



# ADRP Conference Summary

## 2019/103 Steel Pallet Racking exported from the People's Republic of China and Malaysia

Panel Member	Jaclyne Fisher
Review type	Review of Minister's Decision
Date	19 June 2019
Participants	Kelvin Flintoff Abbott Storage Systems (Abbott), Emma Macfarlane (Coleman Greig Lawyers)
Time opened	1 pm AEST
Time closed	1.25 pm AEST

### Purpose

The purpose of this conference was to obtain further information in relation to the Abbott application before the Anti-Dumping Review Panel (Review Panel) in relation to Steel Pallet Racking exported from the People's Republic of China (China) and Malaysia.

The conference was held pursuant to s.269ZZHA of the *Customs Act 1901* (the Act).

In the course of the conference, I may ask parties to clarify an argument, claim or specific detail contained in the party's application. The conference was not a formal hearing of the review and was not an opportunity for parties to argue their case before me.

I have only had regard to information provided at this conference as it relates to relevant information (within the meaning of s.269ZZK(6) of the Act). Any conclusions reached at this conference are based on that relevant information. Information that relates to some new argument not previously put in an application or submission is not something that the Review Panel has regard to, and, is therefore not reflected in this conference summary.

I also advised participants that the conference was being recorded and transcribed by Express Virtual Meetings Pty Ltd. The recording will capture anything that is said during the conference. The conference is being recorded to have regard to the recording and to allow me to prepare a conference summary. This conference summary will be published on the Review Panel's website. Confidential information discussed during the conference will be redacted from the conference prior to publication.



The Review Panel's Privacy Statement outlines who the conference recording and transcript may be disclosed to. The Privacy Statement is available on the Review Panel's website. The Secretariat has sent each of you a link to the Privacy Statement in preparation for this conference. If you have not already done so, please indicate whether you consent to:

- The recording of this conference; and
- The recording being dealt with as set out in the Privacy Statement.

Both participants indicated that they understood the Privacy Statement and agreed to the conference be recorded. Abbott requested a copy of the transcript. The Review Panel agreed to provide a copy once available.

## Discussion

The specific information that the ADRP sought in this conference was in relation to clarifying the grounds listed in Abbott's review application. The Review Panel Member stated that the reviewable decision relates to the decision of the Minister to publish a dumping duty notice under s.269TG(1) and (2) of the Act. Question 9 of the application requires applicants to specify the grounds on which the applicant believes that decision was not the correct or preferable decision. There are a number of issues raised in Abbott's review application and the Panel Member wished to clarify the wording of the grounds being raised by Abbott. The Review Panel Member indicated that this did not necessarily mean the grounds included in the review application are 'reviewable grounds' in terms of s.269ZZG of the Act, merely that it was necessary to clarify the exact grounds being raised by Abbott.

The Review Panel requested that Abbott clarify the grounds in its review application. Abbott undertook to clarify and forward the exact wording of its grounds from its application subsequent to the meeting. It provided the following grounds:

1. By refusing to undertake a verification visit to Abbott, despite invitations/requests made by Abbott, the Anti-Dumping Commission did not afford Abbott natural justice or procedural fairness in its recommendations to the Minister regarding the reviewable decision;
2. The Anti-Dumping Commission erred in deciding to refuse Abbott's request to undertake a verification visit, resulting in a misdescription of the characteristics and features of Abbott's goods by the Anti-Dumping Commission in its recommendations to the Minister regarding the reviewable decision;



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3. The Anti-Dumping Commission erred in determining that, 'It is the steel pallet racking that is of *dimensions that can be adjusted as required*, not the individual components...' (Final Report No. 441 at page 17). Neither Abbotts steel pallet racking system or its individual components can be '*adjusted as required*';

4. The Anti-Dumping Commission erred in determining 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.' (Final Report No. 441 at page 17);

5. The Anti-Dumping Commission erred and improperly exercised its power in determining that, '...Abbott Storage's overseas supplier of steel pallet racking participated in this investigation and identified the goods exported to Australia and purchased by Abbott Storage as goods subject to the application...', by failing to acknowledge subsequent correspondence from the same exporter correcting this statement and identifying the goods exported to Australia and purchased by Abbott as not being goods subject to the application;

6. The Minister erred in deciding that there are 'goods' or 'like goods' being dumped and causing material injury to the Australian industry as the goods described in the notice:

(a) do not exist in the Australian market; and

(b) are not able to be manufactured;

7. The Minister erred in determining that any 'like goods' caused/cause material injury to the Australian steel pallet racking industry. Any goods that the Minister asserts that meets the description of 'like goods' should be exempted from the dumping duty under the Customs Tariff (Anti-Dumping) Act 1975; and

8. The Minister erred in adopting the recommendations of the Anti-Dumping Commission in making the reviewable decision, to the extent those recommendations relate to the matters set out in grounds 1 to 7 above.