



6 September 2015

Director Operations 4
Anti-Dumping Commission
55 Collins Street
Melbourne VIC 3000

by email to operations4@adcommission.gov.au

Exemption Inquiry EX0038: Response to applicant

This submission is made on behalf of Capral Limited, a member of the Australian aluminium extrusion industry, in relation to exemption inquiry EX0038 concerning the request for exemption from anti-dumping measures on aluminium extrusions made by SRB Systems Pty Ltd (SRB). We specifically refer to the recent submission from SRB placed on the EPR on 24 August 2015.

Capral continues to object to the granting of an exemption on both grounds as outlined below.

Like or directly competitive goods

In its submission SRB admits that identical goods are produced in Australia by Capral. The identical goods produced by Capral are clearly like goods to the exemption goods.

SRB then claims that the like goods are not offered for sale to all purchasers on equal terms under like conditions because Capral can only produce the goods for ITW Australia Pty Ltd (ITW), which owns the intellectual property rights in Australia. The *Customs Tariff (Anti-Dumping) Act 1975* (Dumping Duty Act) specifies that the Minister must have regard to the custom and usage of trade in the particular industry concerned. Capral has previously explained that the production of exclusive shapes for customers is standard in the industry and if Capral's customer is not satisfied with the terms and conditions of sale it can switch to another extruder to produce its profiles.

Furthermore, the terms of the Dumping Duty Act do not specify that the producer of the like goods must sell them to all purchasers, only that they are offered for sale to all purchasers. ITW purchases *Spartan Sideform* extrusions and extensions from Capral and then sells them into the Australian market (via its subsidiary Reid Pty Ltd). ITW advertises these products on the internet,¹ and SRB has not claimed that the products are not freely available in Australia.

¹ http://www.reid.com.au/Reid_Services/Reid_products/Formwork2/Spartan/SpartanSF.aspx

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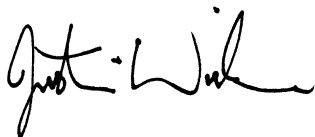
In summary it is clear the conditions of paragraphs 8(7)(a) and 10(8)(a) have not been met on the basis that:

- like goods are produced in Australia by Capral; and
- these goods are offered for sale in Australia to all purchasers on equal terms under like conditions.

Samples for the sale of similar goods

SRB claims that the goods imported for the use as samples have no practical commercial use because they are only in lengths of 300 mm to 600 mm. We note that the exemption goods as described in Anti-Dumping Notice No. 2015/65 do not specify these lengths. SRB has requested exemption for all *Spartan Sideform* extrusions and extensions, which are already produced by Capral and available for purchase in Australia, as outlined above.

To grant a broad exemption for all goods on the basis of their use as samples opens the anti-dumping system to potential abuse, as it would be very difficult for the Department of Immigration and Border Protection to assess at the time of importation the intended use that particular goods will ultimately be put. It is our opinion that the samples exemption under the Dumping Duty Act should only be granted in relation to a particular shipment of goods prior to their importation, following an assessment by the Anti-Dumping Commission that it is satisfied that the goods in that particular shipment are only for use as samples for the sale of similar goods.



Justin Wickes
Director