

Heslop Consulting

Business Development and Strategy
Anti-dumping Specialists
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1 July 2015

Dale Seymour

Anti-Dumping Commissioner

email: operations3@adcommission.gov.au

No Confidential Version

Dear Mr Seymour,

Re: SEF 248 Australian Extruder Response to Clean Energy Council Submission on Solar PV Mounting “Kits”

A significant Australian aluminium extrusion manufacturer has engaged Heslop Consulting Pty Ltd to respond to and oppose the Clean Energy Council’s (CEC) request dated 4 June 2015¹ for special treatment of so-called solar mounting “kits” comprising mainly (80%+) simple lengths of aluminium extrusions with a small assortment of brackets and screws, in a variety of configurations including “extrusion kits”. In fact, the industry also offers a product called a “rail rack kit”² (refer Appendix 2), which according to the CEC must be a “kit within a kit” but in reality just a couple of cut-to-length extrusions, definitely Goods under Consideration (GUC), that could potentially have been imported as “kits”.

As the consultant engaged by the industry in the original antidumping and countervailing case, we highlighted in 2009 and 2010 the potentials for circumvention of duties and consequent continuing material injury that would arise from Customs and Border Protection Services’ (Customs) categorisation of GUC into the broad headings shown in Appendix 1.

There is little doubt that key Chinese exporters, importers, intermediaries, customs agents, advisers, and brokers were well aware of the risks involved for importers who may have deliberately misclassified goods for the express purpose of avoiding dumping and countervailing duties. Such activity materially injures Australian industry and as such requires a commensurate response, including prosecution and high penalties beyond the simple imposition of retrospective duties.

We applaud the efforts of Customs Trade Crimes Unit in their efforts to police the circumvention activity in relation to aluminium extrusions. We consider that the current discoveries and retrospective measures are only the “tip of the iceberg” and further submit that further investigations including detailed review of goods entered by a broad range of importers under HS codes 7610 (particularly 7610.90.00) and 8302 (particularly 8302.41.00) should uncover more circumvention activity worth millions of dollars of retrospective duties.

¹ Placed on the Public File on 2 July 2015

² For example <http://www.rpc.com.au/catalog/clenergy-ezrack-rail-kit-4200mm-p-3595.html>

Contrary to CEC assertions, solar mounting kits WERE explicitly considered in the 2010 case and discounted. This was due to the high proportion of straight aluminium extrusion sections involved in a typical installation and the “bespoke” nature of the solar mount construction process, which varies significantly between jobs.

Capral provided Customs with examples of Australian solar panel frame cut-to-length extrusions³ that demonstrated that such extrusions fitted the description of GUC and, like fence posts, fitted within Customs’ Category IV⁴ as extrusions cut to length and/or simply transformed.

We are particularly disappointed that the CEC sees fit to work against Australian manufacturers who have invested years of hard work and millions of dollars in prosecuting their rights to fair trade against dumped and subsidised goods. CEC members benefit from tens of millions of dollars of taxpayer subsidies, ostensibly in the hope of creating new jobs in the renewable energy sector, while the aluminium extrusion industry faces losses of earning and jobs in the face of unfair trade.

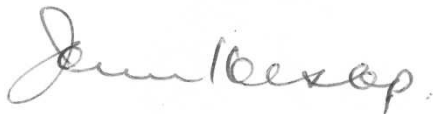
Key Recommendations

That goods entered as “solar PV mounting kits” be treated as GUC, in light of the fact that most professional installations are “bespoke” and involve mainly (more than 80%) lengths of aluminium extrusion, complemented by separately supplied brackets, screws and clamps tailored to each installation.

That Customs be applauded for the anti-circumvention efforts to date and be supported and encouraged to broaden their current anti-circumvention investigations to a wider range of importers.

Yours faithfully,

Heslop Consulting Pty Ltd



John Heslop
Principal

³ Refer email from Andrew Barlow, Capral to Murray Johnston, Customs dated 5 August 2009 5.42 pm

⁴ In Table, Appendix 1

Appendix 1 – Customs Kits Diagram

< 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

Appendix 2 – Solar “rail rack kit” that is simply GUC

<http://www.rpc.com.au/catalog/clenergy-ezrack-rail-kit-4200mm-p-3595.html>



Pair of Clenergy ezRack Rails - 2 x 4200mm

Clenergy ezRack SolarRoof is a solar panel roof mounting solution suitable for most types of pitched or flat roofs. The price is for a pair of rails, each being 4200mm long - suitable for mounting 5 mid size solar panels (826mm width).

Clenergy ezRack SolarRoof solar frames are suitable for Australian conditions.

Specifications:

Building Code: AS/NZ 1170

Roof slope: up to 60°

Wind load: 80m/s

Material: anodised aluminium

Weight: 7.5 Kilograms

Warranty: 10yrs

Code: SFX-ER-R-4200

Price: \$115.00