in Sub-Section 269F(4) of the Customs Act.

Signature of Applicant/Agent/Broker s47F Date **4 April 2008**

**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.**

**WHEN THIS FORM HAS BEEN COMPLETED LODGE IT WITH CUSTOMS BY:**

- posting it by prepaid post to the National Manager, Tariff Branch  
Australian Customs 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.

(29)

**GOWEN Mitchell**

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**From:** GOWEN Mitchell  
**Sent:** Friday, 18 April 2008 08:57  
**To:** iwmcarthur@bigpond.com  
**Subject:** Insufficient information for your TCO application [SEC=UNCLASSIFIED]  
**Attachments:** Trigger Spray Guns.doc  
**Security Classification:** UNCLASSIFIED


Good Morning

Please find attached letter for your action!

You have until 23<sup>rd</sup> of April 2008 to reply to this letter

*File Note.*

*Samplers were found and attached to file.*



*18/4/08*

.....  
Mitchell Gowen  
Trade Services Branch



**Australian Government**  
**Australian Customs Service**

Reply to the Chief Executive Officer

Quote: TC 0802926

Your Ref: IPI TRIGGER SPRAY GUN

Australian Customs Service  
Customs House  
5 Constitution Avenue  
CANBERRA ACT 2601  
Ph: (02) 6275 5001  
Fax: (02) 6275 6376  
Email: tarcon@customs.gov.au

17 April 2008

s47F

I.W. Mcarthur Co Pty Ltd  
1<sup>st</sup> Floor. 200 Union Rd  
ASCOT VALE, VIC 3032

Dear s47F,

I refer to your application dated 10<sup>th</sup> of April 2008 for a Tariff Concession Order for Trigger Spray Gun Set.

Your application did not include the requisite Illustrative Descriptive Material (IDM) required by question 2 of the application.

In order to process your application we require you to provide the necessary IDM within 5 working days of today's date. Should you fail to provide the material by 2pm, 23<sup>rd</sup> of April 2008 consideration will be given to rejecting your application.

Should this occur you will be required to lodge a fresh application and you will lose your operative date.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Paul Coleman', followed by a long horizontal line.

Paul Coleman  
Manager  
Tariff Concessions

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Tarif Ref: 8424.81.00

Part 1 - Tariff Concessions

Description of Goods

SERAY NOZZLES, IRRIGATION EQUIPMENT

Chapter: 84

Op. to 31/12/9999

Dec. date 08/10/2003

- TC 0503880 50



## 20/- GARDEN ◀ SPRAY ▶ NOZZLES

The goods under consideration are the pistol type ◀ spray ▶ nozzles used to water the home garden.

Headings considered are:

- 8424.20 as similar appliances to a ◀ spray ▶ gun; and if that heading is not appropriate then,
- 8424.81 as a horticultural appliance, or
- 98429.89.90 as an other appliance.

The meeting had to first decide whether those types of ◀ spray ▶ nozzles ( often called ◀ spray ▶ guns) were a similar appliance to ◀ spray ▶ guns. The meeting decided that as the subject nozzles did not operate in the same fashion to a ◀ spray ▶ gun (ie not designed to be attached to compressed air lines or have a reservoir connected, for instance), nor did they perform the same function to a ◀ spray ▶ gun, then they could not be regarded as "similar" to a ◀ spray ▶ gun.

The meeting had then to decide whether the ◀ spray ▶ nozzles were a horticultural appliance. It was decided that since the ◀ spray ▶ nozzles were used in the cultivation of a garden (vegetable, flowers etc) then they could be regarded as a horticultural appliance. For that reason the ◀ spray ▶ nozzles are classified to Heading 8424/.81.00.

**Decision** - Pistol grip type garden ◀ spray nozzles are classified within Heading 8424.81.00.



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**Tariff Precedent Number :** 7112800

Type : 5 Date last Changed : 18/01/2006

Description of Goods : TOMS - Pistol grip type spray nozzles, often called "spray guns", which click on to a garden hose. These spray nozzles, which may incorporate a shut off mechanism, are used to water the home garden.

Heading : 8424.81.00

Inst No :

Reason : Identified as mechanical appliances for spraying liquids of heading 8424.

The spray nozzles are not regarded as similar appliances to a spray gun. They do not operate in the same manner as a spray gun i.e. they are not designed to be attached to compressed air or steam lines nor are they connected to a reservoir of the material to be projected. Also, they do not perform the same function as a spray gun.

As the spray nozzles are used in the cultivation of a garden, they are regarded as horticultural appliances.

(Decision taken at Tariff Officers' Meeting No. 14 - Adelaide - 26 - 28/05/92).

Advice Status : F Date : 24/06/1992

Changed Status : Date : Code :