

RESPONSE TO AN APPLICATION FOR EXEMPTION FROM DUTY UNDER THE *CUSTOMS TARIFF (ANTI-DUMPING) ACT 1975*

Exemption inquiry EX0081 – Response requested by 11 June 2021

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* (Cth) (the Dumping Duty Act).

Sections 8(7)(a) and 10(8)(a) of the Dumping Duty Act provide discretion for the Minister for Industry, Science and Technology (the Minister) to exempt goods from anti-dumping measures, where they are 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 measures in respect of certain aluminium extrusions (the goods) exported to Australia from the People's Republic of China (China), Malaysia and the Socialist Republic of Vietnam (Vietnam). The specifics of the goods the subject of the exemption inquiry are 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 this questionnaire. The Commission will use the information you provide in its assessment as to whether an exemption from dumping duties may be recommended to the Minister.

2 Current anti-dumping measures

Anti-dumping measures currently apply to aluminium extrusions exported to Australia from China¹, Malaysia² and Vietnam. A history of the main cases relating to aluminium extrusions exported to Australia from China, Malaysia and Vietnam is summarised in the table below. Further information is also available on the public record on the Commission's website.³

¹ The anti-dumping measures in respect of China (in the form of a dumping duty notice and a countervailing duty notice) apply to all exporters with the exception of Guangdong Jiangsheng Aluminium Co. Ltd. and Guangdong Zhongya Aluminium Co Ltd.

² In the form of a dumping duty notice and a countervailing duty notice for all exporters except Press Metal Berhad, LB Aluminium Berhad, Superb Aluminium Industries Sdn Bhd, Kamco Aluminium Sdn Bhd, Milleon Extruder Sdn Bhd and Genesis Aluminium Industries Sdn Bhd. These exporters were not subject to the notice due to a finding of no dumping or negligible dumping/countervailing in Investigation No. 362. The countervailing duty notice against Alumac Industries Sdn Bhd has been revoked following Review No. 490 (Anti-Dumping Notice (ADN) No. 2019/60) with effect from 24 August 2018. The countervailing duty notice against EverPress Aluminium Industries Sdn Bhd has been revoked following Review No. 509 (ADN No. 2020/05) with effect from 26 April 2019. It is also noted that, at the time of publishing notice, Review No. 544 is examining whether a change to the variable factors in relation to all exporters subject to the existing measures is warranted. In addition, two dumping investigations (Investigation Nos. 540 and 541) are examining goods exported by Press Metal Berhad, LB Aluminium Berhad, Superb Aluminium Industries Sdn Bhd, Kamco Aluminium Sdn Bhd, Milleon Extruder Sdn Bhd and Genesis Aluminium Industries Sdn Bhd are dumped.

³ Accessible via www.adcommission.gov.au

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Case type and report	ADN/ACDN No.	Date	Country of export	Outcome
Investigation 148 Report 148	2010/40	28 October 2010	China	Dumping duty notice and countervailing duty notice for China.
Continuation Inquiry 287 Report 287	2015/125	20 October 2015	China	Dumping duty notice and countervailing duty notice for China continued for a further 5 years.
Investigation 362 Report 362	2017/072 (dumping) 2017/073 (countervailing)	27 June 2017	Malaysia and Vietnam	Dumping duty notice for Vietnam. Dumping and countervailing notice for Malaysia.
Continuation Inquiry 543 Report 543	2020/103	20 October 2020	China	Dumping duty notice and countervailing duty notice for China continued for a further 5 years.

3 Application for Exemption from Measures

An application for an exemption has been made to the Commission by Adrad Pty Ltd. The Commission has considered the application and after consultation with the applicant, accepted the application and will now undertake an examination to determine whether it should recommend the requested exemption.

4 Exemption Provisions

The Dumping Duty Act provides discretion for the Minister to exempt goods from dumping duties if one of the criteria in section 8(7)(a) is met, or to exempt goods from countervailing duties if one of the criteria in section 10(8)(a) is met.

Section 8(7)(a)

The Minister may, by notice in writing, exempt goods from interim dumping duty or 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

Section 10(8)(a)

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 the criteria in the provision is met.

5 The Goods Subject to this Exemption Application

The goods the subject of this exemption inquiry were defined by the applicant as:

Aluminium extrusions produced via an extrusion process manufactured from alloy number AA 3003.

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The applicant has indicated that the exemption goods are commonly, but not exclusively, classified to the tariff subheading 7608.20.00 (statistical code 10) and 7604.21.00 (statistical code 08) of Schedule 3 to the *Customs Tariff Act 1995* (Cth). The exemption goods may also be imported under other tariff codes applying to aluminium extrusions.

Goods produced in Australia

The applicant claims that there are no Australian manufacturers of the exemption goods as described.

6 Instructions on Completing this ‘Response to the Exemption Application’

The Commission has identified your company as a producer or importer of 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.

The Commission seeks your assistance with this exemption inquiry by responding to the questions in this form. The Commission will use the information you provide to make a recommendation as to whether an exemption from dumping and/or countervailing duty should be granted by the Minister.

Specifically, the information provided by Australian aluminium extrusion producers will assist the Commission in determining whether like or directly competitive goods are offered for sale in Australia and whether offers for sale of the goods are available to all purchasers on equal terms under like conditions having regard to custom and usage of trade.

Due date for the response

We request that you complete your response and return it to the Commission by **11 June 2021**.

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 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:

“OFFICIAL: Sensitive” 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.

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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, Phillip Street, Parramatta NSW 2124
Telephone:	(02) 8222 0113
Facsimile number:	(02) 8222 0130
E-mail address of contact person:	Luke.Hawkins@capral.com.au

PART B – Response to Exemption Application

B.1

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

- Oppose
 Not oppose

NOTE: If your company does not oppose the request for an exemption, 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 is opposed to the granting of an exemption for AA3003 as per the wording in ADN 2021/ 058.

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 Exemption Form'?

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

- Yes
 No

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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.

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.

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 this application for exemption?

Capral produces goods that are like and directly competitive with the subject goods.

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;

- whether physical characteristics of the goods are similar (including size, weight, shape, content, appearance, grade, standards, 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;

PUBLIC RECORD

- 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 manufactures like goods or directly competitive goods to the goods the subject of the exemption application. Capral does manufacture certain aluminium extrusions as detailed in its Product brochures.

The goods the subject of Exemption Inquiry 0081 are made to order goods that can be manufactured by Capral on a commercial basis. Although the applicant states that aluminium extrusions in the 6000 series may be considered to be of a different "product category", aluminium extrusions of this category are like goods to the subject goods.

Please refer to Part F for further comments about the goods description for the exempted goods.

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

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.

The exemption goods are made to order goods.

Capral can manufacture the exemption goods as required in a commercial order if provided full specifications for the goods.

Brochures / catalogues available at

<https://www.capral.com.au/resources-downloads/catalogues-brochures/>

https://www.capral.com.au/wordpress/wp-content/uploads/2019/10/Extrusion-Die-Cat_July2020.pdf

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https://www.capral.com.au/wordpress/wp-content/uploads/2019/09/Capral-Alum-Products-Catalogue_Dec2020.pdf

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.

See response to D.2 above.

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 this application for exemption, is your company capable of producing such goods?

Yes

No

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 this application for exemption.

See Part F below.

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.

See Part F below.

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.

See Part F below.

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 is concerned about the potential for a broad description for AA3003 extrusions in general as it is considered likely that some goods entered under the proposed exemption could displace locally produced aluminium extrusions of typical 6060 alloys (and other alloys offered by local manufacturers including 6061, 6082, 6101, 6106, etc).

Capral has corresponded with Adrad concerning an appropriately-worded goods description for the exemption goods. Following discussions concerning the specifications for the AA3003 extrusions, the following wording was proposed:

“Hollow Aluminium extrusions of alloy AA3003, with a diameter of less than 155 mm”.

Capral does not consider that goods imported that match this description will impact the range of aluminium extrusions manufactured by it and other Australian manufacturers of aluminium extrusions

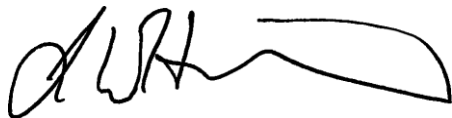
Capral can assist the Anti-Dumping Commission with further information concerning its production capability for certain alloys of aluminium extrusion. This information is readily available on the Capral homepage and in Capral brochures identifying items manufactured.

PART G – Declaration

I hereby declare that.....(company)
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 & Industrial Solutions**

Date :.11 June 2021.....