

4 June 2015

Dale Seymour
Anti-Dumping Commissioner
email: operations3@adcommission.gov.au

Dear Mr Seymour,

Re: Dumping duties on solar PV mounting kits

The Clean Energy Council (CEC) is the peak body for the clean energy industry in Australia. We represent and work with hundreds of leading businesses operating in solar, wind, energy efficiency, hydro, bioenergy, energy storage, geothermal and marine along with more than 4000 solar installers. We are committed to accelerating the transformation of Australia's energy system to one that is smarter and cleaner.

I am writing in response to the Statement of Essential Facts (SEF) for the review of anti-dumping measures for "certain aluminium extrusions" (EPR248). As you may be aware, aluminium extrusions are used extensively in mounting kits for solar PV systems. The volume of aluminium extrusions used in this way has grown significantly over the last five years, in line with the rapid growth of the solar PV industry in Australia. Solar PV mounting kits were not explicitly considered in 2010 when dumping duties were approved on certain aluminium extrusions and there is no tariff code for aluminium extrusions used for solar PV mounting. This has led to a number of issues of significant concern for the solar PV industry.

The current review of the anti-dumping measures for certain aluminium extrusions provides an opportunity to address the causes of concern for the solar PV industry. The attached submission explains the issues from the perspective of Australia's solar PV industry and proposes some possible approaches to resolving the issues of concern.

I would be pleased to provide a more detailed briefing to your officials on any or all of these issues.

Yours sincerely,

Darren Gladman
Policy Manager

Submission to SEF 248 in relation to Solar PV Mounting Kits

Background

There are a range of complex issues associated with the dumping duties applied to aluminium extrusions. In view of the complexity of the processes and the issues involved we will commence with a brief explanation of the situation as we currently understand it.

On 21 October 2010 the then Attorney-General approved dumping duties on certain aluminium extrusions exported to Australia from the People's Republic of China. The description of the 'Goods Under Consideration' (GUC) was open to interpretation, particularly in relation to the level of fabrication or value-adding that may occur before goods are considered to exceed its scope. An Issues Paper proposed the following interpretation of the GUC:

< 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, e.g. 'kits' that at time of import comprise all necessary parts to assemble finished goods	Intermediate or partly assembled products containing aluminium extrusions	Fully assembled finished products containing aluminium extrusions
< Examples >						
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	Shower frame kits, window kits, unassembled unitised curtain walls	Unglazed window or door frames	Windows, doors

Table 1 - Goods under Consideration

The Statement of Essential Facts (SEF 248) notes that the review of anti-dumping measures for certain aluminium extrusions has also relied on Table 1.

SEF 248 further notes that the goods subject to the measures may be classified to the following subheadings in Schedule 3 of the *Customs Tariff Act 1995*:

7604.10.00/06	non alloyed aluminium bars, rods and profiles;
7604.21.00/07	aluminium alloy hollow angles and other shapes;
7604.21.00/08	aluminium alloy hollow profiles;
7604.29.00/09	aluminium alloy non hollow angles and other shapes;
7604.29.00/10	aluminium alloy non hollow profiles;
7608.10.00/09	non alloyed aluminium tubes and pipes;
7608.20.00/10	aluminium alloy tubes and pipes;
7610.10.00/12	doors, windows and their frames and thresholds for doors
7610.90.00/13	Other

Table 2 – aluminium extrusions tariff classifications

On 14 April 2014 the Anti-Dumping Commission commenced an anti-circumvention inquiry into the avoidance of the duty on certain aluminium extrusions. On 19 February 2015 the Anti-Dumping Commissioner declared a new ‘variable factor’ for aluminium extrusions exported from China from PanAsia. The changes resulted in an increase in the effective rate of combined interim duty from 10.1% to 57.6%, to be applied retrospectively to extrusions exported by PanAsia to five named importers and prospectively to all aluminium extrusions exported by PanAsia.

Dumping duties on aluminium extrusions are due to expire in October 2015. The Anti-Dumping is currently undertaking a Continuation Inquiry to determine whether there is a case for extending the provisions on aluminium extrusions. SEF 248 has proposed a new set of weighted average dumping margins, not just for PanAsia but for all importers of aluminium extrusions from China to Australia.

Issues for the solar PV industry

CEC proposes that solar PV mounting kits (whether unassembled, partly assembled or fully assembled) should be excluded from the Goods Under Consideration for this review.

If solar PV mounting kits are not excluded from the Goods Under Consideration then in order to assist the industry and reduce potential for misunderstanding, solar PV mounting kits should be allocated their own tariff classification, just like doors, windows and their frames and thresholds for doors have been allocated a specific tariff classification.

Given that other kits have been excluded from Goods Under Consideration, there would appear to be no good reason why the same treatment should not be extended to solar PV mounting kits. If the Anti-Dumping Commission has implicitly assumed that solar PV mounting kits would be treated in this way, then it would greatly clarify matters if the Commission were to explicitly state that this would be the Commission’s preferred approach. It would be far preferable for the Anti-Dumping Commission to explicitly state

its views on the treatment of solar PV mounting kits, rather than leaving this matter to future interpretation by Customs.

Several importers of solar PV racking have recently been investigated by Customs for possible avoidance of dumping duties. We do not propose to comment on the details of individual cases. However, we would strongly advocate that the Anti-Dumping Commission take steps to make clear its views on the preferred treatment for solar PV mounting so that in future importers are not required to interpret the ruling and hope that their interpretation is consistent with any future interpretations that Customs might make.

In a submission to Inquiry 241 made on behalf of Capral Limited (dated 3 July 2014) Wickes & Associates submitted that in order to qualify for an exclusion, “imports must, at the time of import, comprise all necessary parts to assemble finished goods”. The same points were reiterated in a submission to Review 248 also made on behalf of Capral Limited (dated 18 July 2014). The Anti-Dumping Commission should be aware that even if it were to accept that recommendation in principle, applying it in practice is not always a straightforward matter. Solar PV systems are more often than not retrofitted to established homes and there will always be some degree of bespoke fabrication and fitting required. While it might be possible to ensure that most necessary parts are shipped together, it would not be a simple matter to ensure that all necessary parts are concurrently shipped.

It is difficult to understand why there is an insistence that all parts of a kit should be shipped together. Most importers would look to ship components in the most efficient and cost effective way, which might mean splitting some components across different containers. It seems odd that the way that containers are packed should be a matter of concern for the Anti-Dumping Commission. Surely there is a better way to achieve the intent of the Anti-Dumping Commission’s recommendations. Regulating the way that containers are packed seems heavy-handed and quite an arcane approach to regulation.

Compounding the difficulties faced by importers is the fact that there is no tariff code for solar PV mounting kits, whether they are fully, partly assembled or disassembled. A tariff code for solar PV mounting kits would assist with eliminating the confusion associated with importing solar PV mounting kits and would, we hope, avoid any perceived requirement to regulate the way that solar PV mounting kits are shipped.

Key Recommendations

Solar PV mounting kits (whether unassembled, partly assembled or fully assembled) should be excluded from the Goods Under Consideration for this review.

The Anti-Dumping Commission and/or Customs should find an alternative to regulating the way in which containers are packed. There must surely be a more efficient way of identifying the components of an unassembled solar PV mounting kit.

If solar PV mounting kits are not excluded from the Goods Under Consideration then consider whether allocating a specific tariff code to solar PV mounting kits would be a more effective than regulating the way that containers are packed as a means to achieving the policy intent underlying the Commissioner's final recommendations.

