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Ms Jaclyn Fisher  
Panel Member  
Anti-Dumping Review Panel  
c/o Anti-Dumping Review Panel Secretariat  
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Canberra City ACT 2601

Email: [ADRP@industry.gov.au](mailto:ADRP@industry.gov.au)

Dear Ms Fisher

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

### **I. Background**

I refer to applications for review of a decision by the Minister for Industry Science and Technology to publish a notice under subsections 269TG(1) and (2) of the *Customs Act 1901* (the Act) in respect of Steel Pallet Racking (the goods) exported from the People's Republic of China (China) and Malaysia (the Reviewable Decision).

The applications for review were made by:

- Abbott Storage Systems ("Abbott");
- Jacking Group ("Jack"); and
- One Stop Pallet Racking Pty Ltd ("One Stop").

The Minister's decision as published in Australian Dumping Notice 2019/45 on 8 May 2019.

Dematic Pty Ltd ("Dematic") is an Australian manufacturer of steel pallet racking at its Belrose, NSW manufacturing facility and the applicant company for the anti-dumping measures. Dematic has examined the applications by the above interested parties and seeks to comment on the grounds of review as nominated by the parties.

### **II. Abbott Storage Systems**

Abbot has nominated three grounds of appeal in respect of the reviewable decision. These are addressed hereunder.

#### ***Ground 1***

Abbott asserts that the making of the Reviewable Decision was an improper exercise of power as the Minister erred in deciding there are goods or "like goods" being dumped and causing material injury to the Australian industry as the goods the subject of the notice do not exist in the Australian market and are unable to be manufactured in Australia.

The goods the subject of Investigation 441 are:

**Dematic Pty Ltd**  
ABN 43 118 204 425

24 Narabang Way  
Belrose NSW 2085 Australia  
Phone +61 (2) 9486 5555

[www.dematic.com.au](http://www.dematic.com.au)



*"Steel pallet racking, or parts thereof, assembled or unassembled, of dimensions that can be adjusted as required (with or without locking tabs and/or slots, and/or bolted or clamped connections), including any of the following – beams, uprights (up to 12m) and brace (with or without nuts and bolts)."*

The Anti-Dumping Commission ("the Commission") published an Issues paper concerning the goods and like goods the subject of investigation. Abbott provided a response to the Issues Paper and reiterated comments in earlier submissions dated 31 October 2019, 23 November 2019 and 3 December 2019. The Commission responded to claims by Abbott in Report No. 441<sup>1</sup>:

*"It is the steel pallet racking that is of dimensions that can be adjusted as required, not the individual components. It is apparent that individual solid steel components, once manufactured, cannot be adjusted. The purpose of a steel pallet racking system is to assemble it in a multitude of configurations that can be adjusted as required. The Australian Standard AS 4084-2012 defines adjustable pallet racking and the Commissioner notes that Abbott Storage claims that its pallet racking is adjustable and is manufactured to AS 4084-2012."*

It was further noted by the Commission:

*"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."*

The goods description identifies steel pallet racking or parts therefore as included within the intended coverage of the measures. The Commission was satisfied that the goods imported by Abbott Storage from its supplier were correctly included within the goods description. As indicated by the Commission, Abbott's supplier of the goods identified its exports to Australia *"as goods the subject of the application"*.

Abbott contends that the components it imports cannot be adjusted in any way<sup>2</sup>. However, Abbott does concede that *"the steel pallet packing is adjustable to only limited premanufactured fixed adjustment points of one component only in one single axis direction"*. This is the case for all goods and like goods where the upright has the adjustment points.

Abbott further argues that its imported goods are not pallet racking and *"do not exist in the Australian market"*. This interpretation is not consistent with the views of other interested parties – including major importers from China and Malaysia that were cooperative exporters in the conduct of Investigation 441<sup>3</sup>.

Dematic is a manufacturer of beams, uprights and brace that are used in pallet racking systems. These like goods, along with the imported goods, that are parts or components of pallet racking systems, are covered by the goods description of Report 441. The Minister's decision in respect of the goods imported by Abbott is the correct and preferred decision as the imported goods compete directly with like goods manufactured by Dematic and sold in the Australian market.

## Ground 2

Abbott states that the goods imported from its supplier do not fall within the description of like goods (in terms of characteristics and features of Abbott's goods: including whether the dimensions can be adjusted as required) and are not like goods as described in the section 269TG(1) and (2) notices signed by the Minister.

Dematic has confirmed above that the goods imported by Abbott do fall within the goods description. Further, the goods manufactured by Dematic are alike to the imported goods by Abbott and are therefore

<sup>1</sup> Report No. 441, Section 3.5.1, P. 17.

<sup>2</sup> Abbott Storage submission dated 22 February 2019.

<sup>3</sup> Most notably exporters including SSI Schaefer System International (Kunshan) Co., Ltd, Dexion (Shanghai) Logistics Logistics Equipment Co., Ltd, Schaefer Systems International Sdn Bhd.



correctly the subject of the subsection 269TG(1) and (2) notices for the reasons identified (i.e. the imported goods are parts of adjustable pallet racking systems).

The Minister's decision in this regard is the correct and preferred decision concerning the goods imported by Abbott.

### *Ground 3*

Abbott has further argued that the Minister has "erred" in finding the 'like goods' caused material injury to the Australian steel pallet racking industry.

As a point of clarification, the Australian industry manufactures like goods to the imported goods. The imported goods – being "*steel pallet racking, or parts thereof.....that can be adjusted as required...*" etc were found by the Commission to have been exported at dumped prices ranging between 33.7 per cent and 110.3 per cent for goods exported from China, and between 4.6 per cent and 4.8 per cent for exports from Malaysia. The price undercutting experienced by the Australian industry from the dumped exports was in the range 7 to 26 per cent during the investigation period. The Australian industry suffered price depression and price suppression resulting in reduced profit and profitability.

The claim that the dumped exports of pallet racking from China and Malaysia did not cause material injury to the Australian industry cannot be supported by the available evidence.

Abbott has not demonstrated that its imported goods do not compete with the like goods manufactured by the Australian market and therefore are not impacted by the dumping. Abbott's assertions fail to demonstrate the Minister has erred in finding the imported goods caused injury to the Australian industry manufacturing like goods. The Minister's decision therefore is the correct and preferred decision.

### III. Jracking Group

Jack has identified three grounds of review concerning the Reviewable Decision.

#### *Ground 1*

Jack is aggrieved that the Commission has considered the Jracking Group of companies as "uncooperative".

Section 6.4.3 of Report 441 confirms that seven related entities provided a combined response to the exporter questionnaire. The Commission considered the response to be deficient and determined that Jack "*did not provide information relevant to the investigation.*" The Commissioner wrote to Jack on 18 June 2018 notifying that it would be considered an uncooperative exporter pursuant to subsection 269T(1).

Jack indicated that it disagreed with the Commissioner's categorization of its entities as "uncooperative". Section 6.4.4 of Report 441 details the Commission's concerns with Jack's responses to exporter questionnaire deficiencies:

*"The Commissioner provided Jracking Group numerous opportunities to rectify all deficiencies identified by the Commission in the exporter questionnaire response and to submit further information that was relevant to the investigation within reasonable time periods.*

*While Jracking Group provided responses and revised information within the required timeframes, the Commissioner assessed those responses and considers that the information provided is unreliable and not relevant to the investigation. The Commissioner therefore determined Jracking Group to be an uncooperative exporter for the purposes of the investigation.*

*The Commissioner found that Jracking Group's export sales data was reliable for export price determination. However, the Commissioner found that the most relevant information for determining normal value for Jracking Group is the highest weighted average normal value for the investigation period from the selected exporters, adjusted to ensure comparable delivery terms."*



The Commission's explanation concerning normal value is detailed in the "Jracking and Hengcheng – Benchmark Verification Report" (EPR Document 043). The Commission's concerns are outlined below<sup>4</sup>:

*"The verification team conducted benchmark comparisons between Jracking and Hengcheng, and the three other sampled Chinese exporter's Australian export CTMS data that was verified on-site by the Commission.*

*Australian selling, general and administration costs (SG&A) for Jracking, Hengcheng and other verified Chinese exporters show a wide range of results, and while Jracking and Hengcheng are on the lower end of this range, they are not particularly anomalous SG&A amounts.*

*The verification team observed, however, that the corresponding export CTM for Jracking and Hengcheng are significantly lower than the other verified Chinese exporters. The CTM, as mentioned in the above paragraph, is used to construct a normal value amount.*

*In response to a request by the verification team for further clarification, Jracking and Hengcheng provided an amended spreadsheet for Hengcheng's CTMS, stating that goods inadvertently classified as "not the goods under consideration" previously omitted from its CTMS data are now included.*

*Based upon the preliminary assessment of the benchmark analysis, and omissions identified in data relating to domestic CTMS provided by Jracking and Hengcheng, the verification team found the information relating to Australian CTMS is unreliable."*

The Commission found that the Hengcheng CTMS data could not be relied upon as it has omitted cost information for the goods exported to Australia. The Commission was therefore justified in determining that Jack was uncooperative as it could not place any level of certainty as to the accuracy of cost data supplied by Jracking and Hengcheng.

The Minister's decision to determine Jack as an uncooperative exporter was therefore the correct and preferred decision.

#### *Ground 2*

Jack claims that the Minister made the incorrect decision to accept the ADC's assessment and determinations with respect to Jack's cost data.

For the reasons outlined under "Ground 1" concerning Jack, Dematic reiterates that the Minister's decision to reject the Jack cost data is the correct and preferred decision.

#### *Ground 3*

Jack further contends that the Minister has erred in accepting the ADC's suggestion of accepting unreasonable data to compute the Ascertained Normal Value (ANV) for Jack.

Subsection 269TACAB(1) includes provisions for determining export prices and normal values for uncooperative exporters. The Customs Act requires that for uncooperative exporters, normal values are to be determined in accordance with subsection 269TAC(6) having regard to all relevant information.

In Investigation 441, the Commission determined normal values for Jracking Group "Using the highest weighted average normal value for the investigation period from the selected cooperating exporters, adjusted to ensure comparable delivery terms". This provided Jracking and Hengcheng with dumping margins determined at 60.1 per cent.

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<sup>4</sup> Jracking and Hengcheng – Benchmark verification Report, P. 8.



The dumping margins for Jack (i.e. Jacking and Hengcheng) were favourable when contrasted with the dumping margins for uncooperative exporters – as the Jack normal values were based upon “selected” (i.e. cooperative) exporter information. It was therefore reasonable for the Commissioner to base normal values for Jack based upon the highest weighted average normal value for cooperative ‘selected’ exporters than using the normal value for “uncooperative exporters”.

The Minister’s decision to base Jack’s normal values on the highest weighted average normal value of selected exporters is therefore the correct and preferred decision.

#### IV. One Stop Pallet Racking Pty Ltd

One Stop was requested by the ADRP to provide clarity as to the grounds of review relied upon in its application for the review of the Minister’s decision. One Stop has identified two grounds for review.

##### *Ground 1*

One Stop alleges that the Minister erred in being satisfied that there is an Australian industry producing like goods and whether imports of like goods caused or threatened material injury to the Australian industry. Further, One Stop challenges 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.

The One Stop submission clarifying the grounds for review claims that “*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).*” However, subsection 269T(2) states:

*“For the purposes of this Part, goods, other than unmanufactured are products, are not to be taken to have been produced in Australia unless the goods were wholly or partly manufactured in Australia.”*

Further to this, Subsection 269T(3) requires:

*“For the purposes of subsection (2), goods shall not to 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.”*

One Stop acknowledges in its initial application for review that it is an importer of the goods. One Stop does not undertake a “substantial process in the manufacture of the goods” in Australia and, for the purposes of subsection 269T(2) and (3) is not an Australian manufacturer of steel pallet racking. As such One Stop cannot be considered a local producer of the goods under the anti-dumping provisions.

The Commission has identified the correct manufacturers of the goods in Australia, namely Dematic along with APC Storage Solutions Pty Ltd, Brownbuilt Pty Ltd, Noble Trading Manufacturing Pty Ltd, Macrack (Australia) Pty Ltd and Spacerack Storage Centre (Brisbane) Pty Ltd. Based upon data verified by the Commission, Dematic accounted for more than 50 per cent of local Australian production during the investigation period. The Commission confirmed that one Stop does not claim to manufacture like goods in Australia. The Commission has therefore identified the correct Australian industry members.

For the reasons addressed in respect of assertions made by Abbott above, the Australian industry manufactures like goods to the imported steel pallet racking (which includes parts or components of steel pallet racking).

One Stop has further contended that other “factors” have caused injury to the Australian industry. One Stop’s representations suggest that Dematic is unrelated to its raw material supplier BlueScope Steel Limited (“BlueScope”). There exists no common ownership between Dematic and BlueScope and there is no common management of the two companies. The only relationship that exists involves BlueScope (supplier) selling raw material hot rolled coil to Dematic (customer).



The Minister's decision concerning the identification of local producers that comprise the Australian industry, the like goods the subject of the investigation and that dumping has caused material injury to the Australian industry producing like goods is the correct and preferred decision.

## *Ground 2*

One Stop has also asserted that the Minister has erred in determining that dumping has occurred given the decision regarding the determination of normal value being based on subsection 269TAC(2)(c) of the Act, when it should have been determined under subsection 269TAC(1) of the Act.

It appears that One Stop is seeking to dispute the Minister's finding that a particular market situation for steel pallet racking exists in China and that, in its view, normal values should be based upon domestic selling prices in China. The Commission determined:

*"...that the GOC influenced conditions within the steel markets during the investigation period. The GOC was able to exert this influence through its directives and oversight, subsidy programs, taxation arrangements and the significant number of state owned enterprises operating in the market.*

*The Commissioner's assessment and analysis of the available information indicates that the GOC materially influenced conditions within the Chinese HRC market and the Chinese steel markets generally, during the investigation period and because of that influence, the domestic prices for Chinese steel pallet racking were substantially different to those that would prevail in normal competitive market conditions.*

*The Commissioner considers that the GOC influences in the Chinese steel industry have created a 'market situation' in the steel pallet racking market, such that sales of steel pallet racking in China are not suitable for determining normal value under subsection 269TAC(1)."*

One Stop did not provide any information during the investigation to dispute the Commission's finding that verified domestic prices for HRC in Korea and Taiwan represented a suitable benchmark for inclusion in the Chinese exporter's raw material cost of production. The Commission established that domestic selling prices in China under subsection 269TAC(1) were distorted by the GOC's plans and policies rendering the selling prices unsuitable for normal value purposes. One Stop failed to furnish any suitable alternative information for the Commission to rely upon during the investigation. In the absence of any reliable alternative information, the HRC benchmark costs identified by the Commission are considered the best reliable information for inclusion in the Chinese exporter's verified costs for determining normal values under subsection 269TAC(2)(c).

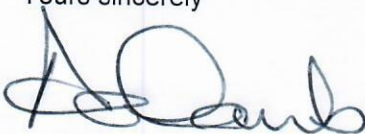
The Minister's decision to determine normal values for Chinese steel pallet racking exporters under subsection 269TAC(2)(c) is therefore the correct and preferred decision.

## V. Conclusion

The decision of the Minister to publish a subsection 269TG(1) and (2) notice in respect of exports of steel pallet racking to Australia from China and Malaysia is the correct and preferred decision.

If you have any questions concerning this submission, please do not hesitate to contact me on (02) 9486 5339 or Dematic's consultant Mr John O'Connor on (07) 33421921.

Yours sincerely



Alan Lamb  
Company Secretary