

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

Exemption inquiry EX0083 – Response requested by 13 August 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 China, Malaysia and Vietnam.<sup>1</sup>

The anti-dumping measures have resulted from four separate investigations as outlined in Table 1 below and are subject to reviews and inquiries from time to time.<sup>2</sup>

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<sup>1</sup> Refer to the Commission's dumping commodity register at <https://www.industry.gov.au/regulations-and-standards/anti-dumping-and-countervailing-system/anti-dumping-commission-measures>

<sup>2</sup> Case specific information in relation to the anti-dumping measures is available on the Commission's website, via [www.adcommission.gov.au](http://www.adcommission.gov.au) by following the links to current and archived cases.

Country	Investigation No.	Notice(s) imposing anti-dumping measures	Dumping duty notice	Countervailing duty notice
China	148 <sup>3</sup>	Australian Customs Dumping Notice No. 2010/40 published 28 October 2010	Applies to all exporters with the exception of Guangdong Jiangsheng Aluminium Co., Ltd. and Guangdong Zhongya Aluminium Co., Ltd	Applies to all exporters with the exception of Guangdong Jiangsheng Aluminium Co., Ltd. and Guangdong Zhongya Aluminium Co., Ltd
Malaysia	362 <sup>4</sup>	Ant-Dumping Notice (ADN) No. 2017/072 (dumping) and ADN No. 2017/073 (countervailing) published 27 June 2017	Applies to all exporters with the exception of Press Metal Berhad, Superb Aluminium Industries Sdn Bhd, LB Aluminium Berhad, Milleon Extruder Sdn Bhd, Genesis Aluminium Industries Sdn Bhd and Kamco Aluminium Sdn Bhd.	Applies to all exporters with the exception of Press Metal Berhad, Superb Aluminium Industries Sdn Bhd, LB Aluminium Berhad, Milleon Extruder Sdn Bhd, Genesis Aluminium Industries Sdn Bhd and Kamco Aluminium Sdn Bhd, Alumac Industries Sdn Bhd and EverPress Aluminium Industries Sdn Bhd.
	540 <sup>5</sup>	ADN No. 2021/033 published 2 June 2021	Applies to Kamco Aluminium Sdn Bhd, LB Aluminium Sdn Bhd and Milleon Extruder Sdn Bhd.	Not applicable.
	541 <sup>6</sup>	ADN No. 2021/035 published 2 June 2021	Applies to Kamco Aluminium Sdn Bhd, LB Aluminium Sdn Bhd, Milleon Extruder Sdn Bhd and Superb Aluminium Industries Sdn Bhd.	Not applicable.
Vietnam	362 <sup>7</sup>	ADN No. 2017/072 published 27 June 2017	Applies to all exporters.	Not applicable.

Table 1 - Current anti-dumping measures

### 3 Application for exemption from measures

An application for an exemption has been made to the Commission by Studform 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.

<sup>3</sup> Applies to all aluminium extrusions regardless of finish.

<sup>4</sup> Ibid.

<sup>5</sup> Applies specifically to mill finish goods.

<sup>6</sup> Applies specifically to surface finish goods.

<sup>7</sup> Applies to all aluminium extrusions regardless of finish.

**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 – ceiling section tees and wall angles with a nominal wall thickness of 1.2mm, either mill or surface finish, as listed below:*

- *37 x 24mm bulbed T section with nominal thickness less than 1.2mm of either 6063 T6 or 6106 T6 alloy;*
- *37 x 15mm bulbed T section with nominal thickness less than 1.2mm of either 6063 T6 or 6106 T6 alloy;*
- *21 x 24mm T section with nominal thickness less than 1.2mm of either 6063 T6 or 6106 T6 alloy;*
- *24 x 21mm T section with nominal thickness less than 1.2mm of either 6063 T6 or 6106 T6 alloy;*
- *19 x 19mm wall angle with ribs and nominal thickness parameters of 1.2mm in 6063 T5 alloy;*
- *19 x 10mm x 10mm x 19mm W wall angle with ribs and nominal thickness parameters of 1.2 mm in 6063 T5 alloy;*
- *32 x 10mm x 10mm x 25mm W wall angle with nominal thickness parameters of 1.2mm in 6063 T5 alloy;*
- *32 x 34mm wall angle with nominal thickness parameters of 1.2mm in 6063 T5 alloy;*
- *32 x 10mm x 10mm x 34mm wall angle with nominal thickness parameters of 1.2mm in 6063 T5 alloy;*
- *32 x 34mm two part wall angle with nominal thickness parameters of 1.2mm in 6063 T5 alloy; and*
- *32 x 10mm x 10mm x 34mm two part wall angle with nominal thickness parameters of 1.2mm in 6063 T5 alloy.*

The applicant has indicated that the exemption goods are generally classified to the following tariff classifications and statistical codes of Schedule 3 to the *Customs Tariff Act 1995*:

Tariff code	Statistical code	Unit	Description
7604.10.00	06	Kg	Non alloyed aluminium bars, rods and profiles
7604.21.00	07	Kg	Aluminium alloy hollow angles and other shapes
7604.21.00	08	Kg	Aluminium alloy hollow profiles
7604.29.00	09	Kg	Aluminium alloy non hollow angles and other shapes
7604.29.00	10	Kg	Aluminium alloy non hollow profiles
7608.10.00	09	Kg	Aluminium tubes and pipes, not alloyed
7608.20.00	10	Kg	Aluminium tubes and pipes, alloyed
7610.10.00	12	Kg	Aluminium doors, windows and their frames and thresholds for doors
7610.90.00	13	Kg	Other aluminium structures and parts there of

Table 2 - Tariff classifications

### **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 **13 August 2021**.

Please email your response to [investigations@adcommission.gov.au](mailto:investigations@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.

## Public File

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.

### **Outline of information required by the response**

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

## Response to exemption application

PART A – Company contact information	
A.1 Please provide the following company contact information:	
Name:	Mr Wolf Breit
Position in company:	Managing Director
Address:	5-7 Warringah Close, Somersby Industrial Park, Somersby, NSW 2250
Telephone:	(02) 4340 4344
Facsimile number:	(02) 4340 4348
E-mail address of contact person:	wb@alushapes.com.au

PART B – Response to exemption application
<p>B.1 Does your company oppose or not consent to the request for an exemption?</p> <p><input checked="" type="checkbox"/> Oppose</p> <p><input type="checkbox"/> Not oppose</p> <p><b>NOTE:</b> 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.</p>

PART C – Identical goods
<p>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'?</p> <p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No, proceed to Part D – Like or directly competitive goods.</p>
<p>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.</p> <p>e.g. "See Attachment C.2: [Description]"</p> <p>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.</p>

### **PART C – Identical goods**

**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.

e.g. “See Attachment C.3: [Description]”

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?

Yes

No, proceed to Part E – Capability to produce identical or like or directly competitive products

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;
  - 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.

**PART D – Like or directly competitive 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
<b>The ceiling section tees and wall angles with a nominal thickness of 1.2mm are standard and uncomplicated extrusion profiles for Alushapes.</b>	Click here to enter text.
Click here to enter text.	Click here to enter text.
Click here to enter text.	Click here to enter text.
Click here to enter text.	Click here to enter text.
Click here to enter text.	Click here to enter text.

\*Include an attachment if additional lines are required.

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.

e.g. "See Attachment D.2: [Description]"

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.

**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.

**Please refer to Confidential Attachment 1.**

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

**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, proceed to Part F – Additional comments

**E.2** 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.

Identical

Like or directly competitive



**PART E – Capability to produce identical or like or directly competitive products**

**E.3** 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.

**Aluminium Shapemakers Pty Ltd (“Alushapes”) possesses the capability to produce aluminium extrusion as required by Studform. Alushapes provided Studform with a quotation to manufacture aluminium extrusions as required by Studform for ceiling section tees and wall angles (Please refer to Confidential Attachment 1 – Studform Quotation).**

**Alushapes has the capability to produce the goods the subject of Exemption 0083.**

**Alushapes has produced products that it considers are more complex to manufacture than the subject goods required by Studform. Alushapes has attached a copy of an invoice (confidential) as evidence in support of its capability to manufacture like goods. Please refer to Confidential Attachment 2.**

**E.4** Please provide reasonable evidence of likely terms and conditions of sale for these goods.

**Alushapes has detailed price, payment and delivery terms in the quotation for Studform. Please refer to Confidential Attachment 1.**


**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.

**Alushapes has only been provided with a single profile drawing for the purposes of this exemption application. Alushapes can produce the goods as described at 5 above. ALushapes does not consider the section tees and angles are difficult for it to manufacture and would readily accept orders from Studform to manufacture at Somersby.**

**PART G – Declaration**

I hereby declare that Enter company name 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.

<b>Name:</b>	<b>Wolf Breit</b>
<b>Signature:</b>	
<b>Position:</b>	<b>Managing Director</b>
<b>Date:</b>	<b>13/08/2021</b>