



Australian Government
**Department of Industry,
Innovation and Science**

**Anti-Dumping
Commission**

Exemption Inquiry Report: EX0074, EX0075 and EX0076

**Certain Aluminium Extrusions
Exported to Australia from
the People's Republic of China, Malaysia
and the Socialist Republic of Vietnam**

27 November 2019

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ABBREVIATIONS

the Act	<i>Customs Act 1901</i>
ADCA standards	the ‘ <i>Aluminium Standards, Data and Design: Wrought Products</i> ’ published by The Aluminium Development Council of Australia (Ltd.)
ADN	Anti-Dumping Notice
Auswide or the applicant	Auswide Equipment Pty Ltd
Capral	Capral Limited
Capral’s REAQ	Capral’s Response to Exemption Application questionnaires for EX0074, EX0075 and EX0076
China	the People’s Republic of China
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975</i>
the duties	interim dumping duty, dumping duty, interim countervailing duty and countervailing duty
EPR	electronic public record at the Commission’s website via www.adcommission.gov.au
exemption goods	the goods subject of the applications as described in section 3.2
G James	G James Extrusion Co Pty Ltd
the goods	certain aluminium extrusions exported from the People’s Republic of China, Malaysia and the Socialist Republic of Vietnam the subject of anti-dumping measures
the Minister	the Minister for Industry, Science and Technology
mm	millimetres
MPa	mega pascals
the notice	Anti-Dumping Notice No. 2019/095
the questionnaire	collectively, the Response to Exemption Application questionnaires for EX0074, EX0075 and EX0076
Vietnam	the Socialist Republic of Vietnam

1 SUMMARY AND RECOMMENDATIONS

1.1 Introduction

This report sets out the findings of the Anti-Dumping Commission (the Commission) in response to three applications (EX0074, EX0075 and EX0076 respectively) by Auswide Equipment Pty Ltd (Auswide, or the applicant) requesting an exemption from interim dumping duty and dumping duty and interim countervailing duty and countervailing duty (the duties) under subsections 8(7)(a) and 10(8)(a) of the *Customs Tariff (Anti-Dumping) Act 1975*¹ (the Dumping Duty Act) in relation to the export of certain aluminium extrusions (exemption goods) from the People's Republic of China (China), Malaysia and the Socialist Republic of Vietnam (Vietnam).

This report sets out the Commission's findings on which the Commissioner of the Anti-Dumping Commission (the Commissioner) relied to make a recommendation to the Minister for Industry, Science and Technology (the Minister) on whether or not to exempt the exemption goods relevant to the applications from the duties.

1.2 Authority to make a decision

The Minister may, by notice in writing, exempt goods from the duties if she is satisfied of any of the criteria in subsections 8(7) and 10(8) of the Dumping Duty Act.

This exemption inquiry:

- is concerned with the criterion in subsections 8(7)(a) and 10(8)(a) of the Dumping Duty Act, namely, whether 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;
- assesses whether the available information and evidence provides a sufficient basis for the Minister to be satisfied that there is discretion to exempt the exemption goods from the duties; and
- if the available information and evidence provides such a basis, recommends how the Minister should exercise the discretion.

1.3 Initiation of inquiry

The Commission received three exemption applications from Auswide, an importer of aluminium extrusions on 19 June 2019.

An electronic public record (EPR) has been maintained for each inquiry available via the Commission's website www.adcommission.gov.au.

¹ All legislative references in this report is a reference to a provision of the *Customs Tariff (Anti-Dumping) Act 1975* unless otherwise specified.

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After examining the applications, the Commission initiated three separate inquiries (EX0074, EX0075 and EX0076) on 18 July 2019. Details of each initiation are contained in Anti-Dumping Notice (ADN) No. 2019/095.²

1.4 Findings and conclusions

The Commission has made the following findings and conclusions based on the applications and information provided by the Australian industry producing aluminium extrusions:

Application	Findings	Conclusions
EX0074 Aluminium channel extruded in alloy and temper designations 7005 T593	There is no Australian industry producing like or directly competitive goods that are offered for sale in Australia.	The Commissioner recommends that the exemption goods be exempted from the duties.
EX0075 Aluminium flat bar extruded in alloy and temper designations 7005 T593	There is no Australian industry producing like or directly competitive goods that are offered for sale in Australia.	The Commissioner recommends that the exemption goods be exempted from the duties.
EX0076 Aluminium angle line extruded in alloy and temper designations 7005 T593	There is no Australian industry producing like or directly competitive goods that are offered for sale in Australia.	The Commissioner recommends that the exemption goods be exempted from the duties.

1.5 Recommendations

The Commissioner makes the following recommendations based on the above findings. The Commissioner recommends that the Minister exempt the exemption goods on the following basis:

- it is the Commissioner's view that like or directly competitive goods are not offered for sale in Australia; and therefore
- the Minister's discretion to exempt these goods from the duties arises.

The Commissioner recommends to the Minister that the exemption goods be exempted from the duties, effective from the date of application, being 19 June 2019.

² Cases EX0074, EX0075 and EX0076 EPR Item No. 001.

2 BACKGROUND TO MEASURES

2.1 Original investigations

A summary of the anti-dumping measures imposed on certain aluminium extrusions exported to Australia is set out in Table 1.

Country	Original investigation	Measures
China	148	Dumping duty notice and countervailing duty notice
Malaysia	362	Dumping duty notice and countervailing duty notice
Vietnam	362	Dumping duty notice

Table 1 Anti-Dumping measures imposed

Some exporters are not subject to the measures and imports from other exporters are exempt from the duties. Further details relating to the goods subject to anti-dumping measures can be found in the Dumping Commodity Register on the Commission's website via www.adcommission.gov.au.

2.2 The goods subject to measures

The goods to which the current anti-dumping measures apply (the goods) are:

Aluminium extrusions produced via an extrusion process, 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), with the finish being extruded (mill), mechanical, anodised or painted or otherwise coated, whether or not worked, having a wall thickness or diameter greater than 0.5 millimetres (mm), with a maximum weight per metre of 27 kilograms and a profile or cross-section which fits within a circle having a diameter of 421 mm.

The goods include aluminium extrusion products that have been further processed or fabricated to a limited extent, after aluminium has been extruded through a die. Aluminium extrusion products that have been painted, anodised, or otherwise coated, or worked (e.g. precision cut, machined, punched or drilled) fall within the scope of the goods.

The goods do not extend to intermediate or finished products that are processed or fabricated to such an extent that they no longer possess the nature and physical characteristics of an aluminium extrusion, but have become a different product. The following table provides guidance as to the categorisation of aluminium extrusions into the types captured by the anti-dumping measures, and those that are not captured.

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Goods subject to measures				Goods not subject to measures		
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 2 Goods subject to measures

2.2.1 Tariff classification

The goods subject to measures are generally classified under the following subheadings in Schedule 3 of the *Customs Tariff Act 1995*:

Tariff code	Statistical code	Description
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 3 Tariff classifications of the goods

3 EXEMPTION INQUIRY

3.1 Exemption application

On 19 June 2019, Auswide wrote to the Commission requesting an exemption from the duties in relation to its imports of three forms of aluminium extrusions (**Attachment 1**).³

The grounds for the three exemption applications are that, in the applicant's belief, there are no Australian manufacturers of aluminium extrusions that meet the specification for which the exemptions are sought.

The applicant had contacted two Australian producers of aluminium extrusions and their replies showed they could not supply the type of aluminium extrusions meeting the applicant's required specifications. Auswide also claimed that the exemption goods required aluminium extrusions with alloy and temper designations 7005 T593. Auswide claim that 7005 T593 goods are not offered in Australia and that 6000 series alloy goods, while offered for sale in Australia, are not a suitable substitute for its needs.

Auswide stated that 7005 T593 alloy provided the necessary tensile strength for use in trailers and ramps for transportation and loading of earthmoving equipment whereas 6000 series alloy does not meet the tensile strength requirements.

Due to the common applicant and the similarities of the goods which are the subject of the three applications, the Commission has addressed each application in this report.

3.1.1 Evidence provided in support of the application

In support of its claim 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, Auswide provided the evidence described below:

- confidential documents showing two responses from Australian manufacturers of aluminium extrusions indicating that they could not supply the exemption goods.⁴
- extrusion diagrams indicating that the exemption goods required aluminium with alloy and temper designations 7005 T593.⁵
- aluminium standards specifications indicating the tensile strength designations of the 7005 and 6000 series aluminium extrusions, referenced from the 'Aluminium Standards, Data and Design: Wrought Products' published by The Aluminium Development Council of Australia (Ltd.) (the ADCA standards).⁶

³ See Cases EX0074, EX0075 and EX0076, EPR Item No. 002.

⁴ See Cases EX0074, EX0075 and EX0076, EPR Item No. 002, Attachments 2 and 3.

⁵ See Cases EX0074, EX0075 and EX0076, EPR Item No. 002, Attachment 4.

⁶ See Cases EX0074, EX0075 and EX0076 EPR Item No. 002, Attachment 5. Referenced from the *Aluminium Standards, Data and Design*, published by The Aluminium Development Council of Australia (Ltd.), February 1994.

3.2 Goods subject to the application for exemption

The goods the subject of the exemption inquiries (the exemption goods) are described by the applicant for each inquiry below.

3.2.1 EX0074 – aluminium channel

The Commission examined the exemption goods description in application EX0074 and identified a minor error in the flange thickness when compared to the relevant extrusion diagram.⁷ The Commission confirmed with Auswide that it had made an error in its application and that the correct flange thickness was 8 mm. The Commission revised the exemption goods description and published a file note on the EPR (**Attachment 2**).⁸ The Commission also advised Capral of this revision. No submissions were received in relation to the revised exemption goods described in the file note. The revised exemption goods description is set out below.

The exemption goods are aluminium channel extruded in alloy designation 7005 with temper designation T593. These materials are used in the manufacture of plant trailers and loading ramps for the transportation and loading of earthmoving equipment.

The exemption goods are aluminium channel made from alloy and temper designations 7005 T593 of the following dimensions:

- *105 mm x 50 mm channel at 3.4 metres long, with a flange thickness of 7 mm and wall thickness of 4 mm.*
- *125 mm x 50 mm channel at 3.4 metres long, with a flange thickness of 8 mm and wall thickness of 4 mm.*
- *150 mm x 50 mm channel at 3.4 metres long, with a flange thickness of 8 mm and wall thickness of 4.5 mm.*
- *160 mm x 60 mm channel at 3.4 metres long, with a flange thickness of 9 mm and wall thickness of 6 mm.*

3.2.2 EX0075 – aluminium flat bar

The exemption goods are aluminium flat bar extruded in alloy designation 7005 with temper designation T593. These materials are used in the manufacture of plant trailers and loading ramps for the transportation and loading of earthmoving equipment.

The exemption goods is aluminium flat bar made from alloy and temper designations 7005 T593 of the following dimensions:

- *160 mm x 10 mm flat bar at 4 metres long.*

⁷ See Case EX0074 EPR Item No. 002, Attachment 4.

⁸ See Case EX0074 EPR Item No. 005.

3.2.3 EX0076 – aluminium angle line

The exemption goods are aluminium angle line extruded in alloy designation 7005 with temper designation T593. These materials are used in the manufacture of plant trailers and loading ramps for the transportation and loading of earthmoving equipment.

The exemption goods are aluminium angle line made from alloy and temper designations 7005 T593 of the following dimensions:

- 38.1 mm x 38.1 mm x 4.75 mm angle at 6 metres long.
- 40 mm x 40 mm x 6 mm angle at 6 metres long.
- 50.8 mm x 50.8 mm x 6.35 mm angle at 6 metres long.
- 63.5 mm x 63.5 mm x 6.35 mm angle at 6 metres long.
- 76.2 mm x 76.2 mm x 6.35 mm angle at 6 metres long.

3.3 Exemption inquiries

The exemptions are sought under subsections 8(7)(a) and 10(8)(a) of the Dumping Duty Act. Under these provisions, the Minister 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.

The Commission accepted Auswide's letter as applications for exemptions from the duties. On 18 July 2019, the Commissioner initiated three exemption inquiries by publishing ADN No. 2019/095 (the notice). The notice advised that the exemption inquiries had been initiated, provided details of the goods subject to the inquiry and outlined the procedures to be followed during each inquiry. In relation to EX0074, a minor alteration to the exemption goods was notified in a file note published on 22 October 2019.⁹

3.3.1 Questionnaires

The Commission sent nine known members of the Australian industry an invitation to respond to Auswide's application on 18 July 2019, by completing the 'Response to Exemption Application' questionnaire (the questionnaire) and requested that responses be received no later than 26 August 2019. The nine members of the Australian industry invited to complete a response to the questionnaire were:

- Almax Aluminium Pty Ltd;
- Aluminium Profiles Australia Pty Ltd;
- Aluminium Shapemakers Pty Ltd;
- Capral Limited (Capral);
- Extrusions Australia Pty Ltd;
- G James Extrusion Co Pty Ltd (G James);
- Independent Extrusions Pty Ltd;
- Olympic Aluminium Co Pty Ltd; and
- Ullrich Aluminium Pty Ltd.

⁹ See Case EX0074 EPR Item No. 005.

A completed response from Capral to the questionnaire (Capral's REAQ) (**Attachment 3**) was received on 23 August 2019.¹⁰

3.3.2 Submissions

With the exception of Capral's REAQ, no other submissions to this inquiry were received from interested parties.

3.4 Legislative requirements for an exemption

Auswide has applied for an exemption under subsections 8(7)(a) and 10(8)(a) of the Dumping Duty Act.

Subsection 8(7) provides:

- (7) The Minister may, by notice in writing, exempt goods from interim dumping duty and dumping duty if he or she is satisfied:
 - a) 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;

[...]

Subsection 10(8) provides:

- (8) The Minister may, by notice in writing, exempt goods from interim countervailing duty or countervailing duty if he or she is satisfied:
 - a) 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;

[...]

Auswide requests that the Minister exercise their discretion to exempt goods from the duties on the basis 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.

3.5 Definition of “like or directly competitive goods”

3.5.1 Like goods

The term “like goods” is defined in subsection 269T(1) of the *Customs Act 1901* (the Act). Section 6 of the Dumping Duty Act provides that the Act is incorporated and shall be read as one with the Dumping Duty Act. Accordingly, the definition of “like goods” in the Act is applicable to the Commission's assessment of whether the exemption goods are ‘like goods’ under subsections 8(7)(a) and 10(8)(a) of the Dumping Duty Act.

¹⁰ See Cases EX0074, EX0075 and EX0076 EPR Item No. 004.

Subsection 269T(1) of the Act defines “like goods” as:

Goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration.

Chapter 2 of the Commission’s *Dumping and Subsidy Manual*¹¹ embodies the Commission’s established policy and practice in relation to like goods. Where two goods are identical they are automatically like goods, but where two goods are not alike in all respects the Commission will assess whether they have characteristics closely resembling each other including assessing their physical likeness, commercial likeness, functional likeness and production likeness.

3.5.2 Directly competitive goods

The phrase “directly competitive” is not defined in the Dumping Duty Act or the Act and has not been the subject of judicial consideration by Australian courts.

Accordingly, assistance in understanding this phrase can be derived by having recourse to relevant dictionary definitions and case law. Case law suggests an assessment of a “direct” relationship is a question of fact and degree.¹² Drawing on the Macquarie Dictionary and case law, the Commission defines “directly” as:

excluding that which is indirect or remote;¹³ absolutely; exactly; precisely.

The Macquarie Dictionary also defines “competitive” as:

of, relating to, involving, or decided by competition; and
having a feature comparable or superior to that of a commercial rival.

The phrase “directly competitive” can therefore be taken to refer to goods with comparable features that rival each other in a commercial market. The assessment will be one of fact and degree, and the goods will not merely remotely or indirectly compete.

3.5.3 Satisfying subsections 8(7)(a) and 10(8)(a) of the Dumping Duty Act

The exemption provisions in subsections 8(7)(a) and 10(8)(a) of the Dumping Duty Act specifically provide for exemptions where either like goods or directly competitive goods are not offered for sale in Australia. It is not necessary to be satisfied that there are both like goods and directly competitive goods for sale in Australia in order to deny the application for an exemption. It is sufficient for there to be either like goods or directly competitive goods for sale in Australia for the requirements of the exemption not to be met.

If there are no like or directly competitive goods offered for sale in Australia, then the requirements for exemption in subsections 8(7)(a) and 10(8)(a) of the Dumping Duty Act will be met.

¹¹ Available at www.adcommission.gov.au.

¹² *Adelaide Development Co Pty Ltd v Corporation of the City of Adelaide and Anor* (1991) 56 SASR 497 at [45].

¹³ *Ibid.*

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If there are like or directly competitive goods, then it is necessary to consider whether these like or directly competitive goods are:

1. offered for sale in Australia;
2. to all purchasers on equal terms under like conditions; and
3. having regard to the custom and usage of trade.

3.6 Definition of “custom and usage of trade”

Although the domestically produced goods may be “like or directly competitive goods”, the Minister may still grant an exemption to duties in circumstances where the “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 phrase “custom and usage of trade” is not defined in the Dumping Duty Act or the Act. The Macquarie Dictionary defines “custom” as:

a habitual practice; the usual way of acting in given circumstance;
and
habits or usages collectively; convention.

The Macquarie Dictionary defines “usage” as:

customary way of doing; a custom or practice;
the body of rules or customs followed by a particular set of people;
and
usual conduct or behaviour.

As custom can only to be inferred from a large number of individual acts, the existence of a custom and usage of trade must involve:

the multiplication or aggregation of a great number of particular instances; but these instances must not be miscellaneous in character, but must have a principle of unity running through their variety, and that unity must show a certain course of business and an established understanding respecting it.¹⁴

Custom or usage of trade is a term used in common law in the interpretation of implied terms in contracts within a particular trade or industry.¹⁵ When considering what is “custom or trade usage” the courts have concluded that custom or usage was established mercantile usage or professional practice¹⁶ and evidence of actual market practices was crucial to the existence of a custom or usage. However, universal acceptance of the custom may not always occur.¹⁷

¹⁴ *Anderson v Wadey* (1899) 20 N.S.W.R. 412 at p. 417.

¹⁵ *Castlemaine Tooheys Ltd v Carlton & United Breweries Ltd* (1987) 10 NSWLR 468.

¹⁶ *Byrne v Australian Airlines Ltd* (1995) 185 CLR 410.

¹⁷ *Con-Stan Industries of Australia Pty Ltd v Norwich Winterthur Insurance (Australia) Ltd* (1986) 160 CLR 226.

4 ASSESSMENT OF CLAIMS

4.1 Australian industry’s offer for sales

4.1.1 Applicant’s claims

Capral is the only Australian industry member that responded to the questionnaire.

Capral stated that while it is capable of producing aluminium extrusions to the same specification as the exemption goods with alloy and temper designations 7005 T593, it does not manufacture and supply aluminium extrusions with alloy and temper designations 7005 T593. Capral reported that it considers 7005 T593 designated aluminium extrusions to be a specialised product. Capral also stated that it could produce goods like the exemption goods in other alloys (e.g. 6000 series alloys) and specialises in the manufacture of 6000 series alloys. Relying on data from previous investigations into aluminium extrusions, the Commission considers Capral’s claim that it specialises in 6000 series alloys and that it does not manufacture the exemption goods or any aluminium extrusions using the 7000 series alloys to be reliable. The Commission is satisfied as to the reliability of the information provided by Capral.

In its applications, Auswide provided confidential documents showing two responses from Australian manufacturers of aluminium extrusions indicating they could not supply the exemption goods. One Australian manufacturer, G James, stated in its response to Auswide’s request to supply extrusions like the exemption goods that it “will never” supply 7000 series alloy for aluminium extrusion shapes due to challenges arising during the extrusion processes.¹⁸ Relying on the statements made by G James, the Commission accepts G James’s statement that they do not supply the exemption goods. The Commission is satisfied as to the reliability of the information provided by G James.

4.2 Commission’s assessment

The Commission has examined the evidence presented in the applications and in Capral’s REAQ, and considers that like or directly competitive goods to the exemption goods in inquiries EX0074, EX0075 and EX0076 are not offered for sale in Australia.

4.2.1 Like or directly competitive goods offered for sale in Australia

The Commission’s examination of the evidence presented in the applications and in Capral’s REAQ is set out in Table 4. The exemption goods in inquiries EX0074, EX0075 and EX0076 had similar characteristics in terms of alloy and temper designation, but differed to one another in their physical dimensions and shape. However, the Commission examined the exemption goods together in this assessment because they were each found not to be like to their locally-produced equivalents in the same ways.

Factor	Parties’ claims	Commission’s assessment
Physical likeness	Auswide has claimed that the chemical composition and tensile strength requirements of the exemption goods differ from the goods produced by the Australian	An examination of the tensile strength designations in the ADCA standards indicated that 7005 alloy extrusions has a higher tensile strength than 6000 series alloy

¹⁸ See EX0074, EX0075 and EX0076 EPR Item No. 002, Attachment 3.

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Factor	Parties' claims	Commission's assessment
	<p>industry. The exemption goods are aluminium extrusions in alloy designation 7005 and temper designation T593, offering a high tensile strength. Auswide also claimed that the necessary tensile strength properties of the exemption goods could not be provided by 6000 series aluminium alloys, which is offered for sale in Australia.</p> <p>Capral stated that it does not supply aluminium extrusions with 7005 alloy but specialises in extrusions in the 6000 series alloy. G James indicated it had no intention of supplying extrusions from 7000 series alloy. The Australian industry has not made a claim indicating it produces extrusions with temper designation T593.</p> <p>Additionally, the Australian industry has not made a claim in relation to the higher tensile strength of extrusions with alloy and temper designations 7005 T593 compared to the 6000 series extrusions.</p>	<p>extrusions. The Ultimate Tensile Strength of 7005 alloy extrusions is 350 mega pascals (MPa) whereas the Ultimate Tensile Strengths of 6000 series extrusions are 110 to 295 MPa.</p> <p>The Commission is satisfied that the alloy and temper designations and therefore tensile strength of the goods the subject of these exemption inquiries are not physically alike to the goods offered for sale by the Australian industry. The exemption goods are of a different alloy and temper designation with a higher tensile strength.</p> <p>The Commission noted that the exemption goods also differed in their physical dimensions and shape. The Commission understands that the Australian industry could supply aluminium extrusions to the specified dimensions and shape using the appropriate dies supplied by Auswide, but does not.</p>
Commercial likeness	<p>Auswide claimed that it was not able to switch from extrusions with alloy and temper designations 7005 T593 to 6000 series extrusions supplied by the Australian industry because of the difference in their tensile strengths.</p> <p>Capral stated that it considered extrusions with alloy and temper designations 7005 T593 a "specialised product" that would "sell at a premium to the aluminium extrusions produced by Capral".</p>	<p>The Commission accepts Auswide's claim that due to tensile strength differences, the 6000 series extrusions produced by the Australian industry are not a substitute to the extrusions with alloy and temper designation 7005 T593.</p> <p>The Commission accepts Capral's assertion that product differentiation between the 6000 series extrusions produced by the Australian industry and extrusions with alloy and temper designations 7005 T593 would lead to price differentiation, indicating there are commercial differences between them.</p> <p>The Commission is satisfied that the goods the subject of these exemption inquiries do not appear to be substitutable or commercially interchangeable with the goods produced by the Australian industry.</p>
Functional likeness	<p>Auswide claimed that the goods the subject of these exemption inquiries were used in the manufacture of trailers and ramps for transportation and loading of earthmoving equipment and that the goods produced by the Australian industry are not capable of performing the same function due to the tensile strength requirements.</p> <p>The Australian industry have not made a claim in relation to functional likeness.</p>	<p>The Commission accepts the position of the applicant that the tensile strength differences between the exemption goods and the goods produced by the Australian industry mean that they are not used for the same functions. The Commission's view is that the goods produced by the Australian industry are not capable of performing the same functions as the exemption goods, and it has not received any submissions to the contrary.</p>
Production likeness	<p>Auswide did not make a claim in relation to the production likeness of the goods the subject of these exemption inquiries.</p> <p>G James stated that it would not supply 7000 series alloy for aluminium extrusion</p>	<p>The Commission observed on G James's website that it manufactures 6000 series aluminium extrusions and that it had contemporary knowledge of the production process for aluminium extrusions. The Commission accepts the position of G James that they do not manufacture the 7000 series</p>

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Factor	Parties' claims	Commission's assessment
	shapes due to challenges arising during the extrusion processes.	alloy due to high contamination during the extrusion process. Relying on this, the Commission's view is that the raw materials and production processes between extrusions with alloy and temper designations 7005 T593 and the goods produced by the Australian industry are likely to differ.

Table 4 Like goods assessment

Auswide's claim that like or directly competitive goods to the exemption goods in inquiries EX0074, EX0075 and EX0076 are not offered for sale in Australia was not disputed by any Australian manufacturer of aluminium extrusions.

As noted in section 3.2.1, after the exemption inquiries were initiated, the Commission made a minor revision to the exemption goods description for EX0074 to reflect the specifications in the relevant extrusion diagram.¹⁹

The Commission considers that this minor revision to the exemption goods description does not affect the submissions of Australian industry, noting that no member of the industry made a submission to the Commission in response to this change.

The Commission searched the websites of other Australian manufacturers and did not identify like or directly competitive goods produced for sale in Australia.

Based on this, and correspondence from manufacturers provided with the applications, it is the Commission's assessment that there is no Australian industry producing goods that are like or directly competitive to the exemption goods in inquiries EX0074, EX0075 and EX0076.

4.2.2 To purchasers on equal terms under like conditions having regard to the custom and usage of trade

The applicant did not make submissions regarding, if the goods are offered, whether the goods are offered for sale to all purchasers on equal terms under like conditions having regard to the custom and usage of trade. Its applications relied primarily on its claim that the like or directly competitive goods to the exemption goods in applications EX0074, EX0075 and EX0076 are not offered for sale by Australian industry.

As the Commission found that there was no Australian industry producing goods that are like or directly competitive to the exemption goods in the three applications (see section 4.2.1), they are therefore not offered to all purchasers on equal terms under like conditions having regard to the custom and usage of trade.

¹⁹ See Case EX0074 EPR Item No. 005.

4.3 Conclusion

Accordingly, the Commission finds that the Australian industry does not offer for sale like or directly competitive goods to the exemption goods in inquiry numbers EX0074, EX0075 and EX0076.

As there are no like or directly competitive goods offered for sale in Australia, the conditions of sections 8(7)(a) and 10(8)(a) of the Dumping Duty Act are met and the Commission is satisfied that the discretion to grant the exemption arises.

5 RECOMMENDATIONS

5.1 Recommendation for each application

5.1.1 EX0074 – aluminium channel

Based on the Commission's examination of the application and Capral's REAQ, the Commissioner considers that like or directly competitive goods to the exemption goods in inquiry EX0074 are not offered for sale in Australia.

Accordingly, the Commissioner recommends that the Minister exercise their discretion to **exempt the exemption goods**, as described below, from the duties under sections 8(7)(a) and 10(8)(a) of the Dumping Duty Act.

Exemption goods description:

The exemption goods are aluminium channel made from alloy and temper designations 7005 T593 of the following dimensions:

- 105 mm x 50 mm channel at 3.4 metres long, with a flange thickness of 7 mm and wall thickness of 4 mm.
- 125 mm x 50 mm channel at 3.4 metres long, with a flange thickness of 8 mm and wall thickness of 4 mm.
- 150 mm x 50 mm channel at 3.4 metres long, with a flange thickness of 8 mm and wall thickness of 4.5 mm.
- 160 mm x 60 mm channel at 3.4 metres long, with a flange thickness of 9 mm and wall thickness of 6 mm.

5.1.2 EX0075 – aluminium flat bar

Based on the Commission's examination of the application and Capral's REAQ, the Commissioner considers that like or directly competitive goods to the exemption goods in application EX0075 are not offered for sale in Australia.

Accordingly, the Commissioner recommends that the Minister exercise their discretion to **exempt the exemption goods**, as described below, from the duties under sections 8(7)(a) and 10(8)(a) of the Dumping Duty Act.

Exemption goods description:

The exemption goods are aluminium flat bar made from alloy and temper designations 7005 T593 of dimensions 160 mm x 10 mm flat bar at 4 metres long.

5.1.3 EX0076 – aluminium angle line

Based on the Commission's examination of the application and Capral's REAQ, the Commissioner considers that like or directly competitive goods to the exemption goods in application EX0076 are not offered for sale in Australia.

Accordingly, the Commissioner recommends that the Minister exercise their discretion to **exempt the exemption goods**, as described below, from the duties under sections 8(7)(a) and 10(8)(a) of the Dumping Duty Act.

PUBLIC RECORD

Exemption goods description:

The exemption goods are aluminium angle line made from alloy and temper designations 7005 T593 of the following dimensions:

- *38.1 mm x 38.1 mm x 4.75 mm angle at 6 metres long.*
- *40 mm x 40 mm x 6 mm angle at 6 metres long.*
- *50.8 mm x 50.8 mm x 6.35 mm angle at 6 metres long.*
- *63.5 mm x 63.5 mm x 6.35 mm angle at 6 metres long.*
- *76.2 mm x 76.2 mm x 6.35 mm angle at 6 metres long.*

5.2 Effective date of exemption

Auswide's applications for exemptions, examined in this report, were made on 19 June 2019.

The timing in relation to the granting of an exemption is at the discretion of the Minister. It is the Commission's policy to recommend that an exemption is backdated to the date of the applications, that is, to 19 June 2019.

PUBLIC RECORD

6 ATTACHMENTS

Attachments	Confidentiality	Title	Public record identifier
Attachment 1	Public	Auswide's exemption applications: EX0074 EX0075 EX0076	EPR 002 EPR 002 EPR 002
Attachment 2	Public	ADC File Note – Change to exemption goods description	Case EX0074 EPR 005
Attachment 3	Public	Australian industry questionnaire response – Capral: EX0074 EX0075 EX0076	EPR 004 EPR 004 EPR 004