



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	17 June 2019
Participants	Ray Medina (One Stop Pallet Racking Pty Ltd (One Stop), Andrew Percival (Percival Legal)
Time opened	1 pm AEST
Time closed	1.30 pm AEST

Purpose

The purpose of this conference was to obtain further information in relation to the 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.

Discussion

The specific information that the ADRP sought in this conference was in relation to clarifying the grounds listed in One Stop's review application. The Review Panel Member stated that there were a number of issues raised in the review application and she wish to clarify whether the following captured the grounds being raised by One Stop. The Review Panel Member indicated that this did not necessarily mean such statements were 'reviewable grounds' in terms of s.269ZZG of the Act, merely that this summarised the issues raised in the One Stop application:

1. The Minister erred in being satisfied that there is an Australian industry producing like goods and whether imports of like goods has been or is being caused or is threatening material injury to the Australian industry. In particular, whether the imports are 'like goods', whether the Australian industry has been correctly identified and whether material injury was caused to the Australian industry by factors other than dumping;

In support of this position, Mr Percival summarised the concerns as:

The Minister failed to apply the statutory test, that is, whether the Australian industry produced identical goods to those being imported from China and, if not, whether it produced goods having characteristics closely resembling those imported from China. The test applied was whether the Australian industry produced goods that had the same or similar 'likeness' of the goods under consideration (ie physical likeness, commercial likeness, production likeness and so on).



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2. The Minister failed to take into account whether the imposition of anti-dumping measures would cause injury to Australian consumers and other industry members, in terms of whether it is in the national interest to impose such duties;
3. The Minister erred in determining that dumping occurred given the decision regarding the determination of normal value being based on s.269TAC(2)(c) of the Act, when it should have been determined under s.269TAC(1) of the Act; and
4. Procedural errors including timeframes, dumping duty security measures, anti-competition laws, investigation methodology, adherence to the World Trade Organization (WTO) Anti-Dumping Code provisions

The Review Panel indicated that One Stop could clarify the issues in its application and referred to above, and provide comment back to the Review Panel.

One Stop is to provide the following information following the conference:

- Clarification of the grounds One Stop considers indicates that the reviewable decision is not correct or preferable.

Percival Legal subsequent to the meeting confirmed that the words used in paragraphs 1 – 4 above described the grounds in the One Stop review application.