



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

**Anti-Dumping
Commission**

Exemption Inquiry Report: EX0055

Certain aluminium extrusions Exported to Australia from Malaysia

**Applicant:
Ezy Tools Pty Ltd**

March 2018

Table of contents

Abbreviations	3
1. Summary and recommendations	4
1.1 Authority to make the decision	4
1.2 Initiation of inquiry	4
1.3 Findings and conclusions	4
1.4 Recommendation	5
2. Background to measures.....	6
2.1 Original investigation.....	6
2.2 The goods subject to measures	6
2.3 Tariff classification	6
2.4 Exemption application	7
2.5 Exemption inquiry	7
2.6 Goods subject to the application for exemption	8
2.7 Legislative requirements for an exemption	8
2.8 Definition of “like or directly competitive goods”	9
2.9 Definition of “custom and usage of trade”	10
3. Australian industry’s offer for sale of ‘like’ or ‘directly competitive’ goods	11
3.1 Ezy Tools’ claims	11
3.2 Australian industry’s response	11
4. The Commission’s assessment – like or directly competitive goods offered for sale in Australia.....	13
4.1 Finding.....	13
4.2 Like or directly competitive goods offered for sale in Australia.....	13
4.3 Conclusion	13
5. To all purchasers on equal terms under like conditions having regard to the custom and usage of trade.....	14
5.1 Ezy Tools’ claims	14
5.2 Australian industry’s response	14
6. The Commission’s assessment - to all purchasers on equal terms under like conditions having regard to the custom and usage of trade	15
6.1 Finding.....	15
6.2 To all purchasers on equal terms under like conditions having regard to the custom and usage of trade.....	15
6.3 Customer or usage of trade	15
6.4 Conclusion	16
7. Recommendation	17
8. Attachments.....	18

Abbreviations

Abbreviations/short form	Full reference
Applicant	Ezy Tools Pty Ltd
Assistant Minister	Assistant Minister for Science, Jobs and Innovation
Capral	Capral Limited
Commission	the Anti-Dumping Commission
Commissioner	the Commissioner of the Anti-Dumping Commission
Act	<i>Customs Act 1901</i>
Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975</i>
Duties	interim dumping duty, dumping duty, interim countervailing duty and countervailing duty
Exemption goods	the goods the subject of the application as described in section 2.6
Ezy Tools	Ezy Tools Pty Ltd
Inex	Independent Extrusions Pty Ltd
INV 442	<i>Anti-Dumping Commission Investigation No. 442</i>
REP 362	<i>Anti-Dumping Commission Report No. 362</i>
Ullrich	Ullrich Aluminium Pty Ltd

1. Summary and recommendations

This report sets out the findings of the Anti-Dumping Commission (the Commission) in response to an application by Ezy Tools Pty Ltd (referred to as Ezy Tools or the Applicant) requesting an exemption from interim dumping duty and dumping duty and interim countervailing duty and countervailing duty (the duties). The application was made 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 as described in section 2.6 (the exemption goods) from Malaysia.

This report sets out the Commission's findings on which the Commissioner of the Anti-Dumping Commission (the Commissioner) relied on to make a recommendation to the Assistant Minister for Science, Jobs and Innovation (the Assistant Minister)² on whether or not to exempt goods from the duties.

1.1 Authority to make the decision

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

This exemption inquiry:

- is concerned with the criterion in subsections 8(7)(a) and 10(8)(a) (like goods criterion), 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 available information and evidence provides a sufficient basis for the Assistant Minister to be satisfied of the like goods criterion; and
- if the available information and evidence provides such a basis, recommends how the Assistant Minister should exercise the discretion.

1.2 Initiation of inquiry

Having examined the revised application, the Commission initiated an inquiry on 16 October 2017. The details of the initiation are contained in Anti-Dumping Notice (ADN) No. 2017/120.

1.3 Findings and conclusions

The Commission has made the following findings and conclusions based on the application and information provided by the Australian industry manufacturing aluminium extrusions represented by Capral Limited (Capral):

- there is an Australian industry producing like or directly competitive goods;
- those goods are offered for sale in Australia to all purchasers on equal terms under like conditions having regard to the custom and usage of trade.

¹ All legislative references in this report are to the *Customs Tariff (Anti-Dumping) Act 1975* unless otherwise specified.

² For the purposes of this decision the Minister is the Assistant Minister to the Minister for Science, Jobs and Innovation.

1.4 Recommendation

The Commission considers the conditions of subsections 8(7)(a) and 10(8)(a) of the Dumping Duty Act for granting an exemption are not satisfied.

The Commissioner recommends that the Assistant Minister not be 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.

Accordingly there is no discretion for the Assistant Minister to exempt the exemption goods from the duties.

2. Background to measures

2.1 Original investigation

Anti-dumping measures, in the form of a dumping duty notice and a countervailing duty notice (the notices), were initially imposed by public notice on 27 June 2017 by the then Assistant Minister following consideration of *Anti-Dumping Commission Report No. 362 (REP 362)*. The notices are applicable to all exporters from Malaysia, with the exceptions 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.

The dumping duty notice also applies to all exporters from Vietnam.

2.2 The goods subject to measures

The goods exported from Malaysia, covered by the notices are:

- *“Aluminium extrusions that:*
 - *are produced by an extrusion process;*
 - *are 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);*
 - *have finishes being:*
 - *as extruded (mill);*
 - *mechanically worked*
 - *anodized; or*
 - *painted or otherwise coated, whether or not worked;*
 - *have a wall thickness or diameter greater than 0.5 mm;*
 - *have a maximum weight per metre of 27 kilograms; and*
 - *have a profile or cross-section fitting within a circle having a diameter of 421 mm”.*

2.3 Tariff classification

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

Tariff subheading	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

2.4 Exemption application

Ezy Tools first wrote to the Commission on 12 July 2017 requesting an exemption from the duties in relation to its imports of the exemption goods. The Commission identified some deficiencies in Ezy Tools' original application, and subsequently the Applicant submitted a revised version on 18 August 2017 (**Non-Confidential Attachment 1**).

The applicant's letter outlined the following grounds in support of its application:

- The Australian industry are not producing like or directly competitive goods to the exemption goods. Ezy Tools claims that their imported extrusions are specifically designed for their manufacturing business and hand tools. Ezy Tools does not on-sell or distribute aluminium extrusions.
- There are no known companies in Australia who are willing to make Ezy Tools' Australian designed 12 unique extrusions, with free tooling of its dies, and supply Ezy Tools with the lower volumes the company can afford to order.
- Ezy Tools is not treated on equal terms with other larger companies seeking extrusions from the local extruders in Australia as Ezy Tools, as a small volume company, cannot negotiate the free tooling of its dies that larger volume customers can negotiate. Hence, Ezy Tools cannot obtain like or directly competitive goods on equal terms.
- When Ezy Tools has tried to source the extrusions from Australian manufacturers, recently and in the past, it has not been successful in getting an equal bargain compared to other purchasers on equal terms under like conditions having regard to the custom and usage of trade.
- When, in the past, Ezy Tools has made attempts to purchase the like goods from Australian manufacturers and importers, Ezy Tools has run out of its raw aluminium profiles three times due to being 'put last' or used to 'top up' other companies' orders. This had a negative impact on Ezy Tools' business and prompted Ezy Tools to find its own extruder overseas, as the local suppliers charged too much for dies and would not offer the flexibility to order smaller volumes.

2.5 Exemption inquiry

The Commission accepted Ezy Tools' letter of 18 August 2017 as an application for an exemption from the duties. On 16 October 2017, the Commissioner initiated an exemption inquiry, by publishing ADN No. 2017/120. ADN No. 2017/120 advised that an exemption inquiry had been initiated, provided details of the goods subject to the inquiry and outlined the procedures to be followed during the inquiry.

On 19 October 2017 the Commission sent invitations to all known members of the Australian industry (being eight entities in total) to respond to Ezy Tools' application, by completing the 'Response to Exemption Application' questionnaire (the questionnaire) and requested that responses be received no later than 9 November 2017. The list of Australian extruders is contained at **Annex A**.

On 9 November 2017 the Commission received two responses to the questionnaire from Capral (**Non-Confidential Attachment 2**) and Independent Extrusions Pty Ltd (Inex). Capral stated in its response that it opposed Ezy Tools being granted the requested exemption from duties. On 8 December 2017, Capral submitted a second submission based on information contained in the non-confidential attachments to Ezy Tools' application (**Non-Confidential Attachment 3**).

The response from Inex was partially incomplete. The Commission requested Inex to supply additional information by 15 December 2017. Inex did not supply additional information, nor a non-confidential version of its response. The Commission has not had regard to Inex' submission when preparing this report.

Additionally, the Commission received a submission from Ullrich Aluminium Pty Ltd (Ullrich) on 24 November 2017. The Ullrich submission opposed Ezy Tools' requested exemption from duties (**Non-Confidential Attachment 4**).

2.6 Goods subject to the application for exemption

The goods the subject of the exemption inquiry (the exemption goods) are certain aluminium extrusions described at **Annex B**. The applicant further advised that the exemption goods are used in the manufacture of a range of concrete/trade tools.

The application states that the exemption goods are classified to the following tariff subheadings and statistical codes of Schedule 3 to the *Customs Tariff Act 1995*.

Tariff subheading	Statistical code
7604.21.00	08
7604.29.00	10
7608.20.00	10

2.7 Legislative requirements for an exemption

Ezy Tools 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;

...and:

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;

...

Ezy Tools requests that the Assistant 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.

2.8 Definition of “like or directly competitive goods”

Like goods

The term “like goods” is defined in subsection 269T(1) of the *Customs Act 1901* (the Customs Act). Section 6 of the Dumping Duty Act provides that the Customs Act is incorporated and shall be read as one with the Dumping Duty Act. Accordingly, the definition of “like goods” in the Customs 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.

Subsection 269T(1) of the Customs 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* 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.

Directly competitive goods

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

Accordingly, assistance in understanding this term 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.³ Drawing on the Macquarie Dictionary and case law, the Commission defines “directly” as:

excluding that which is indirect or remote;⁴ 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.

Alternatives to 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

³ *Adelaide Development Co Pty Ltd v Corporation of the City of Adelaide and Anor* (1991) 56 SASR 497 at [45].

⁴ *Ibid.*

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.

If there are like or directly competitive goods, then it is necessary to consider whether these like or directly competitive goods are offered for sale in Australia to all purchasers on equal terms under like conditions having regard to the custom and usage of trade.

2.9 Definition of “custom and usage of trade”

Although the domestically produced goods may be “like or directly competitive goods”, the Assistant 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 term “custom and usage of trade” is not defined in the Dumping Duty Act or the Customs 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; 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.⁵

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.⁶ When considering what is “custom or trade usage” the courts have concluded that:

1. Custom or usage was established mercantile usage or professional practice: *Byrne v Australian Airlines Ltd* (1995) 185 CLR 410 at 440; and
2. Evidence of actual market practices was crucial to the existence of a custom or usage. However, universal acceptance was not necessary: *Con-Stan Industries of Australia Pty Ltd v Norwich Winterthur Insurance (Australia) Ltd* (1986) 160 CLR 226.

⁵ *Anderson v Wadey* (1899) 20 N.S.W.R. 412 at p. 417.

⁶ *Castlemaine Tooheys Ltd v Carlton & United Breweries Ltd* (1987) 10 NSWLR 468.

3. Australian industry's offer for sale of 'like' or 'directly competitive' goods

3.1 Ezy Tools' claims

Ezy Tools claims that the Australian industry are not producing like or directly competitive goods to the exemption goods. Ezy Tools claims that their imported extrusions are specifically designed for their manufacturing business and hand tools. Ezy Tools does not on-sell aluminium extrusions.

Ezy Tools tendered the following evidentiary documentation to support its claim:

- Price list for Ezy Tools' range of concreting tools. This is provided by Ezy Tools as evidence that like or competitive goods are not offered for sale in Australia, as Ezy Tools' range of tools is a patented range of tools, and Ezy Tools hence can prove that they are not selling aluminium extrusions per se to the Australian market (**Confidential Attachment 5**).
- Commercial brochure for Ezy Tools' range of concreting tools. This is provided by Ezy Tools as evidence that like or competitive goods are not offered for sale in Australia, as Ezy Tools' range of tools is a patented range of tools, and Ezy Tools hence can prove that they are not selling aluminium extrusions per se to the Australian market (**Confidential Attachment 6**).
- Import document produced by Ezy Tools for the United States of America (US) Customs Department. A document outlining the details and manufacturing process of a type of hand tool exported to the US. Ezy Tools claims that the complex manufacturing process for making their products is evidence that their specialised product is not like goods to the extrusions produced by Australian industry (**Confidential Attachment 7**).

3.2 Australian industry's response

Capral responded that it is opposed to the granting of an exemption from measures as Capral manufactures like goods to the exemption goods. Capral further stated that it has in the past produced and sold identical goods to the exemption goods to Ezy Tools.

As evidence for its position, Capral made reference to Confidential Appendix A4 which was submitted by Capral as part of its application for *Anti-Dumping Commission Investigation No. 442* (INV 442) into the alleged dumping and subsidisation relating to certain aluminium extrusions exported to Australia from the People's Republic of China and the Kingdom of Thailand.

The information supplied by Capral for INV 442 includes sales data and die charge recovery from 1 October 2016 to 30 September 2017. The Commission has verified the data submitted by Capral for INV 442. Capral subsequently submitted the following evidence:

- Historic invoices issued to Ezy Tools as evidence to support its claims that Capral had sold similar goods to the exemption goods in the past to Ezy Tools. (**Confidential Attachment 8**).

- Drawings of Ezy Tools dies previously held by Capral (**Confidential Attachment 9**).
- Capral die cost recovery model which outlines how Capral charges the cost of dies to customers depending of volumes ordered (**Confidential Attachment 10**).

Ullrich responded in its submission that, based on information from Australia Extruders Association Group, there is growing excess capacity for extrusions in Australia. Ullrich further stated that the manufacture of Ezy Tools' specific extrusions would be within the capability of the Shape Aluminium extrusions facility at Gosford.

Ezy Tools did not respond to the information supplied by Australian industry.

4. The Commission's assessment – like or directly competitive goods offered for sale in Australia

4.1 Finding

The Commission finds that like and directly competitive goods are offered for sale in Australia. Accordingly it is necessary to determine if the exemption goods are offered for sale to all purchasers under like conditions having regard to the custom and usage of trade (see sections 5 and 6).

4.2 Like or directly competitive goods offered for sale in Australia

The Commission has examined the evidence presented in the application and by the Australian industry, and considers that like and directly competitive goods to the exemption goods are offered for sale in Australia.

The Commission notes that aluminium extrusions can be manufactured to various designs. The exemption goods are specific profiles designed by Ezy Tools. Whilst the Australian industry might not currently manufacture those exact designs, relying on brochures provided by Capral and previous verification visits to its production facilities, the Commission considers that Capral's has the capability to produce the exemption goods.

In addition, based on verified sales data from INV 442, it can be demonstrated that Capral sells like goods with the similar primary physical characteristics as the exemption goods. The Australian industry also produces like goods which are functionally alike and manufactured in a similar manner to the exemption goods. On this basis, the Australian industry currently offers extrusions that have characteristics closely resembling those of the exemption goods.

The Commission also notes that Ezy Tools have in the past sourced like goods to the exemption goods from the Australian industry. This was supported by the documentation supplied by Capral.

4.3 Conclusion

The Commission finds that the Australian industry offers for sale like or directly competitive goods to the exemption goods.

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

5.1 Ezy Tools' claims

Ezy Tools claims that:

- There are no known companies in Australia who are willing to make Ezy Tools' Australian designed 12 unique extrusions, with free tooling of its dies and supply Ezy Tools with the lower volumes it can order and afford as a small or medium enterprise (SME).
- As a small SME Ezy Tools is not treated on 'equal terms' with other SME or larger companies seeking extrusions from the local extruders in Australia.
- Unlike larger companies that can order in huge volumes and thereby get free dies, Ezy Tools is not on a level playing field and would be charged significantly higher prices for dies than those free dies larger purchasers are able to negotiate for. Hence, Ezy Tools cannot obtain like or directly competitive goods on equal terms.
- When Ezy Tools has tried to source the extrusions from Australian manufacturers, recently and in the past, they have not been successful in getting an equal bargain compared to other purchasers on equal terms under like conditions having regard to the custom and usage of trade.
- Ezy Tools has made attempts to purchase from Australian manufacturers and importers in the past. Ezy Tools has run out of its raw aluminium profiles three times previously due to being 'put last' or used to 'top up' other companies' orders. This had a negative impact on Ezy Tools' business and that prompted Ezy Tools to find its own extruder overseas, as the local suppliers charged too much for dies, would not offer the flexibility to order smaller volumes and therefore would not offer Ezy Tools like deals compared to their high volume customers.

5.2 Australian industry's response

Capral submitted that it is willing to offer to supply and trade aluminium extrusions on commercial terms that are comparable with other customers having similar volumes, products and tooling (die) requirements. Capral further noted that 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.

Ezy Tools did not respond to the information supplied by Australian industry.

6. The Commission's assessment - to all purchasers on equal terms under like conditions having regard to the custom and usage of trade

6.1 Finding

The Commission finds that the like or directly competitive goods to the exemption goods are offered for sale in Australia to all purchasers on equal terms under like conditions having regard to the custom and usage of trade.

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

Ezy Tools claimed that the Australian industry will not supply to Ezy Tools at the same terms as granted to high volume customers, including free dies.

Capral, representing the Australian industry responded that Ezy Tools would be supplied at the same terms as other customers ordering similar products and quantities.

The Commission notes that, for the supply of any new aluminium profile, the manufacturer and purchaser must agree on technical specifications including alloy, temper, tolerances etc. It is then necessary to cut and maintain a die in order to produce the aluminium profile. This cost of a die can be significant and each die will have a certain useful life. It is not unexpected that a manufacturer would seek to recover the cost of the die. Capral, representing the Australian industry, have provided evidence of their die charge recovery model. This model sets out how customers at various volume levels are charged for their dies. The model demonstrates that all customers operating under like conditions to Ezy Tools (e.g. purchasing similar volumes) would be treated equally.

The Commission has tested the reliability of Capral's die cost recovery model.

The Commission found that - consistent with Capral's die charge recovery model – customers in like conditions to Ezy Tools were operating on equal terms (**Confidential Attachment 11**).

6.3 Customer or usage of trade

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. When considering what is "custom or trade usage" the courts have concluded that:

1. Custom or usage was established as mercantile usage or professional practice: *Byrne v Australian Airlines Ltd* (1995) 185 CLR 410 at 440; and
2. Evidence of actual market practices was crucial to the existence of a custom or usage. However, universal acceptance was not necessary: *Con-Stan Industries of Australia Pty Ltd v Norwich Winterthur Insurance (Australia) Ltd* (1986) 160 CLR 226.

The existence of a die charge recovery model indicates that Capral's practices are established customs of trade in the Australian market.

6.4 Conclusion

The Commission finds that like or directly competitive goods to the exemption goods are offered for sale in Australia to all purchasers on equal terms under like conditions having regard to the custom and usage of trade. Accordingly the conditions of subsections 8(7)(a) and 10(8)(a) of the Dumping Duty Act for granting an exemption are not satisfied.

7. Recommendation

Based on the Commission's examination of the application and submissions made to the inquiry, the Commissioner considers that like or directly competitive goods to the exemption goods are offered for sale in Australia. Those like or directly competitive goods are offered to all purchasers on equal terms under like conditions having regard to the custom and usage of trade.

The Commissioner recommends that the Assistant Minister not be 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.

Accordingly, the Assistant Minister's discretion to exempt the exemption goods from the duties would not arise.

8. Attachments

Attachments	Confidentiality	Title	Electronic public record identifier
Attachment 1	Not confidential	Exemption Application	EPR 001
Attachment 2	Not confidential	Australian industry questionnaire response - Capral	EPR 003
Attachment 3	Not confidential	Australian industry submission- Capral	EPR 014
Attachment 4	Not confidential	Australian industry-submission-Ullrich	EPR 004
Attachment 5	Confidential	Ezy Tools price list	NA
Attachment 6	Confidential	Ezy Tools brochure	NA
Attachment 7	Confidential	Ezy Tools import document for US customs	NA
Attachment 8	Confidential	Capral invoices to Ezy Tools	NA
Attachment 9	Confidential	Capral drawings of Ezy Tools' dies	NA
Attachment 10	Confidential	Die Charge Controls April 2016	NA
Attachment 11	Confidential	ADC analysis of Capral sales and die recovery transactions	NA

Annexes	Confidentiality	Title
Annex A	Non-confidential	The Australian industry
Annex B	Non-confidential	The exemption goods

ANNEX A

Company	Address	Contact & Email	Telephone/Fax
Almax Aluminium Pty Ltd	87 Trade Street Lytton QLD 4178 http://www.almax.net.au	almax@almax.net.au	Tel: 07 3906 6000 Fax: 07 3906 6066
Aluminium Profiles Australia Pty Ltd (APA)	25-31 Licola Crescent Dandenong South VIC 3175 http://www.aluminiumprofiles.com.au	John Villante john@aluminiumprofiles.com.au	Tel: 03 9768 5000 Fax: 03 9768 5050
Aluminium Shapemakers Pty Ltd (AluShapes)	7 Warringah Close Somersby Industrial Park Somersby NSW 2250 http://www.alushapes.com.au	Wolf Breit (managing director) wb@alushapes.com.au	Tel: 02 4340 4344 Fax: 02 4340 4348
Extrusions Australia Pty Ltd	25-28 Andretti Court Truganina VIC 3026 http://www.extrusions.com.au	Sales@extrusions.com.au	Tel: 03 8348 9300 Fax: 03 8348 9301
G James Extrusion Co Pty Ltd	1082 Kingsford Smith Drive Eagle Farm QLD 4009 http://gjames.com	admin@gjames.com.au	Tel: 07 3877 2833 Fax: 07 3877 2890
Independent Extrusions Pty Ltd (Inex)	33-39 Licola Crescent Dandenong South VIC 3175 http://www.inex.co.nz	Tyrone D'Souza (company secretary) Tyrone.dsouza@inexaus.com.au	Tel: 03 9768 0000 Fax: 03 9768 2748
Olympic Aluminium Co Pty Ltd	606 Ballarat Road Sunshine VIC 3020 http://www.olympicaluminium.com	Paul Bishop paul@olympicaluminium.com	Tel: 03 8361 2122 Fax: 03 9363 6643
Ullrich Aluminium Pty Ltd	20 Ron Boyle Crescent Carole Park QLD 4300 http://www.ullrich.com.au	Gilbert Ullrich (CEO) gwullrich@ullrich.com.au	Tel: 07 3718 1400 Fax: 07 3271 1230

ANNEX B

Product Description	Alloy/ Temper	Height (rectangular, square or open profile) / Outside Diameter (circular profile only)	Width (rectangular, square or open profile) / Inside Diameter (circular profile only)	Shape	Wall thickness	Length (m)	Section weight (kg)
CONCRETE SCREED BASE	6063/T5	50.30mm ± 0.61mm	40.00mm ± 0.36mm	Rectangular	Up to 3.00mm ± 0.15mm	6.000	0.821
STRAIGHTEDGE 70 X 19 mm	6063/T5	19.00mm ± 0.23mm	70.00mm ± 0.61mm	Rectangular	1.60mm ± 0.18mm	6.000	0.711
STRAIGHTEDGE 82 X 29 mm	6063/T5	82.50mm ± 0.61mm	28.50mm ± 0.31mm	Rectangular	2.00mm ± 0.18mm	6.000	1.102
STRAIGHTEDGE 92 X 34 mm	6063/T5	92.00mm ± 0.61mm	34.00mm ± 0.31mm	Rectangular	2.00mm ± 0.18mm	6.000	1.265
BRICKIES PROFILE HOLLOW EXTRUDED SQUARE BOX PROFILE	6063/T5	50.00mm ± 0.61mm	50.00mm ± 0.61mm	Square	2.30mm ± 0.20mm	5.600	1.185
SHOTCRETE TROWEL	6063/T5	36.00mm ± 0.30mm	118.00mm ± 0.86mm	Open profile	Up to 3.20mm	3.000	1.691
CONCRETE RAKE BLADE	6063/T5	Approx. 16.40mm	98.90mm ± 0.61mm	Open profile	Up to 3.60mm ± 0.20mm	3.010	0.958
CLAMP PROFILE NOT HOLLOW	6063/T5	24.25mm ± 0.25mm	70.00mm ± 0.61mm	Open profile	5.00mm ± 0.20mm	3.600	1.142
TUBE FOR CONCRETE RAKE HANDLE	6063/T5	34.00mm ± 0.31mm	29.00mm ± 0.31mm	Circular	2.50mm ± 0.25mm	3.210	0.671
TUBE FOR CONCRETE SCREED HANDLE	6063/T5	32.00mm ± 0.40mm	Varies because of shape complexity	Circular	1.50mm ± 0.18mm	4.340	0.526