

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

**Exemption inquiries EX0074, 75 and 76 – response requested by
26 August 2019**

1 Introduction

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

Subsections 8(7)(a) and 10(8)(a) of the Dumping Duty Act provide a discretion for the Minister (or his or her delegate) to exempt goods from anti-dumping 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 applications for exemptions from anti-dumping measures in respect of certain **aluminium extrusions** of the goods exported to Australia from the People's Republic of China (China), the Socialist Republic of Vietnam (Vietnam) and Malaysia as described at section 5 of this form ('the exemption goods').

Your company has been identified as an Australian producer of the goods.

The Commission seeks your assistance in this exemption inquiry by responding to the questions in this form. The Commission will use the information you provide in its assessment as to whether an exemption from anti-dumping measures may be recommended to the Minister for Industry, Science and Technology ('the Minister').

2 Measures on aluminium extrusions

Anti-dumping measures, in the form of dumping duty notices and countervailing duty notices, were imposed on aluminium extrusions as follows:

- By public notice on 28 October 2010 by the then Attorney-General in relation to aluminium extrusions exported from China,¹ following consideration of *Trade Measures Report No. 148*. The notices continued to have effect for a further five years from 28 October 2015,² to which *Anti-Dumping Commission Report No. 287* refers. The current rates of dumping duty and countervailing duty on aluminium extrusions exported to Australia from China are set out in Anti-Dumping Notice 2019/44, following a review of measures to which *Anti-Dumping Commission Report No. 482* refers.
- By public notices on 27 June 2017 by the then Parliamentary Secretary to the Minister for Industry,³ Innovation and Science in relation to aluminium extrusions exported from Vietnam and Malaysia, following consideration of *Anti-Dumping Commission Report No. 362*.

¹ ADN 2010/40.

² ADN 2015/125.

³ ADN 2017/72 and ADN 2017/73.

3 Applications for Exemptions from Measures

An application for exemption has been made to the Commission by **Auswide Equipment Pty Ltd**. The Commission has considered the applications and after consultation with the applicant, accepted the applications and will now undertake examinations to determine whether it should recommend the requested exemptions.

4 Exemption Provision

The Dumping Duty Act provides a discretion for the Minister to exempt goods from dumping and/or countervailing duties if one of the criteria in subsections 8(7) and 10(8) is met. The relevant parts of subsections 8(7) and 10(8) for current purposes are set out below.

Subsection 8(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)

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;
- ...

The exemption provisions are subject to the discretion of the Minister and an exemption is not automatically granted, even where one of the criteria in the provisions is met.

5 The goods subject to the exemption application

The applicant, Auswide Equipment Pty Ltd, is seeking exemptions on goods (the exemption goods), which it describes as follows for each inquiry:

EX0074 – aluminium channel

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 of aluminium channel made from alloy and temper designations 7005-T593 being sought are of the following dimensions:

- 105mm x 50mm channel at 3.4 meters long, with a flange thickness of 7mm and wall thickness of 4mm.
- 125mm x 50mm channel at 3.4 metres long, with a flange thickness of 8mm and wall thickness of 4mm.

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

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 of aluminium flat bar made from alloy and temper designations 7005-T593 being sought are of the following dimensions:

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

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 of aluminium angle line made from alloy and temper designations 7005-T593 being sought are of the following dimensions:

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

Goods produced in Australia

The applicant claims that there are no Australian manufacturers of aluminium extrusions that will produce the exemption goods for which the exemptions is sought.

6 Instructions on completing this ‘Response to the Exemptions Application’

Your company has been identified as an Australian producer of aluminium extrusions.

Consequently, the Commission has forwarded you this ‘response to exemptions application’ (the response) to provide you with the opportunity to participate in these exemption inquiries.

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 **26 August 2019**.

Please email your response to: Investigations3@adcommission.gov.au

Verification of the information that you supply

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

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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 Minister 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

Part A	Company contact information
Part B	Response to exemption application
Part C	Identical goods
Part D	Like or directly competitive goods
Part E	Capability to produce like or directly competitive goods
Part F	Additional comments
Part G	Your declaration

Response to Exemption Application

PART A – Company Information

A.1 Please provide the following company contact information;

Name:	Luke Hawkins
Position in company:	General Manager, Supply and Industrial Solutions
Address:	Level 4, 60 Phillip Street, Parramatta NSW 2150
Telephone:	(02) 8222 0113
Facsimile number:	(02) 8222 0130
E-mail address of contact person:	Luke.Hawkins@capral.com.au

PART B – Response to Exemptions Applications

B.1

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

NOTE: If your company does not oppose the request for exemptions, you do not need to complete all parts of the questionnaire. Please indicate that you do not oppose the request (stating the reasons why), answer the questions that are relevant to your reasons for not opposing the request, sign and return the form as soon as possible.

Capral Limited (“Capral”) is an Australian manufacturer of aluminium extrusions. Capral manufactures a broad range of aluminium extrusion profiles in the Temper ranges 1350, 2011, 3003, T5 (including 5005, 5052, 5083, 5251 and 5454), and T6 (including 6005A, 6060, 6061, 6082, 6101, 6106 and 6351).

The goods described at Section 5 above are for aluminium extrusion profiles of does not oppose the application for exemption from anti-dumping measures for the goods described at 5 above. The goods are described as “aluminium channel”, “aluminium flat bar”, and “aluminium flat line”, all of specific sizes - all of which are manufactured from Aluminium alloy 7005 with a temper designation of T593.

Capral has not manufactured the specified goods from alloy 7005 with a Temper designation of T593. These goods are considered specialized products and would sell at a premium to the aluminium extrusions produced by Capral as referenced with the alloys above.

PART C – Identical Goods

C.1

Does your company produce, in Australia, goods that are identical in all respects to the goods described in section 5 of this 'Response to Exemptions Form'?

Capral does not manufacture identical goods to the goods the subject of Exemptions 0074, 0075 and 0076 as referenced in Section 5 above.

If no, go to Part D - Like or directly competitive goods.

C.2

Please provide evidence that you have produced and sold in Australia, in the last 12 months, goods that are identical in all respects to the goods subject to this application for exemption.

Evidence can be in the form of production reports and sales invoices. To the extent that production reports or sales invoices do not refer to the goods in the same detail as set out in the description of the goods (section 5), please provide additional information that indicates that identical goods have been produced or sold. The evidence should be attached to this form to ensure that it can be linked to this specific response. Please also include any available product literature respecting the identical goods you have produced and sold.

Not applicable.

C.3

Provide evidence of the terms and conditions of sale of these identical goods. Are these products available to all purchasers on equal terms under like conditions? If so, provide evidence and explain why you consider that these products are available to all purchasers on equal terms under like conditions.

Evidence can be in the form of sales invoices, sales contracts, sales reports or advertisements and brochures.

Not applicable.

PART D – Like or Directly Competitive Goods

D.1

If your company does not produce identical goods, does it produce and sell in Australia goods that are like or directly competitive to the goods subject to these applications for exemptions?

In determining whether the goods are like or directly competitive, the Commission will consider whether the goods have characteristics closely resembling each other and are substitutable.

The Commission may also consider;

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- whether physical characteristics of the goods are similar (including size, weight, shape, content, appearance, grade, standards, age, strength and purity);
- whether the goods are commercially alike, this may include consideration of the following;
 - whether the goods directly compete in the same market sector;
 - the extent to which participants in the supply chain are willing to switch between the goods and the goods subject to the application for exemption;
 - how the price of the goods and goods subject to the application influences consumption;
 - whether the goods share similar distribution channels; and
 - whether the goods are similarly packaged.
- functional likeness – whether the goods are suitable with regard to end use, this may include an assessment of;
 - the extent to which the goods are functionally substitutable;
 - the extent to which the goods are capable of performing the same or similar function;
 - whether the goods have the same or similar quality standards; and
 - consumer behavior in relation to the goods and goods subject to this application for exemption.
- production likeness, this may include an assessment of;
 - the extent to which the goods are constructed of the same or similar materials;
 - the manufacturing process of the goods; and
 - whether any patented processes or inputs are involved in the production of the goods.

Capral has not recently manufactured aluminium extrusions in the described form from alloy 7005 and Temper 593. Capral is open to examining the economics of producing the goods on the basis that the volumes are viable. At this stage, however, Capral has not been furnished with sufficient information to be satisfied that production by Capral is viable.

However Capral can produce these sections in other alloys eg 6082.

D.2

If you answered yes to question D.1, please provide a description of the goods produced by your company that you consider to be like or directly competitive to the goods subject to this application. Your description of the goods your company produces should refer to all aspects of the goods as set out in the description of the goods in section 5.

Characteristics	Description

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Please provide evidence that the goods you consider like or directly competitive to the goods subject to this application for exemption have recently been produced or sold in Australia by your company. Evidence can be in the form of production reports and sales invoices. To the extent that production reports or sales invoices do not refer to the goods described in the above table, please provide additional information that indicates that the goods have been produced or sold. The evidence should be attached to this form to ensure that it can be linked to this specific response. Please also include any available product literature concerning the like or directly competitive goods you produced and sold.

Not applicable.

D.3

Provide evidence of the terms and conditions of sale of these like or directly competitive products. Are these products available to all purchasers on equal terms under like conditions? If so, provide evidence and explain why you consider that these products are available to all purchasers on equal terms under like conditions.

Evidence can be in the form of sales invoices, sales contracts, sales reports or advertisements and brochures.

Not applicable.

PART E – Capability to Produce Identical or Like or Directly Competitive Products

E.1

If your company has not produced and sold in Australia products that are identical to, or like or directly competitive to the goods subject to these applications for exemptions, is your company capable of producing such goods?

Capral is capable of producing the goods on the basis it has access to technical drawings from which it can produce the applicable die. At this point in time, however, Capral is not in possession of sufficient information from the applicant to provide a quotation for supply.

E.2

If you answered yes to question E.1, indicate whether the product that you can produce is identical to, or like or directly competitive to the goods subject to these applications for exemptions.

Not applicable.

E.3

If you are capable of producing identical, like or directly competitive goods, explain why you have not produced such goods.

Provide evidence of your production capability, including evidence of the production and sale of similar products, certification of the identical, like or directly competitive goods and at what cost they could be produced, as well as any plans for the

imminent production of the goods or orders for the goods and any relevant information.

Not applicable.

E.4

If you are capable of producing identical, like or directly competitive goods, provide reasonable evidence of likely terms and conditions of sale for these goods.

Not applicable.

PART F – Additional Comments

F.1

Provide any additional comments including any other information that will assist the Commission in reaching a recommendation to the Minister regarding this application for exemption.

Capral anticipates that the Anti-Dumping Commission will closely monitor imports of aluminium extrusions that meet the tight description of the goods as specified in Exemption applications 0074, 0075 and 0076.

Capral will further assess the potential for producing the specified goods at its production facilities.

PART G – Declaration

I hereby declare that..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

Signature :

Position in Company : General Manager – Supply and Industrial Solutions

Date : 22 August 2019