



Your One Stop Warehousing Shop

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Anti-Dumping Review Panel

1. Invalid investigation regarding Steel Pallet Racking exported from the People's Republic of China and Malaysia (ADN 2019/45)

1.1. The investigation does NOT meet the criteria of the percentage required to comply with the Customs Act 1901 - Sect 269TB(6) as below 2% supported it (2 out of 115 businesses that represent the Australian Pallet Racking Industry claim dumping to have occurred). Investigation is null and void.

1.2. The Reviewable Decision is not correct or preferable as it contravenes Customs Act 1901 - Sect 269TAB and Sect 269TAC. Australia made a commitment in 2005 to treat China as a market economy. As a precondition for the negotiation of the China-Australia Free Trade Agreement, the costs and prices charged in China are not used to determine whether or not a product has been dumped. Instead, prices and costs in a *third country* are used to work out what is meant to be "normal". This has not been adhered to during this investigation and therefore, contravenes Section 269TAB and Section 269TAC, rendering the investigation null and void.

1.2. The Reviewable Decision is not correct or preferable as it contravenes Customs Act 1901 - Section 269TAE: the ADC ignored evidence presented (see below, section 2), did not consider important facts they considered to be 'outside the scope of the investigation' (even though these factors influenced the period under investigation - see below, section 5), the ADC's evidence supplied in the Statement of Essential Facts is conflicting and cannot be relied upon (see below, section 3), certain data was taken into consideration and other data was ignored (see below, section 3), which has now resulted in incorrect astronomically high tariff percentages being imposed.

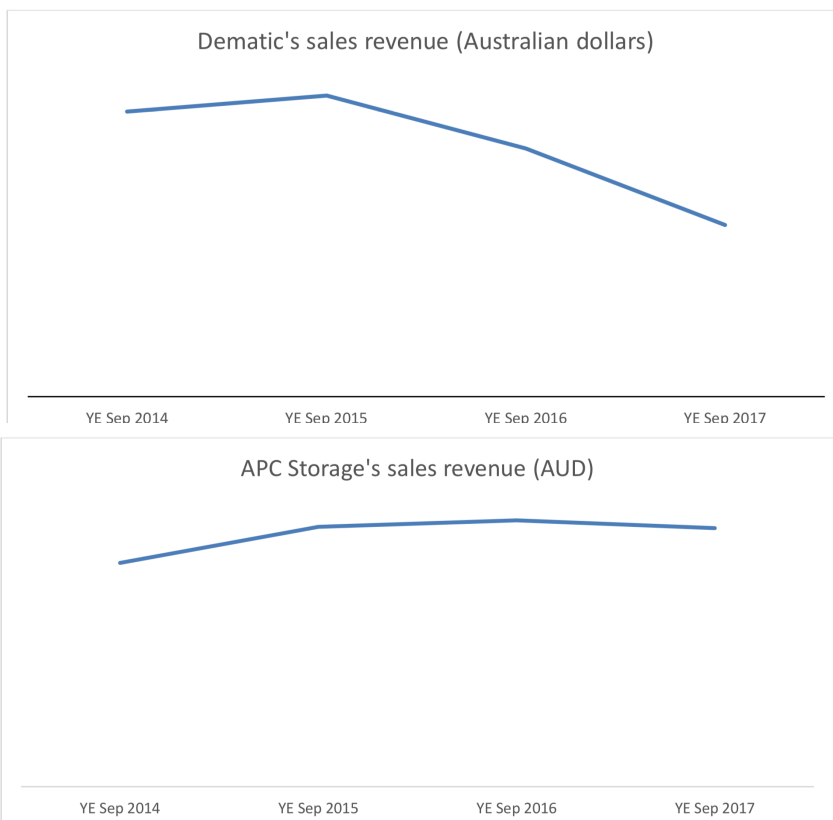
1.3. The Reviewable Decision should have been "the investigation has been terminated as dumping has not occurred" or "the investigation has been terminated as the investigation has exceeded the stipulated timeframe" (see below, section 6) or "the investigation has been terminated as this investigation has been proven to be invalid".

2. Indisputable Evidence Dumping is not Occurring

2.1. Colby are Dematic's distributors. A Colby distributor pays **confidential** for a 2590mm x 100mm box beam on a single purchase. On a bulk order of over 700 beams, their cost reduces to **confidential** each. Dematic's cost price is therefore less than **confidential**. Our price to land a 2590 x 100mm box beam during the period under investigation (depending on the AUD to USD exchange rate) was between **confidential** and **confidential** AUD. How was this dumping when we paid MORE for our imported product than the Colby distributor pays?

3. Conflicting Evidence presented by the ADC

3.1. These graphs were released by the ADC in the Statement of Essential Facts. Dematic's graph shows a steep decline in sales revenue while APC Storage's graph during the same timeframe (the period under investigation) shows an increase in sales revenue. This evidence contradicts the entire investigation. APC Storage was the **only other manufacturer** that supported Dematic's claim that they too suffered damage during the period under investigation. APC Storage's graph demonstrates the opposite actually occurred during the period under investigation: sales revenue increased.



4. Ineptitude of the Anti-Dumping Commission

4.1. The ADC ignored many facts presented via submissions by multiple companies in the Australian Pallet Racking Industry.

4.2. The ADC aligned itself with Dematic, ignored evidence presented on multiple occasions, was lacking in knowledge about the industry when commencing the investigation and as a result, conducted a lengthy, drawn-out process requesting time extensions on multiple occasions to provide the Minister with the final report and finally, implementing astronomically high tariffs which threaten to ruin the entire Australian Pallet Racking industry, rendering every single importer non-competitive.

4.3. The ADC was meant to conduct an objective investigation, however, it is apparent they failed to meet their obligations by ignoring the facts.

4.4. The Reviewable Decision breaches Section 45 of the Competition and Consumer Act as the tariffs implemented have rendered many members of the Australian Pallet Racking Industry non-competitive.

5. The ACCC, Bluescope Steel and Dematic

5.1. Bluescope Steel is the company that supplies Dematic with their HRC.

5.2. Dematic's representative is Mr John O'Conner. Mr O'Conner is also the representative for Blue Scope Steel. Mr O'Conner is a registered government lobbyist.

5.3. Blue Scope Steel is a member of the International Trade Remedies Forum (ITRF), which provides advice to the government on the operation and improvements to Australia's anti-dumping legislation.

5.4. Bluescope Steel is under investigation by the ACCC for possible 'cartel conduct'.

5.5. In the SEF (page 22), the ADC claims "Dematic purchases slitted black hot rolled coil (HRC) and galvanised HRC from an unrelated Australian supplier". As Dematic is purchasing HRC from Bluescope Steel, this hardly makes them an 'unrelated Australian supplier'.

5.6. Considering Dematic purchases their HRC from Bluescope Steel, and Bluescope Steel is under investigation by the ACCC for possible cartel conduct, this will have affected the calculations during the injury period. One Stop Pallet Racking requested for the Commission to give a public detailed response to this legitimate concern, however, the ADC said "the investigation by the ACCC is not a matter which can be considered within the scope of this investigation."

5.7. On the basis of the above, One Stop Pallet Racking is concerned that there are multiple conflicts of interest.

6. Timeframes Breached

6.2. Dematic signed their initial application on the 23rd of August 2017. It is unclear when they first lodged their complaint with the ADC (the ADC will be able to confirm), however, as stipulated by the WTO, all investigations should be completed within a 12 month timeframe. Investigations cannot exceed 18 months. From the date Dematic signed their application form to when the final report was published on the ADC's website, 20 months and 16 days had passed, which is **outside of the stipulated timeframe. The investigation is null and void.**

6.3. The final report by the Minister was due on the 5th of May. This was not published until the 8th of May - 3 days late. **Investigation null and void.**

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