

**From:** Kevin Lehmann [<mailto:kevin.lehmann@pandoalum.com.au>]

**Sent:** Friday, 7 February 2014 11:51 AM

**To:** Anti-Dumping Commission Client Support Team

**Subject:** Ant-Dumping Measures Exemption Inquiry Application

Anti-Dumping Commission Client Support Team  
Anti-Dumping Commission  
Customs House,  
5 Constitution Avenue,  
Canberra ACT 2601

To whom it may concern,

Our company P&O Aluminium (Sydney) Pty Ltd (ABN: 95 080 757 688) is a wholesaler and distributor of aluminium products and aluminium extrusions.

Our business would like to formally apply for an exemption from anti-dumping measures under subsections 8(7) and 10(8) of the Customs Tariff (Anti-Dumping) Act 1975.

The specific goods concerned;

7604.29.00 (09) ALUMINIUM EXTRUSION PROFILES, extruded, conforming to Australian Aluminium Specification 7005 T593 (AAS 7005 T593), having ALL

- (a) Minimum cross sectional dimension NOT less than 6mm and NOT greater than 450mm;
  - (b) Minimum ultimate tensile strength NOT less than 350 MPa;
  - (c) Minimum yield tensile strength NOT less than 300 MPa
- Op. 12.09.13                      Dec. date 09.12.13                      - TC 1331293

The specified country of origin/export; is China. DCR attached detailing the current measures applicable to the goods.

An exemption is being sought based on Exemption Two; a Tariff Concession Order (**TCO 1331293**) under Part XVA of the *Customs Act 1901* in respect of the goods is in force.

IDD and ICD measures for Aluminium Extrusions 7604.29.00 (09 & 10) were initially imposed on 29 October 2010.

As part of the TCO application (lodged 12.09.2013 and **approved 9.12.2013**), information provided included;

1. Details of the applicant
2. Contact person details
3. Contact details for all Australian manufacturers of aluminium extrusions
4. Evidence that all Australian producers had been contacted
5. Evidence that no Australian producers produced the goods as detailed above
6. Detail concerning the goods, their description and IDM
7. The application of the goods, and detail concerning no other goods produced locally being substitutable

As per the TCO application (attached),

Profiles extruded with 7005 alloy are used in structural applications such as beams, bars, ramps as well as bicycles, where a very high level of mechanical properties and strength is required and good fusion weld strength. Only simple shapes can be produced as it is a difficult alloy to extrude. It cannot be used as a general purpose alloy for architectural or marine applications due to the poor surface finish and corrosion sensitivity. Our purpose of the application is to develop and target this market. As an example -----, as it is the only one capable of providing the mechanical properties and very high strength required for the -----  
----- As confirmed in the TCO approval, substitutable goods are not produced in Australia.

Attached is a copy of the TCO application. The original application and appendix is with Tariff Concessions, Trade Policy and Implementation, Australian Customs and Border Protection Service.

As there appears to be no official application form for a Dumping Exemption Inquiry Application, could you please confirm if the information provided in this email, TCO Application Form and TCO Approval letter is sufficient to initiate this application.

Thanks and Best Regards,  
Kevin

**Kevin Lehmann**  
**General Manager**



Tel: (612) 9724 1568  
Fax: (612) 9724 5722  
Mobile: (61) 448 232 853  
Email: [kevin.lehmann@pandoalum.com.au](mailto:kevin.lehmann@pandoalum.com.au)  
Web: [www.pandoalum.com.au](http://www.pandoalum.com.au)

2 / 1-15 Bennett Street  
Chester Hill, NSW 2162  
Sydney, Australia

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⇒R. 20

**ALUMINIUM EXTRUSIONS  
EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA**

Measures

Anti-dumping measures in the form of interim dumping duty (IDD) and interim countervailing duty (ICD) have been imposed on aluminium extrusions exported from the Peoples Republic of China (China).

Description of the goods

The aluminum extrusions covered by measures:

- are produced by an extrusion process;
- are of alloys having metallic elements falling within the alloy designations published by The Aluminium Association commencing with 1, 2, 3, 5, 6 or 7 (or proprietary or other certifying body equivalents);
- have finishes being:
  - as extruded (mill);
  - mechanical;
  - anodized; or
  - painted or otherwise coated, whether or not worked;
- have a wall thickness or diameter greater than 0.5 mm;
- have a maximum weight per metre of 27 kilograms; and
- have a profile or cross-section fitting within a circle having a diameter of 421 mm.

Goods subject to measures should be classified using the tariff sub-headings and associated statistical codes contained in Table 1.

**Table 1 - The tariff subheadings and statistical codes subject to measures**

<b>Tariff subheading</b>	<b>Statistical codes</b>
7604.10.00	06
7604.21.00	07, 08
7604.29.00	09, 10
7608.10.00	09
7608.20.00	10
7610.10.00	12
7610.90.00	13

Exempt exporters

There is one exporter exempt from both IDD and ICD: Tai Ao Aluminium Tai Shan Co Ltd (Tai Ao). Exemption type 'SUPPLIER' applies to aluminium extrusions manufactured by Tai Ao and either exported directly by Tai Ao or supplied through Phoenix Endeavour Ltd.

There is one exporter exempt from IDD only: Guangdong Zhongya Aluminium Company Limited (Guangdong Zhongya formerly known as Zhaoqing New Zhongya Aluminium Co Ltd). ICD will apply to aluminium extrusions manufactured by Guangdong Zhongya and either exported directly by Guangdong Zhongya or supplied through Zhongya Shaped Aluminium HK Holding Ltd.

All other exporters are subject to IDD and ICD measures as advised in Table 3 below.

Dates of Effect

IDD and ICD were initially imposed on 29 October 2010 and were last revised on 27 August 2011.

⇒The IDD and ICD applying to the two exporters listed below were amended on 11 October 2013 following a recent Federal Court decision:

- Tai Shan City Kam Kiu Aluminium Extrusion Co Ltd (Kam Kiu); and
- Panasia Aluminium China (Panasia).

⇒Reflecting the Federal Court Orders, the changes to the anti-dumping measures only relate to aluminium extrusions exported by Kam Kiu and Panasia. No changes have been made the anti-dumping measures applicable to other Chinese exporters of aluminium extrusions. Australian Dumping Notice (ADN) 2013/80 provides further information to assist affected importers and Customs brokers.

⇒Change 11/10/2013

**ALUMINIUM EXTRUSIONS  
EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA**

Identifying the goods subject to measures

Table 2 provides guidance to importers and brokers to assist in the categorisation of aluminium extrusions into the types covered by interim duties (GUC), and those not covered (Non GUC). In most cases, extrusions classified to headings 7604 or 7608 would be subject to IDD and/or ICD. Importers should use the table to categorise their goods and decide whether dumping and countervailing duties apply.

**Table 2: - The goods covered by measures**

< Goods Under Consideration (GUC) >				< Non GUC >		
1	2	3	4	5	6	7
Aluminium extrusions	Aluminium extrusions with minor working	Aluminium extrusions that are parts intended for use in intermediate or finished products	Aluminium extrusions that are themselves finished products	Unassembled products containing aluminium extrusions	Intermediate or partly assembled products containing aluminium extrusions	Fully assembled finished products containing aluminium extrusions
<b>&lt; Examples &gt;</b>						
Mill finish, painted, powder coated, anodised, or otherwise coated aluminium extrusions	Precision cut, machined, punched or drilled aluminium extrusions	Aluminium extrusions designed for use in a door or window	Carpet liner, fence posts, heat sinks	Kits that, at time of import, comprise <b>all</b> necessary parts to assemble finished goods. For example, shower frame kits, window frame kits, unassembled unitised curtain walls	Unglazed window or door frames	Windows, doors

⇒ Direction for collection of IDD and ICD

Goods subject to the measures must be entered using the relevant dumping specification number (DSN) for the nominated exporter/supplier as shown in Table 3 and the export price terms shown in Table 4.

**PLEASE NOTE:** *The All Other Exporter rate of ICD and/or IDD will apply unless an importer/broker can provide proof that the goods are being supplied either directly by a named exporter or through a linked supplier(s).*

The IDD is in the form of a **fixed + variable** measure. The IDD liability is calculated as follows:

- the dumping export price (DXP) or ascertained export price (AEP), whichever is the greatest, multiplied by the IDD ad valorem duty rate; **Plus**
- the amount, if any, by which the DXP is lower than the AEP.

The ICD is in the form of a **fixed** measure. The ICD liability is calculated by

- multiplying the DXP by the ICD ad valorem duty rate.

⇒ Release of details of measures

Unless otherwise advised, the ICD and/or IDD rate and the AEP for each DSN in Table 3 are considered Confidential and will not be published.

Bona fide importers of the goods may be provided with the confidential information relevant to a nominated exporter/supplier or country in the case country wide measures.

The onus is on the importer to prove their bona fides by providing evidence of either:

- a previous trading history with a nominated exporter/supplier of the goods from a country subject to dumping/countervailing measures. Evidence of a trading history would take the form of at least commercial invoices, packing list and bills of lading from previous shipments. the Anti-Dumping Commission (Commission) may also request additional documentation as proof of an importer's bona fides; or
- in the absence of a trading history, an offer or a quotation from an exporter/supplier of goods subject to dumping/countervailing measures. The offer or quotation must be on the exporter/supplier's company letterhead – emails will not generally be accepted.

⇒ R. 25

**ALUMINIUM EXTRUSIONS  
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Importers should note that only as much of the confidential information as is necessary to enter the goods will be provided by Commission or Customs and Border Protection officers.

Australian Customs Dumping Notice (ACDN) 2012/61 provides further information to assist importers and Customs brokers.

Customs and Border Protection will conduct monitoring of imports consistent with its published policy.

⇒ **Table 3 – Exporters and DSN**

Exporter	CCID	Finish	Measure	DSN
Exempt exporter				
Tai Ao Aluminium Tai Shan Co Ltd Supplied directly or through Phoenix Endeavour Ltd	CCE6997349W CCF9494397L CCG3779374P CCG6436934M CCX4494337G CCY7374367R	All types	Exempt IDD & ICD	
Exporters covered by interim countervailing and/or dumping duties				
Guangdong Zhongya Aluminium Company Limited (Formerly known as Zhaoqing New Zhongya Aluminium Co Ltd) Supplied directly or through Zhongya Shaped Aluminium HK Holding Ltd	CEL9644346C CCW6474494R CCE3446434L	Mill	ICD only	31
		Anodised	ICD only	32
		Powder coated	ICD only	33
		Other	ICD only	34
Guangdong Jinxicheng Al. Manufacturing Co., Ltd	CEL4673763R	Mill	DSA only	71
		Anodised	DSA only	72
		Powder coated	DSA only	73
		Other	DSA only	74
⇒Tai Shan City Kam Kiu Aluminium Extrusion Co Ltd Supplied directly or through Kam Kiu Aluminium Products Sdn Bhd	CCE7444964M	All types	IDD & ICD	⇒75
⇒Panasia Aluminium China Supplied directly or through Panasia Aluminium (Macao Commercial Offshore) Ltd Or Opal Macao Commercial Offshore Limited	CCP7733374Y CCT9974764M CEA4736366H CCX3667779Y	All types	IDD & ICD	⇒76
Wuxi Xisha Photoelectric Aluminium Products Co Ltd	CCT9979499R	Mill	IDD & ICD	55
		Anodised	IDD & ICD	56
		Powder coated	IDD & ICD	57
		Other	IDD & ICD	58
Residual exporters (Group 1) See Table 5 for list of exporters and associated suppliers		Mill	IDD & ICD	42
		Anodised	IDD & ICD	43
		Powder coated	IDD & ICD	44
		Other	IDD & ICD	45
Residual exporters/suppliers (Group 2) See Table 6 for list of exporters and associated suppliers		Mill	IDD & ICD	46
		Anodised	IDD & ICD	47
		Powder coated	IDD & ICD	48
		Other	IDD & ICD	49
All other exporters		Mill	IDD & ICD	50
		Anodised	IDD & ICD	51
		Powder coated	IDD & ICD	52
		Other	IDD & ICD	53

⇒ Change 11/10/2013

**ALUMINIUM EXTRUSIONS  
EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA**

**Table 4 – Interim Duty Rates and Ascertained Export Price**

DSN	ICD/CSA ad valorem rate	IDD/DSA ad valorem rate	Ascertained export price A\$/kg	Export price terms
31-34	Confidential	N/A	N/A	FOB, cash
42-53	Confidential	Confidential	Confidential	FOB, cash
55-58	Confidential	Confidential	Confidential	FOB, cash
⇒71-76	Confidential	Confidential	Confidential	FOB, cash

**Table 5 – Residual Exporters (Group 1)**

Exporter	Supplied by	CCID
Alnan Aluminium Co., Ltd	Same	CCK7697673M
Beijing General Research Institute For Non Ferrous Metals	Same	CCC6793964J
Cosco (J.M) Aluminium Development Co., Ltd	Same	CCJ7747734W
Foshan Guang Cheng Aluminium Co. Ltd.	Same	CCM9936747Y
Foshan Sanshui Fenglu Aluminium Company Limited	Same	CCH4996939T
Fujian Minfa Aluminium Co Ltd	Same	CCJ3676734G
Golden Power Co , Ltd.	Same	CCT6336447T
Guangdong Huachang Aluminium Factory Co , Ltd	Same	CCJ6397766Y
Guangdong Jianmei Aluminium Profile Factory Co., Ltd	Same	CCE3676336W
Guangdong Weiye Aluminium Factory Co., Ltd.	Same	CCK6394664G
Guangdong Xingfa Aluminium Company Limited	Same	CCL4663433G
Guang Ya Aluminium Industries Co., Ltd	Same	CCT3446763W
Hydro Aluminium (Suzhou) Co., Ltd	Same	CCK6499693N
Jiangyin East-China Aluminium Technology Co., Ltd	Same	CCR3493934E
Kingle Aluminium Technology Stock Co., Ltd	Same	CCN9463949N
New Hocha Aluminium Industry Co., Ltd	Same	CCH6364363W
Penglai Sanling Locks Co., Ltd	Same	CCJ6493494N
Pmh Aluminium Extrusion Co., Ltd	Same	CCT3343446N
Press Metal International Ltd	Same	CCK6444394Y
Shanghai Unison Aluminum Products Co., Ltd	Same	CCN7639666A
Silver 100 Aluminium Innovation (Guangdong) Limited	Same	CCP6336366K
Taishan Golden Gain Aluminium Products Limited	Same	CCT6669669E
Yangjiang Kitsen Construction Hardware Co., Ltd	Same	CCL9367664H

**Table 6 – Residual Exporters/Suppliers (Group 2)**

Exporter	Supplied by	CCID
Foshan JMA Aluminium Co., Ltd	JMA HK Company Limited	CCG6634366G
Guangdong Jianmei Aluminium Profile Factory Co., Ltd	JMA HK Company Limited	CCG6634366G
Shandong Nashan Aluminium Co Ltd	Longkou Donghaitrade Co , Ltd	CCG6773466A
Shandong Nashan Aluminium Co Ltd	Yantai Jintai International Trade Co., Ltd	CCY9793677N
Foshan Nanhai Yongfeng Aluminium Co., Ltd	Nanhai Textiles Import & Export Company of Guangdong	CCC9746446H
Foshan Nanhai Yongfeng Aluminium Co., Ltd	Guangdong Nanhai Foodstuffs Import and Export Co	CCE9743373N
Fujian Longyan Lianfa Aluminium Co. Ltd	Xiamen Hongchi Trade Co. Ltd	CCH4999466L
Fujian Yongchun Chuangheng (Shaungheng) Aluminium	Xiamen Hongchi Trade Co. Ltd	CCH4999466L
Fuzhou TCI Corporation	Taiwan Viva Corporation	CCH9649773F
Taishan Golden Gain Aluminium Products Limited	Innovative Aluminium (Hong Kong) Ltd	CCY3643469W
Taishan Golden Gain Aluminium Products Limited	Centor Architectural Nanjing Limited	CEG3697439P
Fujian Minfa Aluminium Co Ltd	Shanghai Asia Foreground International Trade Co Ltd	CCM3366499G



Australian Government

Australian Customs and  
Border Protection Service

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Folio 11

Reply to the Chief Executive Officer

Quote: TC 1331293

Your Ref:

Australian Customs and  
Border Protection Service  
Customs House  
5 Constitution Avenue  
CANBERRA ACT 2601  
Ph: (02) 6275 6666  
Fax: (02) 6275 6376  
Email: tarcon@customs.gov.au

09 December 2013

Ms Jackie Li  
Success Logistics  
PO Box 1478  
WERRIBEE VIC 3030

Dear Ms Li,

**TARIFF CONCESSION SYSTEM**  
**APPLICATION SUCCESSFUL**

I refer to your application for Tariff Concession Order (TCO) Number TC 1331293 lodged on 12 September 2013.

As a delegate of the Chief Executive Officer I am satisfied that the application meets the core criteria on the basis of section 269C of the *Customs Act 1901* and have accordingly made a written Tariff Concession Order.

The decision to make a TCO will be published in Gazette Number TC13/49 of 11 December 2013.

The TCO, as detailed in the attachment, will also be published in the Schedule of Concessional Instruments as soon as possible.

Yours sincerely,

David MULCAIR  
Delegate of the Chief Executive Officer

NON CONFIDENTIAL

Description of the Particular goods including the applicable subheading of the Customs Tariff	Schedule 4 Item Last day of effect
<p>7604.29.00 ALUMINIUM PROFILES, extruded, conforming to Australian Aluminium Specification 7005 T593 (AAS 7005 T593), having ALL of the following:</p> <ul style="list-style-type: none"><li>(a) minimum cross sectional dimension NOT less than 6 mm and NOT greater than 450 mm;</li><li>(b) minimum ultimate tensile strength NOT less than 350 MPa;</li><li>(c) minimum yield tensile strength NOT less than 300 MPa</li></ul> <p>Op. 12.09.13                      Dec. date 09.12.13                      - TC 1331293</p>	50





**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](http://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.

### 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.

### 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](http://www.customs.gov.au); by e-mailing [tarcon@customs.gov.au](mailto: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: P&O Aluminium (Sydney) Pty Ltd	Australian Business Number (A.B.N): 95 080 757 688
Postal Address: PO Box 573, Chester Hill NSW 2162	
Applicant's Reference: PO1082013	Company Contact: Kevin Lehmann
Telephone Number: 02 9724 1568	Position Held: General Manager
Mobile Telephone Number: 0448 232 853	Email Address: kevin.lehmann@pandoalum.com.au
Facsimile Number: 02 9724 5722	

*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): as above
Postal Address: as above	
Importer's Reference: as above	Company Contact: as above
Telephone Number: as above	Position Held: as above
Mobile Telephone Number: as above	Email Address: as above
Facsimile Number: as above	

**AGENT/BROKER DETAILS (if applicable)**

Agent's Name: Success Logistics	Australian Business Number (A.B.N): 70 135 224 261
Postal Address: PO Box 1478 Werribee, VIC 3030	
Agent's Reference: PO1082013	Agency Contact: Jackie Li
Telephone Number: 03 9364 8823	Position Held: Managing Director
Mobile Telephone Number: 0423 563 024	Email Address: jackie@successlogistics.com.au
Facsimile Number: 03 9364 8825	

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](http://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.**

1. Aluminium extrusion profiles produced to AA Specification 7005 T593 having ALL of the following: (a) minimum cross sectional dimension of not less than 6mm and not greater than 450mm. (b) minimum Ultimate Tensile Strength of 350 MPa and Minimum Yield Tensile Strength of 300 MPa

**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.**

Profiles extruded with 7005 alloy are used in structural applications such as beams, bars, ramps as well as bicycles, where a very high level of mechanical properties and strength is required and good fusion weld strength. Only simple shapes can be produced as it is a difficult alloy to extrude. It cannot be used as a general purpose alloy for architectural or marine applications due to the poor surface finish and corrosion sensitivity.

### 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.

As a member of the Australian aluminium extrusion industry for the last 15 years I have detailed knowledge of every aluminium extrusion manufacturing company in Australia and every extrusion press. Please see appendix B for the full list.

#### 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](http://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: Australianmade

Search terms used in database: aluminium extrusion manufacturers. See Appendix C

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

#### 2 - Name of database: Google

Search terms used in database: aluminium extrusion manufacturing companies in Australia. See Appendix D

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: aluminium extrusion manufacturers. See Appendix E

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.

Australian Aluminium Council. See Appendix F.

**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 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:** G. James Glass and Aluminium. PO Box 1376 Eagle Farm QLD 4009

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:** Extrusions Australia. 25-28 Andretti Court Truganina VIC 3026

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:** Aluminium Profiles Australia. 25-31 Licola Crescent Dandenong South VIC 3175

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:** Capral Aluminium. PO Box 768 Booval Fair QLD 4304. Appendix G

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'.*

I have contacted every aluminium extrusion company (please see letters in Appendix G sent by Registered Post) requesting their advice as to whether they were capable of producing the detailed goods or substitutable goods. Of the 8 companies contacted, 7 did not respond, and the only respondent (-----) indicated their inability to produce the goods as detailed or substitutable goods.

Appendix H refers to the capabilities of all listed extrusion companies as detailed on their respective web sites.

None of the companies listed promotes being capable of extruding with this alloy.

Different aluminium alloys have very specific characteristics due to the alloying element being used. (refer Appendix A). There are certain applications and customers where a specification exists for chemical or mechanical properties, meaning that extrusions made from other alloys are not substitutable. As an example a-----, as it is the only one capable of providing the mechanical properties and very high strength required for the application -----.

Reference could also be made to TCO examples; TC 0603701, TC 0603700, TC 9308649, TC0603728



**APPLICANT'S DECLARATION**

I, Kevin Lehmann

Position Held General Manager

Company: (if applicable) P&amp;O Aluminium (Sydney) Pty Ltd.

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;
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 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](mailto: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 *Customs Act 1901* 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 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: / /

**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](mailto: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:
- the goods are wholly or partly manufactured in Australia; and
  - not less than  $\frac{1}{4}$  of the factory or works costs of the goods is represented by the sum of:
    - the value of Australian labour; and
    - the value of Australian materials; and
    - 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:
- operations to preserve goods during transportation or storage;
  - operations to improve the packing or labelling or marketable quality of goods;
  - operations to prepare goods for shipment;
  - simple assembly operations;
  - 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*:
- direct that the factory or works cost of goods is to be determined in a specified manner; and
  - 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:
- references in those provisions to regulations were references to directions; and
  - 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.