

EZY TOOLS PTY LTD

**17 DAVID STREET
FOOTSCRAY
AUSTRALIA, 3011**

ABN: 63 107 905 813

PH: (03) 9332-6636

FAX: (03) 9332-7637

MOB: 041-615-2666

EMAIL: ezytools@optusnet.com.au

Date: 22 March 2018

To: The Director of Investigations – Investigations 3 Anti-Dumping Commission,

Response to:

1st Capral Response to Ezy Tools Exemption Application (published under EPR EX0055), by Luke Hawkins, General Manager...

PART A: Company Information & contact Info ... nothing to comment on here.

PART B: Response to Exemption Application ...

Capral continues to refuse to grant our SME (micro), family-owned Australian manufacturing Company, Ezy Tools P/L, an exemption from the current ADC measures brought about by Capral's "blanket" Anti-Dumping legal responses/actions towards ALL overseas aluminium extruders.

This negative response is regardless of their failure to stop their MAIN overseas Malaysian/Vietnamese competitors/extruders, which we can only assume were their KEY "targets" (**see POINT 2 Current Aluminium Extrusion Measures: listing the BIG "players" in these actions taken by Capral**). We cannot imagine why, having "lost" against these MAIN overseas presumably LARGE extruders that Capral continues to deny our micro company an exemption.

We still do NOT see why they should be pursuing us, or Alumac, our Malaysian extruder. We (in hindsight) realise that Alumac did not have the staff with sufficient experience to deal with the initial enquiry/questionnaire presented to them. Nor were they therefore able to hand it in on time (probably also unaware of the "deadly timelines" of all these submissions). As a consequence, instead of being placed in the "residual" group or those that got an exemption,

Alumac was automatically put in the “uncooperative” group and Ezy Tools then had Anti-Dumping & Countervailing duties placed on our extrusions, while most others did not!

We have since been forced to “skill up” ourselves (Alumac also) and are trying to understand the complex, “legalise” ADC “rules” and processes to find ways to have this determination altered/changed. For such a micro company as ours, it is onerous to be put into such a position, as you can imagine, the extra workload has been stupendous; a “learning curve” admittedly, but unnecessary extra work, taking us away from focusing on our business too.

Unlike Capral, we do not have staff/teams/legal departments/experts dedicated to such work – **SO, AGAIN, AN UNEQUAL & UNFAIR SITUATION. It is NOT a LEVEL PLAYING FIELD when a micro company is “pitted” against such a huge company.** And we can only consider Capral (this HUGE Company) to be taking a very “mean-spirited” and unfair stance in its business dealings with our “small & unimportant” (to them) company.

PART C: Identical Goods

C.1 Section 5 is a BROAD, HEADING type of reference to ALL extrusions. In the literature read to date, all the reference is to tables generalising aluminium extrusions into certain categories (effectively “blanket” descriptors). Thousands of individual extrusions get “lost” in this generalised table. The extrusions could vary in: size, applications, eventual products, end users/customers etcetera. Given this point, Capral and Ezy Tools are as far apart as you could get in terms of extrusions and the eventual products made and their final customers.

Capral most certainly does not produce goods that are: “identical in all respects to the goods described in section 5” IN TERMS OF Ezy Tools’ goods. Capral does not produce OUR specific extrusions, or our tools.

Firstly: Capral does not make our specific extrusions – they had 3 of our dies about 18 years ago for 2 possibly 3 years, max, (we paid for these dies too) back in 1999 to 2000 when we first had one tool (made from 3 extrusions); but we left Capral for several reasons. When we moved suppliers (still within Australia then) we were not given the three dies we paid for – and the **ADC SHOULD TAKE NOTE OF THIS AS IT WAS SUGGESTED THAT SHOPPING AROUND FOR PRICES ETC. WAS POSSIBLE AND WE STRESS AGAIN IT IS NOT! All extruders charge for & keep your dies, and ironically, only if you are “BIG” enough, they will be made for free!** Capral has obviously sold ours 3 dies for scrap by now, but never reimbursed us any monies outlaid for these 3 dies, as if they “owned” them, not us.

Secondly: to the best of our knowledge, we are the LAST MANUFACTURERS of these HAND MADE TOOLS in Australia; SO Capral would have NO OTHER CUSTOMERS for such SPECIFIC extrusions, designed by us for manufacturing our SPECIFIC range of hand tools. Again, to the best of our knowledge all our

competitors import FULLY FINISHED TOOLS from China mostly, AND NO LONGER MANUFACTURE IN AUSTRALIA, as we still do.

THIRDLY: Capral does not make and sell our range of tools. Their end products for the Australian market are vastly different to ours.

As for Investigation 362 (which we are "caught up in"): *this is EXACTLY what we are seeking an exemption from and do not accept should be final for us. Also, it did NOT "validate that Capral manufactures like goods" for ALL the overseas extruders. AGAIN: see POINT 2 Current Aluminium Extrusion Measures and the LONG list of those companies that DID NOT have the Anti-Dumping & Countervailing Duties applied against them! The "exceptions" chiefly listed there are the "BIG" players, not we small ones!*

C.2 In the very BROAD GENERAL definition of these aluminium extrusions only! **"Identical in all respects to the goods subject to THIS APPLICATION for exemption" - refers to the Ezy Tools extrusions/profiles/specifications and NOT extrusions described in the broadest of terms in generalised tables.** Capral has not produced any extrusions like ours for over 18 years now. Nor did they ever produce such extrusions for any of our competitors back then, to our knowledge, those competitors were even then sourcing all their extrusions from overseas, from mostly China. They then moved on to close any factories here and have their tools totally "Made in China". A.G. Pulie (Master Finish) still claims Made in Australia/No.1 Australian Manufacturer etc., and other "Aussie" maps or pictogram labelling to suggest such, all over his products, even though this has been untrue for well over a decade now!

442: Yes I read a bit of that one, it is IRRELEVANT to our request for exemption - and then 447 came up for Alumac, our Malaysian supplier, suggesting they "funnel" material from China through Malaysia to Australia; and their answer was: "nothing from China/not applicable"... Surprisingly, that section of their questionnaire was the *briefest*, and there were *other sections seeking way more detail and information about their company and customers* (like us). It *"read like a fishing expedition"* by Capral; gathering "intel" we suspect? The number of applications by Capral I read made me think they border on being a "vexatious litigant". And it alerted me to their considerable "experience" in this area too.

C.3 Said nothing (just "see above")...

a) Capral does not offer small companies like Ezy Tools dies at the SAME PRICE as others (as in "free" for large companies) so is NOT "identical" in any way in terms of trade and "deals" they make for/with others. It is in NO WAY an "equal" or "level playing field" and is not acceptable in terms of the "custom & usage of trade". Ironically, if you can afford to pay for dies, you get them for free, but if you are small and less able to pay/budget for expensive dies or retooling, you have to pay around \$2,500 to \$3,000 per die!

b) Our specific extrusions are NOT “available to all purchasers on equal terms under like conditions” BECAUSE Capral does NOT extrude our 12 aluminium profiles or anything like them, and Capral does not supply our specific extrusions to any of our competitors, as these competitors import fully finished tools from China and have done so for well over a decade now (from about 2005 onwards, around 13 years).

c) Likewise, we do not sell our extrusions to any others, as we use our own extrusions exclusively to fully manufacture into our range of tools. In no way are we “competing” with Capral in the Australian market by bringing in extrusions from Malaysia. **We DO NOT “on sell” and do not wholesale extrusions and are in no way in competition with Capral on this basis and so are of no threat to them or their business.**

d) As well, Capral does not sell our tools or anything “like” our tools in the Australian or overseas markets.

Part d: Like or Directly Competitive Goods.

D.1 Capral does not “produce IDENTICAL GOODS”, and does not “produce and sell in Australia goods that are like or directly competitive to the goods subject to this application for exemption” (specifically our unique Ezy Tools Australian designed extrusions).

We are talking about Ezy Tools extrusions, not all the general definitions of the thousands of other extrusions.

a) **Capral extrudes certain profiles, but definitely NOT all the thousands out there in the markets of the world.** Why should Capral be able to STOP any extrusions it does NOT SPECIFICALLY make? It must have a list of its own extrusions surely? We do, **see Appendix 14 (which we DID provide) of our extrusion profiles/specifications from Alumac.**

b) **Given this, why doesn’t Capral only seek to stop the (claimed) DUMPING of their specific products/extrusions by others? Why do they have the right to do a “blanket” application to exclude all aluminium extrusions/profiles – even ones they OBVIOUSLY DO NOT MAKE – like ours?** If we had issues to pursue with our competitors over them “dumping” in the Australian market, it WOULD BE FOR OUR SPECIFIC TOOLS, not “TOOLS IN GENERAL”.

c) In no way is Capral manufacturing “like and directly competitive” goods as appear in the Ezy Tools application. Then he went on to say we did not provide section drawings and we most certainly did! **Our Appendix 14 clearly shows Capral does NOT “CURRENTLY PRODUCE IDENTICAL GOODS” TO OURS.**

d) Yes, Capral could produce the dies - at an exorbitant and prohibitive cost to Ezy Tools (trying to force us to ‘retool’) WHILE OFFERING FREE DIES TO “BIGGER” CLIENTS, i.e. “not on equal terms of trade”! **These businesses CAN, unlike Ezy Tools, move about freely, from supplier to supplier as it costs them nothing to do so!** This is again “unequal terms of trade”!

e) Yes, Capral could extrude from such (costly) dies, BUT Ezy Tools would NOT be ordering dies from them, given the PROHIBITIVE COSTS INVOLVED IN THIS RETOOLING of our 13 dies. At the worst: 13 x \$3,000 = \$39,000 (+ GST)!

f) Our past experience with Capral as a supplier was NOT a GOOD ONE! We had quantity, delivery, quality and price negotiation issues with them. Plus, as a micro company we could not afford their "minimum tonnage" requirements. We could never trial a new die/tool with them, as it would have been impossible to negotiate the very small runs we'd need to do this. Alumac on the other hand is also a small company and has the same/similar business ethics/attitudes as Ezy Tools does; namely, they also concentrate on: service, quality, and delivery, price (Alumac's prices follow the LME up/down and do not perpetually go up as Capral's used to do). In our second year with Capral the constant price rises added over 30% to our costs, it was pure "gouging"! We expect no different from them now and so would never resume business with them given these past "experiences". So, the statement Capral: "possesses the capability to produce the die(s) and manufacture identical products" is a moot point to us!

g) Yes, Capral did initially produce our first 3 dies for 2 to possibly 3, max, years. **This point is irrelevant because we LEFT them after we were approached by several other Australian suppliers, who offered Ezy Tools better LME based prices/deals/die costs (and for free back then too!/without enormous tonnage either!) and we realised, as you do with time/experience, that Capral was obviously not offering us the same deals as they did for others. We realised we were not "being treated on equal terms of trade" with other SMEs or larger companies as well.**

h) Moving gave us the opportunity to change our dies and make improvements, so the dies we paid for and supposedly "OWNED" were probably sold off for scrap value and are long gone & redundant.

D.2 Their response here is confusing as I took Capral's answer to D.1 as YES, even rereading it several times, I still comprehend it as a YES, then they put NO as their response to D.1 at the end of their brief paragraph (page 7). In firstly responding to D.1 Capral said they "manufacture like goods or directly competitive goods to the goods subject of the exemption application". That is a YES by them, is it not?

I will iterate that: "the goods manufactured by Capral" ARE NOT "alike and directly competitive to the goods the subject of the Ezy Tools application" for exemption.

Is Capral avoiding supplying the specific details asked for in the D.2 table as they do not make extrusions anything like ours? Are they unable to produce "Characteristics/Descriptions" and are therefore blocking our request for exemption wilfully and unfairly as a "blanket" approach to their applications for Anti-Dumping and Countervailing Duties to apply to ALL aluminium extrusions to "safeguard" any possible future business as well? They will not be getting our business as we are not impressed by this approach at all.

D.3 I suggest Capral CANNOT provide this information/evidence as requested by the ADC and I'll say the same: refer to my previous responses!

PART E: Capability to Produce Identical or Like or Directly Competitive Products.

E.1

a) Extrusions drawings were provided.

b) **Capral DOES NOT MAKE extrusions LIKE the Ezy Tools profiles and has not for over 18 years. Nor are there any OTHER CUSTOMERS besides Ezy Tools FOR SUCH SPECIFIC EXTRUSIONS AS OURS AS WE ARE THE LAST MANUFACTURER IN AUSTRALIA OF SUCH TOOLS (to our knowledge); and our extrusions are unique to our tools.**

E.2 Capral may be “able to extrude profiles like” ours, but as the ONLY possible customer for these, and an UNWILLING one at that, it is again a moot point. No use making something you cannot sell and have NO customer for!

E.3 Capral does NOT “produce identical, like or directly competitive goods” as those we are seeking an exemption for because we do not buy from Capral; we did at the start, over 18 years ago, but not anymore.

E.4 There are NO “likely terms and conditions of sale for these goods” as Ezy Tools has ceased trading with Capral over 18 years ago and does NOT plan to resume trading with them as a company because they do not offer us “equal terms of trade” compared to other customers.

The point of offering “unequal terms of trade” to us because we are small just serves to support our case. We became aware of this many years ago and do not expect them to have changed their approach to doing business with smaller customers at all. No discussions recently with their representatives have changed our minds or attitude towards Capral. *This entire experience has in fact only served to reinforce the opinion we hold about them as a company.*

PART F: Additional comments.

F.1

a) “Ezy Tools has contended that local manufacturers are not willing to supply (**apparently** 12 different) unique extrusions from local production on `equal terms with other SMEs or larger companies”. **How rude!** The “tone” just reinforces our impression of `contempt’ for us as a small company by Capral!

b) What an assumption! As if we would even like doing business with such a company again; and especially after this and our past experiences.

c) The statement: about Capral offering us extrusions on “Commercial terms that are comparable with **other customers of similar volumes**” – our volumes in general have always been too small for the Australian extruders, especially Capral (*past experience with Capral taught us this*) and there are no “other customers” like us (*we are a micro business*). Consequently, we have no ability to “deal on equal trading terms” and we know it and so do they.

- d) The reference to “customers with similar products” is a furphy, there are NONE, as I keep repeating, our extrusions are unique and we are the only customer for these extrusions specific extrusions in Australia, as explained.
- e) “Customers with similar tooling (die) requirements”: who else needs to retool 12 (now “apparently” 13) dies? Unlikely! And if so, probably a BIG customer and *they’d be able to do a trade deal doubtlessly for FREE DIES, but not us*. As I keep saying, our volumes are too low on most of our dies. We have a couple of “main” tools we make and sell and the others “pad out” our product list. It also takes time for some tools to increase in sales strength. Alumac is accommodating but Capral is not like that in trade terms.
- f) We reject the statement by Capral about the “varying terms of sale where customers are purchasing different volumes of goods or have different purchase requirements does not warrant an exemption from the anti-dumping measures. Firstly, this is extremely “ungracious” (as expected from Capral), secondly it is absolutely NOT HOW WE DO BUSINESS. All our customers are treated the same (service/quality/reliability/warranties/delivery/fairness/prices/volumes/terms of trade are equal for all our customers, BIG, MEDIUM or SMALL). To us, this “argument” is irrelevant and a complete clash with our business ethics.
- g) Capral does NOT “produce aluminium extrusions that have the same physical, commercial, functional and product likeness” to EZY TOOLS imported aluminium extrusions. Saying it does not mean it is true! Statements like this are merely “sweeping generalisations” and irrelevant when the REAL/ACTUAL DETAILS are studied! See D.2 and the table not filled in for instance and then see our Appendix 14 (drawings of our extrusions). Capral does NOT MAKE anything like our extrusions! Once upon time, 18 years ago... but we left them.
- h) Rude again and condescending now too. ACTUALLY, Ezy Tools IS NOT seeking a local producer at all, as we are more than happy now we have found ALUMAC as a supplier – they “match” our business ethics very nicely. They do not (have not) provided us with free tooling, but they do have PRICES THAT RISE & FALL WITH THE LME and are therefore “predictable” and they do not just increase prices without any reasonable explanation or justification (as was our past experience with Capral, and to be fair, others).
- i) Capral may “be willing” but Ezy Tools is not, for ALL OF THE OUTLINED REASONS SUPPLIED HERE AND ELSEWHERE in other submissions.
- j) **“Terms and conditions consistent with industry practice”** – but your “industry practice” varies depending on the customer! And it is abundantly clear to us that our small company has “no bargaining power” at all with Capral.
- k) Past experience with Capral has taught us that our so called “argument” is SUSTAINABLE regarding Capral and how they “operate” with various customers and that Capral’s terms are not equal at all between various purchasers.

Ezy Tools requests that the Commission recommends Ezy Tools P/L is exempted from the anti-dumping dumping and countervailing duties imposed on our small company due to the actions of Capral in seeking a “blanket” and “sweeping” and totally inclusive treatment for ALL aluminium extrusions including ones that Capral does NOT EXTRUDE and NEVER will. As we are the only customer for these and have absolutely no intention of doing business with

Capral in the future, given our history with them, they will never manufacture our specific Ezy Tools extrusions.

It is unfair to impose such extra costs on our small Australian Made business while supporting the 'vexatious litigations' of such a large company. They are a company willing to do "deals" with larger businesses, but take unfair advantage of smaller ones, putting us into a position of "unequal terms of trade" simply because we are "small". This is normal practice for them.

It is apparent from all the readings we have done about Capral and their many applications to the ADC that they take full advantage of any rules they can, even though we noticed they do not always "win". This shows us that it is worth the time and effort to attempt to "take on" such a large business, as the ADC seems to look at all the material presented, even from a small company. So, we have some hope, despite our inexperience in such matters in comparison.

Given many of the rulings have gone against their various attempts, after the ADC has looked at the facts of these cases, Ezy Tools is hoping that common sense will also favour a positive outcome for us and we can go back to having no duties imposed on our aluminium extrusions. We can then concentrate on expanding our business into the USA, and continue to export our MAIN TOOL into that market. This is going well and once we get the Duties removed, we can budget better and move ahead with more confidence. As an exporter, we are also contributing to the "Terms of Trade" for this country in our small way. This should also be taken into account for our application. Even small companies play a positive a part in the Australian economy!

Yours sincerely,

Diann Grass (Administration & Accounts) Ezy Tools P/L
On behalf of Emil Puskas (Proprietor)