

# RESPONSE TO APPLICATIONS FOR EXEMPTION FROM DUTY UNDER THE CUSTOMS TARIFF (ANTI-DUMPING) ACT 1975

Exemption inquiry EX0049 – response requested by 8 May 2017

## 1 Introduction

The Anti-Dumping Commission (the Commission) requests your response to an application for exemption from anti-dumping and countervailing measures under the *Customs Tariff (Anti-Dumping) Act 1975* (the Dumping Duty Act).

Sections 8(7) and 10(8) of the Dumping Duty Act allow the Minister to exercise discretion to exempt goods from measures, where he or she is satisfied that like or directly competitive goods are not offered for sale in Australia to all purchasers on equal terms under like conditions having regard to the custom and usage of trade.

The Commission has received an application for exemption from anti-dumping and countervailing measures in respect of certain aluminium extrusions for the goods described at section 5 of this form ('the exemption goods').

You have been identified from the Commission's investigation in respect of certain aluminium extrusions as an Australian producer of the goods.

The Commission seeks your assistance in this exemption inquiry by responding to the questions in this questionnaire. The Commission will use the information you provide in its assessment as to whether an exemption from dumping and countervailing duty may be recommended to the Parliamentary Secretary to the Minister for Industry, Innovation and Science (as the relevant delegate of the Minister)<sup>1</sup>.

## 2 Measures on certain aluminium extrusions

Anti-dumping measures, in the form of a dumping duty notice and a countervailing duty notice, were initially imposed on certain aluminium extrusions by public notice on 28 October 2010 by the Parliamentary Secretary following consideration of the Anti-Dumping Commission Report No. 148 (REP 148). These measures apply as follows:

- a dumping duty notice in respect of aluminium extrusions exported by all exporters from China (other than Tai Ao Aluminium Tai Shan Co Ltd); and
- a countervailing duty notice in respect of aluminium extrusions exported by all exporters from China (other than Tai Ao Aluminium Tai Shan Co Ltd).

Following a review by the then Trade Measures Review Officer, the Anti-Dumping Commission (the Commission) conducted a reinvestigation into certain findings made in REP 148. The results of that reinvestigation, including the findings affirmed and new findings are set out in *International Trade Remedies Report to the Minister No. 175*.

In August 2015, the Commission announced the outcome of a review of the measures, as set out in *Anti-Dumping Commission Report No. 248 (REP 248)*.

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<sup>1</sup> On 19 July 2016, the Prime Minister appointed the Parliamentary Secretary to the Minister for Industry, Innovation and Science as the Assistant Minister for Industry, Innovation and Science. For the purposes of this inquiry the Minister is the Parliamentary Secretary to the Minister for Industry, Innovation and Science.

In October 2015, the Parliamentary Secretary, after considering *Anti-Dumping Commission Report No. 287*, decided that the anti-dumping measures applying to certain aluminium extrusions exported to Australia from the People's Republic of China should continue to be in force for a further five years. The measures arising from the review of measures (REP 248) continued to apply.

### **Application for Exemption from Measures**

An application for exemption has been made to the Commission by Blackhawk Aviation Pty Ltd, an importer of certain aluminium extrusions from China.

The Commission has considered the application and after consultation with the applicant, accepted the application and will now undertake an examination of the application to determine whether it should recommend the requested exemption.

### **3 Exemption Provisions**

The Dumping Duty Act allows the Parliamentary Secretary to exercise his or her discretion to exempt goods from dumping and/or countervailing duties.

The exemption category being sought is under subsections 8(7)(a) and 10(8)(a) of the *Customs Tariff (Anti-Dumping) Act 1975* (Dumping Duty Act). Under these provisions the Parliamentary Secretary may exempt goods from dumping and countervailing duties where satisfied:

‘that like or directly competitive goods are not offered for sale in Australia to all purchasers on equal terms under like conditions having regard to the custom and usage of trade.’

We note that these exemption provisions are subject to the discretion of the Parliamentary Secretary and are not automatically granted where the criteria set out in the provision are met.

### **4 The goods subject to the exemption application (‘the exemption goods’)**

The exemption goods of the inquiry are extruded aluminium tubes manufactured from aluminium alloy designation 6061 with a T6 temper designation, with the following dimensions:

- outside diameter of 140 millimetres (mm);
- wall thickness of 1.8 mm; and
- length of 5000 mm.

The applicant further advised that the exemption goods are used to manufacture wing spars for recreational aircraft.

The exemption goods are classified to the following tariff subheadings of Schedule 3 to the *Customs Tariff Act 1995*:

7608.20.00 [statistical code 10] - These goods are subject to 4% Customs duty for goods imported from China.

### **Goods produced in Australia**

The applicant claims that like or directly competitive goods are not offered for sale in Australia to all purchasers on equal terms under like conditions having regard to the custom and usage of trade.

In particular, the applicant claims that the Australian Industry does not produce certain aluminium extrusions for aviation applications, including the exemption goods.

## **5 Instructions on completing this 'Response to the Exemption Application'**

The Commission's original investigation identified your company as an Australian producer of certain aluminium extrusions.

Consequently, the Commission has forwarded you this 'response to exemption application' (the response) to provide you with the opportunity to participate in this exemption inquiry.

### **Due date for the response**

We request that you complete your response and return it to the Commission by no later than the close of business on **8 May 2017**.

Responses may be lodged either by mail or by email to the following.

Director Operations 5  
Anti-Dumping Commission  
Level 7  
Industry House  
10 Binara Street  
Canberra, ACT  
2600 Australia

*or*

Email: [operations5@adcommission.gov.au](mailto:operations5@adcommission.gov.au)

### **Verification of the information that you supply**

The Commission may seek to verify some all of the information supplied in the response. The Commission may request evidence to support the claims such as quotations and offers of sale.

An onsite visit by the Commission may be required in some cases. A report will be prepared of visits conducted and a non-confidential version will be placed on the public record.

There is no legislative timeframe for completion of an exemption inquiry, however a recommendation to the Parliamentary Secretary will be made as soon as practicable after obtaining all relevant information.

### **Confidential and non-confidential submissions**

We request that you also lodge a non-confidential version of your response suitable for placement on the public record. The Commission puts greater weight on submissions that are available to other interested parties for comment.

Please ensure that each page of information you provide is clearly marked either "FOR OFFICIAL USE ONLY" or "PUBLIC RECORD".

All information provided to the Commission in confidence will be treated accordingly. The non-confidential version of your submission will be placed on the public record.

## Outline of information required by the response

Please provide separate responses to Parts B – D as applicable.

<b>Part A</b>	Company contact information
<b>Part B</b>	Response to exemption application
<b>Part C</b>	Additional comments
<b>Part D</b>	Your declaration

## Response to Exemption Application

### PART A – Company contact information

**A.1** Please provide the following company contact information;

Name:	Capral Limited Luke Hawkins
Address:	Level 4, 60 Phillip St, Parramatta, NSW , 2150
Telephone:	02 8222 0113
Facsimile number:	02 8222 0130
E-mail address of contact person:	<a href="mailto:Luke.hawkins@capral.com.au">Luke.hawkins@capral.com.au</a>

### PART B – Response to exemption application

#### B.1

Does your company oppose or not consent to the request for an exemption?

No it does not oppose providing the Exemption description remains as per the ADN, being all of the below conditions.

- Aluminium Alloy 6061
- Temper T6
- Outside diameter of 140mm
- Wall thickness of 1.8mm
- Length 5000mm

### PART C – Additional Comments

#### C.1

### PART D – Declaration

I hereby declare that \_\_Luke Hawkins on behalf of Capral Limited\_\_ has completed the attached response to application for exemption and, having made due inquiry, certify that the information contained in this submission is complete and correct to the best of my knowledge and belief.

**Name** : **Luke Hawkins**

**Date** : **26-04-2017**