



Anti-Dumping Commission  
GPO Box 2013  
CANBERRA ACT 2601

Ms Jaclyne Fisher  
Panel Member, Anti-Dumping Review Panel  
c/o- ADRP Secretariat

By e-mail: [ADRP@industry.gov.au](mailto:ADRP@industry.gov.au)

Dear Ms Fisher

**Steel Pallet Racking exported from the People's Republic of China and Malaysia**

I write with regard to the notice under section 269ZZI of the *Customs Act 1901* (Cth) (the Act) published on 28 June 2019, advising of your intention to review the decision of the Minister for Industry, Science and Technology (the Minister) to publish a notice under subsections 269TG(1) and 269TG(2) of the Act (the Reviewable Decision). This notice was published on the website of the Anti-Dumping Commission (the Commission) on 8 May 2019, as Anti-Dumping Notice No. 2019/45.

I understand that the Commission has provided you with the information that was requested of me in your correspondence of 28 June 2019, that is:

1. the confidential attachments to the Statement of Essential Facts (SEF) relevant to the grounds of the review application;
2. parties' submissions to the ADC commenting on the SEF including confidential attachments relevant to the grounds of the applications for review;
3. the confidential attachments to the Final Report;
4. other relevant information (as defined in section 269ZZK of the Act) pertinent to the grounds of review raised by the Applicants, including:
  - a. the verification visit report and work programs for the two Australian industry members and any confidential attachments; and
  - b. the export visit report and work program relating to the applicant who has raised a ground relating to normal value, including the ADC's confidential spreadsheets regarding the calculation of the export price, normal value and dumping margin for this applicant.

**PUBLIC RECORD**

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I have considered the applications submitted by Paracella Pty Ltd, trading as Abbott Storage Systems, the seven companies collectively referred to as “Jracking Group” and One Stop Pallet Racking Pty Ltd for a review of the Reviewable Decision and make submissions, pursuant to section 269ZZJ(aa) of the Act, at **Confidential Attachment A**.

Non-confidential versions of the submission and appendices have been provided.

The Commission remains at your disposal to assist you in this matter, and would be happy to participate in a conference if you consider it appropriate to do so.

Yours sincerely

Paul Sexton  
General Manager  
Anti-Dumping Commission

29 July 2019

**Background**

1. On 25 August 2017, Dematic Pty Ltd (Dematic) lodged an application under section 269TB(1) of the *Customs Act 1901* (Cth) (the Act)<sup>1</sup> for the publication of a dumping duty notice (application) in respect of steel pallet racking (the goods) that has been imported into Australia from the People's Republic of China (China) and Malaysia.<sup>2</sup>
2. The Commissioner of the Anti-Dumping Commission (the Commissioner) subsequently initiated an investigation on 13 November 2017.<sup>3</sup>
3. On 8 May 2019, the Anti-Dumping Commission (the Commission) published a notice signed by the Minister for Industry, Science and Technology (the Minister) in which she decided to declare the goods, or like goods, to be goods to which section 8 of the *Customs Tariff (Anti-Dumping) Act 1975* (Cth) (the Dumping Duty Act) applies in respect to China and Malaysia (the subject countries).<sup>4</sup> This notice was published pursuant to sections 269TG(1) and (2) of the Act (the Reviewable Decision).
4. In the Reviewable Decision, the Minister stated that she made the Reviewable Decision following consideration, and acceptance of, recommendations made by the Commissioner on 5 April 2019, as set out in *Anti-Dumping Commission Report No. 441* (REP 441).<sup>5</sup> This report outlined the Commissioner's investigations, material findings of fact and law on which his recommendations were based and evidence relied upon to support those findings.
5. Paracella Pty Ltd, trading as Abbott Storage Systems (Abbott), the seven companies collectively referred to as "Jracking Group" and One Stop Pallet Racking Pty Ltd (One Stop) made separate applications for review of the Reviewable Decision by the ADRP. The Commission understands these applications were made pursuant to section 269ZZ(1)(b) of the Act.

**Application of Review submitted by Abbott**

**Australian industry & like goods**

6. In its application, Abbott submitted that the steel pallet racking imported, produced and supplied by Abbott does not fall within the goods description.<sup>6</sup> To support this view, Abbott explained that its goods are only adjustable to limited manufactured fixed adjustment points, which does not meet the requirement of "dimensions that can be adjusted as required" as contained in the goods description.<sup>7</sup>

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<sup>1</sup> All legislative references in this submission are to the *Customs Act 1901* (Cth) ('the Act') unless otherwise indicated.

<sup>2</sup> Dematic's non-confidential application is available on the electronic public record (EPR) for Investigation 441, on the Commission's website.

<sup>3</sup> EPR 441, document 2.

<sup>4</sup> Ibid, document 128.

<sup>5</sup> Ibid, document 126.

<sup>6</sup> Abbott application, page 6.

<sup>7</sup> Ibid.

7. In its application, Abbott also submitted that the goods which fall within the description of the goods do not presently exist in the Australian market and are not able to be manufactured.<sup>8</sup>
8. In support of these submissions, Abbott made reference to a number of submissions made during the course of the investigation by interested parties.<sup>9</sup> These submissions have been published on the EPR for investigation 441.<sup>10</sup>
9. The Commissioner disagrees with Abbott's submissions. The Commissioner submits that the Minister correctly decided that the goods subject to the notice do exist in the Australian market and material injury was caused to the Australian industry producing like goods by dumped goods exported from the People's Republic of China and Malaysia (dumped goods).
10. In determining whether the Australian industry producing like goods has been materially injured by the dumped goods, the Minister must first be satisfied that there is an Australian industry producing 'like goods'.<sup>11</sup> For goods to be regarded as being produced in Australia, they must be wholly or partly manufactured in Australia.<sup>12</sup> Goods will not be taken to have been partly manufactured in Australia unless at least one substantial process in the manufacture of the goods was carried out in Australia.<sup>13</sup>
11. To determine whether Dematic was an Australian industry member producing like goods, the Commission undertook a verification visit to Dematic.<sup>14</sup> During this visit the Commission observed Dematic's production processes with respect to beams, uprights and braces. Based on these observations, the Commission was satisfied that Dematic's production process included at least one substantial process in the manufacture of the goods.<sup>15</sup>
12. The Commission also visited other Australian industry members to observe their production processes.<sup>16</sup> The Commission found that the production processes of these five other industry members was very similar to Dematic's production process of the goods.<sup>17</sup>
13. For these reasons, the Commissioner considers there were six Australian industry members who produced like goods in Australia.<sup>18</sup> The Commissioner submits that the Minister correctly determined that like goods are able to be manufactured in Australia and do exist in the Australian market.

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<sup>8</sup> Ibid.

<sup>9</sup> Ibid, page 7.

<sup>10</sup> EPR 441, documents 94, 96, 99, 100, 101 and 116.

<sup>11</sup> The Act s269TB(1)(b).

<sup>12</sup> Ibid s269T(2).

<sup>13</sup> Ibid s269T(3).

<sup>14</sup> EPR 441, document 24.

<sup>15</sup> REP 441, chapter 4.

<sup>16</sup> APC Storage, Brownbuilt, Macrack, Noble and Spacerack.

<sup>17</sup> REP 441, chapter 4.

<sup>18</sup> The Commissioner also notes that with respect to production volume, he was satisfied that Dematic produced approximate [REDACTED] of the like goods produced in Australia and APC Storage produced approximately [REDACTED].

14. In its application, Abbott claimed that the goods they supply do not fall within the “*description of goods*” being the imported goods subject to the Commission’s investigation.<sup>19</sup> REP 441 noted that it is the steel pallet racking itself that is of *dimensions that can be adjusted as required*, not the individual components. In REP 441 the Commission stated that:

The requirement for the pallet racking to be adjustable as required does not necessitate the ability to infinitely position and reposition beams and braces at specific precise heights. All pallet racking systems observed by the Commission, including Abbott Storage’s, feature evenly spaced slots along the upright upon which beams and braces can be placed at the required height and adjusted to a different height as required.<sup>20</sup>

15. Abbott states that its pallet racking is manufactured to the *Australian Standard AS 4084-2012 Steel storage racking*.<sup>21</sup> The Commissioner notes that this standard similarly includes the term ‘adjustable’ in its definition.<sup>22</sup>

16. The Commissioner maintains that the correct and preferable decision is that the goods imported by Abbott do fall within the description of the goods.

### **Material injury caused by dumped goods**

17. Abbott submitted that the Minister erred in determining that any ‘like goods’ caused material injury to the Australian steel pallet racking industry.<sup>23</sup>

18. Abbott claims that goods that do not fall within the “*description of goods*” do not injure the Australian steel pallet racking industry, materially or otherwise. The application from Abbott does not query specific parts of the injury or causation analysis.

19. As outlined above, from paragraphs 13 to 16, the Commissioner submits that that like goods do exist in Australia and are produced by Australian industry members.

20. REP 441 outlines the extensive analysis undertaken by the Commission in determining that dumped steel pallet racking from China and Malaysia caused material injury to the Australian industry.<sup>24</sup>

21. The Commissioner maintains that the evidence obtained during the investigation showed that the sales prices achieved by the Australian industry producing like goods were depressed and suppressed due to competition with dumped goods from China and Malaysia.<sup>25</sup> This significantly reduced profits and profitability.<sup>26</sup> The Commissioner further maintains that this injury was material.<sup>27</sup>

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<sup>19</sup> Abbott application, page 6.

<sup>20</sup> REP 441, section 3.5.1.

<sup>21</sup> Abbott application, page 6.

<sup>22</sup> REP 441, page 17.

<sup>23</sup> Abbott application, page 6.

<sup>24</sup> REP 441, chapter 8.

<sup>25</sup> REP 441, page 82.

<sup>26</sup> Ibid.

<sup>27</sup> Ibid 82-3.

22. Therefore, the Commissioner submits that the correct and preferable decision is that like goods have been dumped from China and Malaysia, and that these dumped goods have caused material injury to the Australian industry.

### **Application of Review submitted by Jracking Group**

#### **Identification of Jracking Group as an uncooperative exporter**

23. In its application, Jracking Group submitted that the Minister erred in accepting the Commissioner's identification of Jracking Group as an uncooperative exporter.<sup>28</sup> Jracking Group continued that, as a result, the correct and preferable decision is to identify Jracking Group as a cooperative exporter.<sup>29</sup>

24. To support its view, Jracking Group submitted that it does not segregate costs and expenses by market or product and only maintains a single cost for each different product.<sup>30</sup> Jracking Group explained it did not have the manpower required to sufficiently report cost to make and sell information by market and product, particularly when the products developed by Jracking Group are non-standard and customer-tailored.<sup>31</sup> For this reason, in addition to the holiday and reporting periods around the time responses were due to the Commission, Jracking Group submits, it could not complete the task.<sup>32</sup>

25. Jracking Group's response to its exporter questionnaire was originally due on 20 December 2017. Jracking Group received a number of extensions of time to provide its response to the exporter questionnaire and provided its response on 16 January 2018.<sup>33</sup> The Commission identified deficiencies in the response provided by Jracking Group and requested that it address these deficiencies by 16 February 2018. Over the following five months a total of four deficiency letters were provided to Jracking Group.

26. In the fourth deficiency letter, sent to Jracking Group on 6 June 2018, the Commission requested that Jracking Group provide a detailed methodology regarding both the calculation and allocation of specific costs relating to the production of the goods.<sup>34</sup> Jracking Group provided a response to this deficiency letter on 12 June 2018. The Commission considered that Jracking Group continued to make revisions to key information in its response, including cost data, which the Commission considered did not address the identified deficiencies.<sup>35</sup>

27. On 18 June 2018, the Commission determined that Jracking Group had not addressed the specific deficiencies that had been raised and advised Jracking Group that it had been deemed uncooperative.<sup>36</sup> The Commissioner was satisfied that Jracking Group did not provide information the Commissioner considered to be relevant to the investigation within a reasonable period. Therefore, the Commissioner determined Jracking Group as

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<sup>28</sup> Jracking Group application, Attachment B.

<sup>29</sup> Ibid page 8.

<sup>30</sup> Ibid page 4.

<sup>31</sup> Ibid.

<sup>32</sup> Ibid.

<sup>33</sup> EPR 441, document 13.

<sup>34</sup> Confidential deficiency advice dated 6 June 2018.

<sup>35</sup> Confidential email dated 12 June 2018.

<sup>36</sup> Correspondence dated 18 June 2018 (provided to the ADRP on 5 July 2019 – document E-6).

an uncooperative exporter in accordance with section 269T(1) (definition of 'uncooperative exporter') and the *Customs (Extensions of Time and Non-Cooperation) Direction 2015* (Cth).

28. In its application Jracking Group claims that an on-site verification visit was not arranged due to its comprehensive response, and that this is indicative of cooperation with the investigation.<sup>37</sup>
29. In an email sent from the Commission to Jracking on 7 March 2018, the Commission noted the comprehensive response of Jracking Group in relation to the deficiency list and stated that the Commission was currently reviewing this response. Following this review process, Jracking Group was provided with two further deficiency letters over a period of three months. The Commission had stated that an on-site verification visit would not take place because of resourcing issues, and not because of the comprehensive response provided by Jracking Group.<sup>38</sup>
30. Jracking Group was afforded numerous opportunities, over a significant period of time, to rectify deficiencies in its response to the exporter questionnaire. The Commissioner did not err in finding Jracking Group to be an 'uncooperative exporter'.

### **Reliability of cost data**

31. In its application, Jracking Group disputed the Commission's assessment of its cost data as being unreliable.<sup>39</sup> Jracking Group further submitted that the correct and preferable decision is for Jracking Group's normal value to be constructed using its own costs of production.<sup>40</sup>
32. The Commissioner submits the Minister correctly considered Jracking Group's cost data as unreliable, and as a result disregarded it, pursuant to section 269TAC(7).
33. As noted above in paragraphs 25 and 30, the Commission determined that Jracking Group's response to the exporter questionnaire contained key deficiencies. These deficiencies rendered the cost data unreliable, and this data is essential to the Commission's calculation of normal values.
34. Notwithstanding the deficiencies in cost data, as Jracking Group had submitted information regarding its export and domestic sales, the Commission undertook a benchmarking exercise to determine whether the information provided was reliable for the purposes of calculating export price and normal value.
35. Having undertaken a benchmarking analysis of the data provided by Jracking Group, the Commission considered Jracking Group's verified export sales data was reliable for the purposes of determining an export price under section 269TAB(3).
36. However, the Commission considered Jracking Group's information to be unreliable for the purposes of determining normal value. As noted in the benchmark verification report for Jracking Group, the Commission identified that the cost of production for entities in

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<sup>37</sup> Jracking Group application, Attachment B, page 5.

<sup>38</sup> Confidential email dated 7 March 2018 (provided to the ADRP on 17 July 2019).

<sup>39</sup> Jracking Group application, Attachment B, page 9.

<sup>40</sup> Ibid.

the Jracking Group were significantly lower than other, verified Chinese exporters. The Commission was not satisfied with the reasons provided by Jracking Group as to why its costs were lower than other verified exporters.

37. Accordingly, due to the absence of Jracking Group's specific cost data and the discrepancy between the data it provided with other, verified cooperating exporters, the Commissioner considered Jracking Groups cost data to be unreliable. The Commissioner considered that the most relevant and reliable information to be the cost data provided by other cooperating exporters to the investigation, for the purposes of determining Jracking Group's normal value.<sup>41</sup>

### Determination of Normal Value

38. In its application, Jracking Group submitted that if Jracking Group's cost data is considered insufficient, a weighted average cost of the three sampled Chinese exporters is to be used to compare with Jracking Group's export price.<sup>42</sup>

39. The Commissioner submits that it was the correct and preferable decision to use the highest weighted average normal value.

40. Having determined Jracking Group to be an uncooperative exporter, the Commission was required to calculate its normal value under section 269TAC(6), having regard to all relevant information.<sup>43</sup> This section provides the Minister with a discretion and the Minister may consider several factors to determine which methodology would be preferable in the specific fact scenario.<sup>44</sup>

41. The Commission considered that the most relevant and reliable information for determining normal value for Jracking Group was to use the highest weighted average normal value for the investigation period from selected exporters. These figures were adjusted to ensure comparable delivery terms.

42. While it was open to the Commission to use the average normal value of the cooperating exporters, the Commissioner considers it was preferable to use the highest weighted average normal value. In coming to the view the Commissioner considered the following factors:

(a) given that Jracking Group's costs data was unreliable, it was not known to the Commission whether the average of the cooperating exporters' normal would more accurately reflect Jracking Group's true costs; and

(b) the verified information provided by the cooperating exporters revealed there was a range of normal values for the like goods in the domestic market.

43. In addition, the Commissioner draws the ADRP's attention to Annex II of the *Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* ('*Anti-Dumping Agreement*'). Article 7 states, among other things, if an interested party

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<sup>41</sup> REP 441, section 6.7.3.

<sup>42</sup> Jracking Group application, Attachment B, page 9.

<sup>43</sup> Section 269TACAB(1)(e).

<sup>44</sup> See: ADRP Decision 14, para 118.



does not cooperate and thus relevant information is being withheld from an investigating authority, this situation could lead to a result which is less favourable to the party than if the party did cooperate.<sup>45</sup>

### **Application of Review submitted by One Stop**

#### **Australian industry producing like goods**

44. In its application, One Stop queries whether the Australian industry has been correctly identified.<sup>46</sup> The Commissioner understands that One Stop is reiterating claims made during the course of the investigation pertaining to whether importers should be included as manufacturers of the goods, and therefore part of the Australian industry.
45. During investigation 441, One Stop submitted that under the *Australian Consumer Law*<sup>47</sup> an importer is classified as a manufacturer and that therefore, there were 109 identified importers of steel pallet racking who constitute part of the Australian steel pallet racking industry. Based on this, One Stop submitted that the requisite threshold of support for the application by the Australian industry had not been met.
46. The Commissioner notes that whether the application had the requisite support by the Australian industry, as required under section 269TB(6) of the Act, is not a ground for which this review has been initiated. Notwithstanding this, the Commissioner has again considered its analysis regarding whether importers should be classified as manufacturers, and subsequently part of the Australian industry producing like goods for the purpose of Part XVB.
47. As noted in paragraph 10 above, in determining whether the Australian industry producing like goods has been materially injured by dumped goods, the Minister must first be satisfied that there is an Australian industry producing 'like goods'.<sup>48</sup> For goods to be regarded as being produced in Australia, they must be wholly or partly manufactured in Australia.<sup>49</sup> Goods will not be taken to have been partly manufactured in Australia unless at least one substantial process in the manufacture of the goods was carried out in Australia.<sup>50</sup>
48. One Stop stated that it assembled goods, held itself out to the public to be a manufacturer of the goods, applied its branding to the goods and imported goods into Australia.<sup>51</sup> While the Commissioner notes that One Stop undertakes some processes on the goods once imported, being the assembly of the goods (noting that the goods are steel pallet racking, or parts thereof, assembled or unassembled...), the Commissioner does not consider that these actions constitute a "substantial process in the manufacture of the goods" as required to meet the legislative test. Rather, the Commissioner considers that a greater involvement in the manufacture of the goods is required.

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<sup>45</sup> See ADRP Decision 14, para 118; and Policy Manual page 58.

<sup>46</sup> One Stop application, attachment 6.

<sup>47</sup> *Competition and Consumer Act 2010* (Cth) sch 2.

<sup>48</sup> The Act s 269TB(1)(b).

<sup>49</sup> *Ibid* s269T(2).

<sup>50</sup> *Ibid* s269T(3).

<sup>51</sup> One Stop application, attachment 6.

49. In REP 441, the Commissioner considered the following production processes as constituting a "substantial process in the manufacture of the goods" with respect to Dematic's production of the like goods:<sup>52</sup>

- (a) Beams – Black HRC is passed through a roll forming machine and welded together to form hollow tubes. End connectors with locking systems, which are purchased by Dematic from another unrelated domestic supplier, are then welded to each end of the tube to form a beam. The beam is then powder coated in spray booths as required.
- (b) Uprights – Galvanised HRC first goes through a 'punching machine' where holes are punched in accordance with a pre-determined profile for connecting beams to the braces. It is then passed through a roll forming machine and welded on the edge to form hollow 'square' tubes.
- (c) Braces – Galvanised HRC is passed through a roll forming machine to form a pre-determined brace profile. It is welded on the edge to form hollow 'square' tubes.

50. The Commissioner notes that neither One Stop, nor any other importer, provided evidence to support that it undertook a substantial process in the manufacture of the goods in Australia.

51. For these reasons, the Commissioner maintains that the composition of the Australian industry has been determined correctly, being Dematic, APC Storage and four other smaller industry members.<sup>53</sup>

### Like goods

52. One Stop queried whether the imports of steel pallet racking are 'like goods'. Specifically, in its application, One Stop submitted that the steel pallet racking it imports does not meet the goods description because it is not *of dimensions that can be adjusted* as required.

53. The Commissioner has considered the definition of *adjustable* as required above at paragraphs 13 to 15, in relation to claims made by Abbott. The Commissioner reiterates that it is the steel pallet racking itself that must be of dimensions that can be adjusted as required, not the individual components.

54. In its application One Stop also queries whether the Australian industry produce like goods with reference to physical likeness, commercial likeness, functional likeness and production likeness.

55. One Stop provided submissions during the course of the investigation raising these points regarding like goods. These were addressed by the Commission in REP 441.<sup>54</sup> Specifically, the Commissioner, and subsequently the Minister, was satisfied of the following:

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<sup>52</sup> REP 441, page 27.

<sup>53</sup> Ibid chapter 4.

<sup>54</sup> Ibid page 22.

- Physical likeness – despite minor differences, Dematic’s pallet racking system and components have similar physical characteristics including size, appearance, structure, strength and the ability to provide storage for standard sized pallets;
- Commercial likeness – confidential information provided to the Commission shows that buyers are willing to switch between Australian made and imported pallet racking;
- Functional likeness – while certain styles may provide a competitive advantage, locally produced and imported pallet racking have essentially identical end uses; and
- Production likeness – both Dematic’s and One Stop’s pallet racking is manufactured to meet *Australian Standard AS4084-2012*. One Stop did not provide any detail or evidence of the claimed difference in safety load ratings of the two products.<sup>55</sup>

56. One Stop stated that the Minister incorrectly considered whether there was the same or similar “likeness” of goods produced by the Australian industry with the imported goods to determine whether there was an Australian industry producing “like goods”. Instead, One Stop stated the Minister should have considered whether the Australian industry produced identical goods or goods having characteristics closely resembling the imported goods.

57. The Commissioner disagrees with One Stop’s submission and submits that the Minister applied the correct test when determining whether there was an Australian industry producing “like goods”. That is, the Minister correctly considered whether the Australian industry produced identical goods or goods which had characteristics closely resembling the goods under consideration.

58. In *GM Holden Ltd v Commissioner of the Anti-Dumping Commission*, Justice Mortimer stated that the definition of “like goods” in section 269T(1) allowed for two alternative assessments;<sup>56</sup> goods which are identical in all respects or, although not alike have characteristics closely resembling the goods under consideration. He continued that it was apparent that the second part of the definition focusses on an assessment of physical characteristics such as, composition, raw materials used in composition and their outward appearance and commercial use.

59. Accordingly, and consistent with Justice Mortimer’s reasoning, the Minister correctly considered whether the goods produced by Dematic possessed a physical, commercial, functional and production likeness, when determining the goods produced by Dematic closely resembled the goods under consideration.

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<sup>55</sup> Ibid.

<sup>56</sup> *GM Holden Limited v Commissioner of the Anti-Dumping Commission* [2014] FCA 708, 124.

### **Injury caused by other factors**

60. One Stop queried the impact of the second hand steel pallet racking market, and repeated the claims made during the course of the investigation that the second-hand market has contributed to the injury experienced by the Australian industry.
61. In REP 441, the Commissioner considered that the volume of second-hand steel pallet racking in the market may have caused some injury to the Australian industry, but that the interested parties who had submitted these claims did not provide supporting evidence. Further, the available evidence demonstrated that there was no or very little competition between the second-hand steel pallet racking and new steel pallet racking markets.<sup>57</sup>
62. Notwithstanding the above, at section 8.11 of REP 441 the Commissioner noted:
- The Commissioner accepts it is possible that certain factors other than dumping may have contributed to the injury caused by the Australian industry. However, the Commissioner considers that this does not detract from the evidence that shows the Australian industry lost significant sales volumes and experienced significant price suppression in the investigation period due to dumping of the goods from China and Malaysia.
63. For these reasons, the Commissioner maintains his view that based on the available information and evidence before him during the investigation, the Minister made the correct or preferable decision in finding that the Australian industry experienced material injury caused by dumping during the investigation period.

### **Normal Value**

64. In its application, One Stop stated that the determination of normal value should have been made under section 269TAC(1).<sup>58</sup>
65. The Commissioner disagrees with One Stop's submission and submits the Minister correctly determined normal value under section 269TAC(2) with respect to goods exported from China.
66. Having regard to Part XVB of the Act, the Commissioner submits that it was not open to the Minister to determine a normal value for Chinese exporters pursuant to section 269TAC(1) because of the Commissioner's finding that there was a particular market situation which resulted in the sales of the goods in the domestic market not being suitable in this investigation.<sup>59</sup> As explained in REP 441, the Commissioner therefore determined the normal values for Changzhou Tianyue Storage Equipment Co., Ltd and SSI Schaefer System International (Kunshan) Co., Ltd pursuant to section 269TAC(2).<sup>60</sup>
67. The Commissioner also notes that One Stop has not submitted in its application that the Commissioner's finding of a particular market situation in respect of the sales of goods in the domestic market during the investigation period was not correct or preferable.

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<sup>57</sup> REP 441, page 79.

<sup>58</sup> ADRP Conference Summary for 2019/103, One Stop.

<sup>59</sup> REP 441, pages 41-2; REP 441, Non-Confidential Attachment; the Act s 269TAC(2)(a)(ii).

<sup>60</sup> REP 441, pages 47-9 and pages 53-4, respectively.