



**Australian Government**  
**Department of Industry,  
Innovation and Science**

**Anti-Dumping  
Commission**

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*CUSTOMS ACT 1901 - PART XVB*

## **Final Report No. 441**

# **ALLEGED DUMPING OF STEEL PALLET RACKING EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA AND MALAYSIA**

**5 April 2019**

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**ABBREVIATIONS**

\$	Australian Dollars
ABF	Australian Border Force
Abbott Storage	Abbott Storage Systems
the Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
Alpha Storage	Alpha Storage & Equipment Pty Ltd
APC Storage	APC Storage Solutions Pty Ltd
the applicant	Dematic Pty Ltd
Brownbuilt	Brownbuilt Pty Ltd
Bunnings	Bunnings Group Ltd
Changzhou Tianyue	Changzhou Tianyue Storage Equipment Co., Ltd
China	the People's Republic of China
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
CTM	Cost to make
CTMS	Cost to make & sell
Customs Direction	<i>Customs (Extensions of Time and Non-cooperation) Direction 2015</i>
Dexion Australia	Dexion (Australia) Pty Ltd
Dexion China	Dexion (Shanghai) Logistics Equipment Co., Ltd
Dexion Liverpool	D&S Liverpool Pty Ltd
Dexion Malaysia	Dexion Asia Sdn Bhd
Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975</i>
FOB	Free On Board
GAAP	Generally accepted accounting principles
Global Industrial	Global Industrial Pty Ltd
GOC	Government of China
the goods	the goods the subject of the application (also referred to as the goods under consideration or GUC)
the Guidelines	<i>Guidelines on the Application of the Form of Dumping Duty 2013</i>
HDSS	Heavy duty store shelving
Hengcheng	Danyang Hengcheng Metal Products Co., Ltd
IDD	Interim dumping duty
Inform Storage	Nanjing Inform Storage Equipment (Group) Co., Ltd
Instant Racking	Hodesh Pty Ltd (Trading as Instant Racking)
ITRF	International Trade Remedies Forum
Jiangsu NOVA	Jiangsu NOVA Intelligent Logistics Equipment Co., Ltd

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Jracking Group	Collectively, Jiangsu Jracking Industry Ltd and Danyang Hengcheng Metal Products Co., Ltd
Jracking Industry	Jiangsu Jracking Industry Ltd
Macrack	Macrack (Australia) Pty Ltd
Masters	Woolworths Masters Stores
the Minister	Minister for Industry, Science and Technology
NIP	Non-injurious price
Noble	Noble Trading Manufacturing Pty Ltd
OCOT	ordinary course of trade
One Stop	One Stop Pallet Racking Pty Ltd
PAD	Preliminary Affirmative Determination
Rack N Stack	Rack'N Stack Warehouse Pty Ltd
ReadyRack	ReadyRack Pty Limited
the Regulation	<i>Customs (International Obligations) Regulation 2015</i>
Schaefer Kunshan	SSI Schaefer System International (Kunshan) Co., Ltd
Schaefer Malaysia	Schaefer Systems International Sdn Bhd
SEF	Statement of Essential Facts
Spacerack	Spacerack Storage Centre (Brisbane) Pty Ltd
Speedlog Group	Collectively, Shanghai Speed Logistics Equipment Co., Ltd and Shanghai Maxrac Storage Equipment Engineering Co., Ltd
Stow	Shanghai Stow Storage Equipment Co., Ltd
TWB	TWB Engineering Solutions Pty Ltd
USP	Unsuppressed Selling Price
WTO	World Trade Organization

# 1 SUMMARY AND RECOMMENDATIONS

## 1.1 Introduction

This report has been prepared following an investigation by the Commissioner of the Anti-Dumping Commission (the Commissioner) in response to an application made by Dematic Pty Ltd (Dematic, or the applicant) that alleged that certain steel pallet racking exported to Australia from the People's Republic of China (China) and Malaysia at dumped prices has caused material injury to the Australian industry producing like goods.

This report makes recommendations to the Minister for Industry, Science and Technology (the Minister) and sets out the findings on which the Commissioner bases those recommendations.

## 1.2 Recommendation to the Minister

Based on the findings in this report, the Commissioner recommends to the Minister that a dumping duty notice be published in respect of certain steel pallet racking exported to Australia from China and Malaysia.

## 1.3 Application of law to facts

### 1.3.1 Authority to make decision

Division 2 of Part XVB of the *Customs Act 1901* (the Act)<sup>1</sup> describes, among other things, the procedures to be followed and the matters to be considered by the Commissioner in conducting investigations in relation to the goods covered by an application under subsection 269TB(1) for the purpose of making a report to the Minister.

### 1.3.2 Application

On 25 August 2017, Dematic lodged an application alleging that the Australian industry has suffered material injury caused by exports of steel pallet racking to Australia from China and Malaysia at dumped prices. In its application, Dematic alleged that the industry has been injured through:

- loss of sales volume;
- price suppression;
- loss of profits;
- reduced profitability;
- reduced revenue;
- declining asset value;
- reduced capital investment;
- reduced return on investment;
- reduced employment;
- reduced capacity utilisation; and
- reduced cashflow.

Having considered the application and the supporting information provided by Dematic, the Commissioner was satisfied of the matters set out in subsection 269TC(1). The

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<sup>1</sup> Unless otherwise specified all legislative references are to the *Customs Act 1901*.

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Commissioner therefore decided not to reject the application and initiated an investigation into the alleged dumping of steel pallet racking from China and Malaysia.

Anti-Dumping Notice (ADN) No. 2017/161 and Consideration Report No. 441 (CON 441) provide further details relating to the initiation of the investigation and are available on the Anti-Dumping Commission's (the Commission's) website.<sup>2</sup>

The Commissioner specified that:

- the investigation period for the purpose of examining whether certain steel pallet racking exported from China and Malaysia were at dumped prices is 1 October 2016 to 30 September 2017; and
- the injury analysis period for the purposes of determining whether material injury to the Australian industry has been caused by exports of dumped steel pallet racking is from 1 October 2013.

### 1.3.3 Day 60 Status Report and Preliminary affirmative determination

In accordance with subsection 269TD(1), the Commissioner may make a preliminary affirmative determination (PAD) if satisfied that there appears to be sufficient grounds for the publication of a dumping duty notice, or if satisfied that it appears there will be sufficient grounds for the publication of such a notice, subsequent to the importation of the goods into Australia.

A PAD may be made no earlier than day 60 of the investigation and the Commonwealth may require and take securities at the time a PAD is made, or at any time during the investigation after a PAD has been made, if the Commissioner is satisfied that it is necessary to do so to prevent material injury to an Australian industry occurring while the investigation continues.

In accordance with section 6 of the *Customs (Preliminary Affirmative Determinations) Direction 2015* (the PAD Direction), the Commissioner published a Day 60 Status Report on 12 January 2018<sup>3</sup>, being 60 days after the initiation of the investigation, providing reasons why a PAD was not made.

Section 9 of the PAD Direction requires the Commissioner to reconsider making a PAD after the publication of a Day 60 Status Report at least once prior to the publication of the Statement of Essential Facts (SEF). On 18 June 2018, the Commissioner was satisfied that there appeared to be sufficient grounds for the publication of a dumping duty notice in relation to exports of the goods from China and Malaysia. ADN No. 2018/87<sup>4</sup> contains more information on the Commissioner's reasons for making a PAD.

Following the making of the PAD, and to prevent material injury to the Australian industry occurring while the investigation continued, securities were taken in respect of any interim dumping duty (IDD) that may become payable in respect of the goods exported from China and Malaysia, and entered for home consumption in Australia on or after 19 June 2018.

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<sup>2</sup> [www.adcommission.gov.au](http://www.adcommission.gov.au)

<sup>3</sup> [EPR 011](#)

<sup>4</sup> [EPR 035](#)

### **1.3.4 Statement of Essential Facts**

The Commissioner must, within 110 days after the initiation of an investigation, or such longer period as allowed under section 269ZHI of the Act,<sup>5</sup> place on the public record a SEF on which the Commissioner proposes to base a recommendation to the Minister in relation to the application.

The SEF in relation to this investigation (SEF 441) was originally due to be placed the public record by 3 March 2018. Due to the complexity of case, the Commissioner extended the due date to publish the SEF, and provide his final report, on four occasions.<sup>6</sup>

The Commissioner published SEF 441<sup>7</sup> on 5 November 2018.

### **1.3.5 Final Report**

SEF 441 stated that the Final Report and Commissioner's recommendations was to be provided to the Minister by 20 December 2018. Due to the complexity this of case, the Commissioner further extended the due date to provide his final report to the Minister on three occasions.<sup>8</sup>

This report and the recommendations in relation to this investigation must be provided to the Minister on or before 5 April 2019 unless the investigation is terminated earlier or a further extension of time to provide the final report is granted.

This report includes a statement of the Commissioner's reasons for the recommendations outlined in this report.<sup>9</sup> The statement of the Commissioner's reasons:

- sets out the material findings of fact on which the recommendations are based; and
- provides particulars of the evidence relied on to support those findings.

## **1.4 Findings and Conclusions**

A summary of the Commissioner's findings and conclusions is provided below.

### **1.4.1 The goods and the like goods (Chapter 3)**

The Commissioner considers that locally produced steel pallet racking is 'like' to the goods that are the subject of the application (the goods).

The Commissioner recommends that the Minister exempt from interim dumping duty and dumping duty all components or parts of steel pallet racking, other than beams, uprights and braces, whether beams, uprights and braces are imported individually or as parts of a complete pallet racking system.

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<sup>5</sup> On 14 January 2017, the then Parliamentary Secretary delegated the powers and functions of the Minister under section 269ZHI of the Act to the Commissioner. Refer to [ADN No. 2017/10](#) for further information.

<sup>6</sup> ADN numbers 2018/34, 2018/79, 2018/134 and 2018/162 refer.

<sup>7</sup> [EPR 075](#)

<sup>8</sup> ADN Numbers [2018/189](#), [2019/14](#) and [2019/16](#) refer.

<sup>9</sup> In accordance with subsection 269TEA(5).



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### 1.4.2 Australian industry (Chapter 4)

The Commissioner is satisfied that there is an Australian industry producing like goods to the goods that are the subject of the investigation, comprising of the following six Australia industry members:

- APC Storage Solutions Pty Ltd (APC Storage);
- Brownbuilt Pty Ltd (Brownbuilt);
- Dematic;
- Macrack (Australia) Pty Ltd (Macrack);
- Noble Trading Manufacturing Pty Ltd (Noble); and
- Spacerack Storage Centre (Brisbane) Pty Ltd (Spacerack).

### 1.4.3 Australian market (Chapter 5)

The Australian market for steel pallet racking is supplied by locally produced and imported goods (predominantly from China and Malaysia).

### 1.4.4 Dumping assessment (Chapter 6)

The Commissioner finds that steel pallet racking exported to Australia from China and Malaysia during the investigation period was dumped.

The Commissioner's assessment of dumping margins for exporters of steel pallet racking from China and Malaysia is at Table 1 below:

Country	Exporter	Dumping Margin
China	Changzhou Tianyue Storage Equipment Co., Ltd (Changzhou Tianyue)	78.6%
	Dexion (Shanghai) Logistics Equipment Co., Ltd (Dexion China)	33.7%
	Jiangsu Jracking Industry Ltd and Danyang Hengcheng Metal Products Co., Ltd (Jracking Group)	60.1%
	SSI Schaefer System International (Kunshan) Co., Ltd. (Schaefer Kunshan)	72.7%
	Residual Exporters	77.0%
	Uncooperative and all other exporters (other than Dexion China and Jracking Group)	110.3%
Malaysia	Schaefer Systems International Sdn Bhd (Schaefer Malaysia)	4.6%
	Uncooperative and all other exporters	4.8%

**Table 1 – Summary of dumping margin**

#### **1.4.5 Economic condition of the Australian industry (Chapter 7)**

The Commissioner considers that the Australian industry has experienced injury in the forms of:

- loss of sales volume;
- loss of market share;
- price depression;
- price suppression;
- reduced profits;
- reduced profitability;
- reduced revenue;
- declining asset value;
- reduced capital investment;
- reduced return on investment;
- reduced employment and wages;
- reduced capacity;
- reduced capacity utilisation; and
- reduced cash flow.

#### **1.4.6 Causation assessment (Chapter 8)**

The Commissioner considers that the Australian industry suffered material injury as a result of exports of steel pallet racking at dumped prices from China and Malaysia.

#### **1.4.7 Will dumping and material injury continue? (Chapter 9)**

The Commissioner considers that exports of steel pallet racking may continue in the future at dumped prices from China and Malaysia, and that continued dumping from these countries may continue to cause material injury to the Australian industry.

#### **1.4.8 Non-injurious price (Chapter 10)**

The Commissioner considers that the lesser duty rule for goods exported from Malaysia does not come into effect and, due to the existence of a particular market situation in China, findings in Chapter 10 and pursuant to subsection 8(5BAAA) of the, the Minister is not required to but may consider the lesser duty rule in relation to the goods exported from China.

#### **1.4.9 Proposed form of measures (Chapter 11)**

The Commissioner recommends to the Minister that anti-dumping measures be imposed on steel pallet racking exported to Australia from China and Malaysia in the form of a dumping duty notice, and that dumping duties be worked out using the ad valorem duty method.

#### **1.4.10 Recommendations to the Minister (Chapter 12)**

The Commissioner recommends that measures be imposed in relation to steel pallet racking exported to Australia from China and Malaysia at the full margins of dumping.

## 2 BACKGROUND

### 2.1 Previous investigations

There have been no previous dumping or countervailing investigations in relation to steel pallet racking exported to Australia.

### 2.2 Submissions received from interested parties

The Commission has received numerous submissions from interested parties during the course of the investigation. Each submission has been considered by the Commissioner in making this report and recommendations to the Minister. All submissions received are listed in **Non-Confidential Appendix 1** to this report.

### 2.3 Claims concerning conduct of the investigation

Towards the end of the investigation an interested party, One Stop Pallet Racking Pty Ltd (One Stop), submitted that the Commission had failed in its obligation to conduct an objective investigation, alleging that the Commission:

- has aligned itself with Dematic;
- has ignored evidence presented on multiple occasions; and
- was lacking in knowledge about the industry when commencing the investigation and as a result, has conducted a lengthy, drawn-out process requiring multiple extensions of time to provide the final report to the Minister.<sup>10</sup>

The Commissioner notes that the findings in this report are based on an assessment of all the evidence presented to the Commission. The issues raised by One Stop and other interested parties throughout the investigation have been addressed in this report.

While multiple extensions of time were required in this case, this has afforded all interested parties the opportunity to make additional submissions and provide further evidence to the Commission, thus strengthening the basis upon which the Commissioner's findings and recommendations are made.

### 2.4 Final Report

In making the recommendations in this report, the Commissioner has had regard to:

- the application;
- all submissions concerning, and subsequent to, the publication of ADN No. 2017/161 to which the Commissioner had regard for the purpose of formulating SEF 441;
- submissions made prior to SEF 441 that, due to their timing, were not considered by the Commissioner for the purposes of the SEF;
- SEF 441, submissions in response to the SEF and information obtained during the course of verification visits to the Australian industry, exporters, importers and an end-user; and
- any other matters that the Commissioner considered to be relevant.

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<sup>10</sup> [EPR 106](#)

## **PUBLIC RECORD**

### **2.5 Public record**

The public record contains non-confidential submissions by interested parties, the non-confidential versions of the Commission's visit reports and other publicly available documents. The public record is available for inspection in hard copy by request in Canberra or online at [www.adcommission.gov.au](http://www.adcommission.gov.au). Documents on the public record should be read in conjunction with this report.

## 3 THE GOODS AND LIKE GOODS

### 3.1 Findings

The Commissioner considers that the steel pallet racking produced in Australia, including by the applicant, is like to the goods under consideration exported to Australia.

The Commissioner recommends that the Minister exempt from interim dumping duty and dumping duty all components or parts of steel pallet racking, other than beams, uprights and braces, whether beams, uprights and braces are imported individually or as parts of a complete pallet racking system.

### 3.2 Legislative framework

Subsection 269TC(1) of the Act provides that the Commissioner shall reject an application for a dumping duty notice if, inter alia, the Commissioner is not satisfied that there is, or is likely to be established, an Australian industry in respect of like goods.

In making this assessment, the Commissioner must firstly determine that the goods produced by the Australian industry are “like” to the imported goods.

Subsection 269T(1) defines like goods as:

*Goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration.*

An Australian industry can apply for relief from material injury caused by dumped imports even if the goods it produces are not identical to those imported. The industry must however, produce goods that are ‘like’ to the imported goods.

The *Dumping and Subsidy Manual* (the Manual)<sup>11</sup> outlines certain “likeness tests” which provide a framework for assessing whether the goods manufactured by Australian industry members are like to the imported goods. Where the locally produced goods and the imported goods are not alike in all respects, the Commissioner assesses whether they have characteristics closely resembling each other against the following considerations:

- physical likeness;
- commercial likeness;
- functional likeness; and
- production likeness.

### 3.3 The goods

The goods the subject of this investigation are:

*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).*

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<sup>11</sup> Copy available at [www.adcommisison.gov.au](http://www.adcommisison.gov.au).

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In its application, the applicant provided the following additional details in relation to the goods:

- the goods are adjustable static racking structures capable of carrying and storing product loads, and components used to make static racking structures;
- adjustable racking is a structure typically made from cold-formed or hot rolled steel structural members and includes components such as plates, rods, angles, shapes, sections, tubes and the like. Welding, bolting or clipping are the typical methods to assemble them. It may be racking installed within a building;
- a typical storage configuration comprises upright frames perpendicular to the aisles and independently adjustable, positive locking beams parallel to the aisle, spanning between the upright frames, and brace designed to support unit load actions;
- the racking layout and components used are designed to get the best efficiency for the shape and volume of the items stored; and
- the applicable Australian Standard is AS 4084-2012, which defines adjustable pallet racking. The details of AS 4084-2012 are in **Confidential Attachment 1**.<sup>12</sup>

### 3.3.1 Tariff classification

The goods are generally, but not exclusively, classified to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995*:

Tariff code	Statistical code	Unit	Description
7308.90.00 <sup>13</sup>	58	Tonnes	<p><u>Tariff code:</u> Structures (excluding prefabricated buildings of 9406) and parts of structures (for example, bridges and bridge-sections, lock-gates, towers, lattice masts, roofs, roofing frameworks, doors and windows and their frames and thresholds for doors, shutters, balustrades, pillars and columns), of iron or steel; plates, rods, angles, shapes, sections, tubes and the like, prepared for use in structures, of iron or steel.</p> <p><u>Statistical code:</u> Other – Racking and shelving</p>

### 3.4 Like goods

Having established the scope of the goods the subject of the application, the Commissioner has considered whether the locally manufactured product is like to the goods the subject of the application. Dematic provided information on the physical, commercial, functional and production likenesses between imported steel pallet racking and steel pallet racking manufactured by the Australian industry in its application as detailed below:

#### *i. Physical likeness*

Dematic submitted in its application that the steel pallet racking it manufactures has a physical likeness to the goods exported to Australia from China and Malaysia. The locally

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<sup>12</sup> AS 4084-12 cannot be reproduced in this report due to copyright restrictions. For information on AS 4084-12, please refer to SAI Global Limited at <https://infostore.saiglobal.com/>. Adjustable pallet racking is defined at 1.3.1.

<sup>13</sup> Effective from 1 January 2015

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produced steel pallet racking is manufactured to meet the Australian Standard AS 4084-2012 once it is assembled.

The Commission considers imported and locally produced steel pallet racking, have physical characteristics that are similar. These similar physical characteristics include size, appearance, structure, stated standards, strength and the ability to provide storage for standard sized pallets.

### *ii. Commercial likeness*

Dematic submitted in its application that locally produced steel pallet racking competes directly with imported steel pallet racking from China and Malaysia. Information provided by the applicant and importers regarding tenders indicates that steel pallet racking buyers are willing to switch between Australian made and imported steel pallet racking.

The Commissioner is satisfied that the Australian made and imported steel pallet racking is commercially alike on the basis that these directly compete in the same markets.

### *iii. Functional Likeness*

In its application, Dematic claims that locally produced steel pallet racking and imported steel pallet racking has comparable or identical end-uses.

The Commission notes that steel pallet racking is used primarily for the storage of palletised goods. However, as is the case with heavy duty store shelving (HDSS), it can also be used to store or display other goods in a range of configurations.

The Commissioner is satisfied that imported and Australian made steel pallet racking is functionally alike.

### *iv. Production Likeness*

Dematic submitted in its application that locally produced steel pallet racking and imported steel pallet racking are manufactured in a similar manner and via similar production processes.

During the Commission's verification visits to Australian producers and to exporters of the goods from China and Malaysia, it was observed that the Australian and imported steel pallet racking are produced in a similar manner as discussed in section 4.4 of this report. It was also noted that Australian producers and the Chinese and Malaysian exporters use similar raw materials in the production process.

## **3.5 Issues paper in relation to the goods and like goods**

During the course of the investigation the Commission received a large number of submissions from the following interested parties in relation to the scope of the goods description and the determination of like goods:<sup>14</sup>

- Abbott Storage Systems (Abbott Storage); <sup>15</sup>
- BHD Storage Solutions Pty Ltd; <sup>16</sup>
- Bunnings Group Ltd (Bunnings); <sup>17</sup>

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<sup>14</sup> All submissions received are listed in Non-Confidential Appendix 1.

<sup>15</sup> [EPR 070](#), [EPR 071](#), [EPR 072](#), [EPR 078](#) and [EPR 088](#)

<sup>16</sup> [EPR 092](#)

<sup>17</sup> [EPR 056](#), [EPR 081](#) and [EPR 085](#)

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- Changzhou Tianyue;<sup>18</sup>
- D&S Liverpool Pty Ltd (Dexion Liverpool) made on behalf of the Dexion Supply Centre and Distributor Network;<sup>19</sup>
- Global Industrial Pty Ltd (Global Industrial);<sup>20</sup>
- Hodesh Pty Ltd trading as Instant Racking (Instant Racking);<sup>21</sup>
- Jracking Group;<sup>22</sup>
- One Stop;<sup>23</sup>
- Schaefer Kunshan and Schaefer Malaysia (collectively referred to as Schaefer);<sup>24</sup> and
- TWB Engineering Solutions Pty Ltd (TWB Engineering).<sup>25</sup>

Due to the complex nature of some of the issues raised in these submissions, on 4 February 2019, the Commission published an issues paper enclosed at **Non Confidential Appendix 2** to afford interested parties further opportunity to comment on the goods under investigation and like goods.

The issues paper summarised the issues raised in the submissions received to date and provided the Commission's detailed assessment of those issues. Interested parties were invited to comment on the Commission's assessments by 25 February 2019.

The following interested parties provided a response the issues paper:<sup>26</sup>

- Abbott Storage;<sup>27</sup>
- Bunnings;<sup>28</sup>
- Changzhou Tianyue;<sup>29</sup>
- Dematic;<sup>30</sup>
- Dexion China and Dexion Australia;<sup>31</sup>
- Nanjing Inform Storage Equipment (Group) Co., Ltd (Inform Storage);<sup>32</sup>
- Jiangsu NOVA Intelligent Logistics Equipment Co., Ltd (Jiangsu NOVA);<sup>33</sup> and
- One Stop.<sup>34</sup>

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<sup>18</sup> [EPR 084](#)

<sup>19</sup> [EPR 074](#)

<sup>20</sup> [EPR 079](#)

<sup>21</sup> [EPR 096](#)

<sup>22</sup> [EPR 094](#)

<sup>23</sup> [EPR 095](#)

<sup>24</sup> [EPR 041](#)

<sup>25</sup> [EPR 085](#)

<sup>26</sup> [Issues Paper - 2019-01](#)

<sup>27</sup> [EPR 105](#) and [EPR 115](#)

<sup>28</sup> [EPR 108](#)

<sup>29</sup> [EPR 110](#)

<sup>30</sup> [EPR 109](#) and [EPR 114](#)

<sup>31</sup> [EPR 113](#)

<sup>32</sup> [EPR 111](#)

<sup>33</sup> [EPR 112](#)

<sup>34</sup> [EPR 106](#)



### 3.5.1 Abbott Storage

In its submission, Abbott Storage reiterated the issues it has submitted to the Commission previously on 31 October, 23 November and 3 December 2018. Abbott Storage claims that:

- its steel pallet racking system is adjustable but not of dimensions that can be adjusted as required—the goods description refers directly to being capable of being adjusted as required and there is no part of its steel pallet racking that can be adjusted prior to assembly for use in a commercial and practical sense;
- the ability to adjust the height position of beams to distinctly limited positions within the frame does not meet the threshold of being able to be adjusted as required;
- its pallet racking is therefore not able to be matched to the goods description;
- the goods subject to the investigation, as described, do not actually exist and are not able to be produced; and
- it is unclear whether cantilever racking and longspan shelving will be subject to or exempted from any measures.

#### The Commissioner's assessment – Abbott Storage

The goods subject to the investigation are:

***Steel pallet racking, or parts thereof, assembled or unassembled, of dimensions that can be adjusted as required... [Emphasis added]***

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.

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 Commissioner also notes 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. This exporter submitted a response to the exporter questionnaire, in which it was asked to identify goods it exported to Australia that met the goods description in the application, and identify the customers in Australia that it sold these goods to. The exporter submitted a list of its export sales to Australia during the investigation period and this included the goods purchased by Abbott Storage. The sales to Abbott Storage were subject to verification and included in the export price for the particular exporter.

The Commissioner is therefore satisfied that the steel pallet racking imported by Abbott Storage during the investigation period is the goods subject to the investigation.

The Commissioner notes that the import declaration process is a *self-assessment* process, where goods being imported meet the goods description for steel pallet racking, anti-dumping measures will apply. It is the responsibility of importers, or licensed customs brokers acting on their behalf, to assess whether the goods they are importing meet the goods description. The Commission provides guidance to importers through its website and the Dumping Commodity Register.<sup>35</sup>

#### *Cantilever racking and longspan shelving*

The Commissioner confirms that beams, uprights and braces used in cantilever racking and longspan shelving, are not goods subject to the investigation and as such any anti-dumping measures will not be applicable to cantilever racking and longspan shelving.

### **3.5.2 Bunnings**

Bunnings submitted that:

- HDSS does not fall within the scope of the goods as its end use makes it a separate and distinct product from steel pallet racking;
- pallet racking is designed to store palletised goods loaded by forklift whereas HDSS is primarily designed to store non-palletised goods commonly loaded by hand;
- HDSS is shelving, using different components to pallet racking (primarily step beams and shelves) and has no commercial substitutability with pallet racking;
- if the Commission adopts the view that HDSS is subject to the investigation, shelving structures designed to hold non-palletised goods and components of HDSS such as wooden, plastic or wire shelves must be included in the determination of dumping and the material injury and causation assessment;
- while step beams (designed to hold shelves and used in HDSS) can hold a light pallet and box beams (primarily used in pallet racking) could hold an unsecured shelf, these irregular, and non-design uses of the beams should not be used to identify the beams to the exclusion of identification by reference to the predominate use of the goods; and
- uprights below certain height, say 10 feet, are almost exclusively used in the storage of non-palletised goods.

#### *The Commissioner's assessment – Bunnings*

The Commissioner considers that steel pallet racking is used primarily for the storage of palletised goods. However, as is the case with HDSS, it can also be used to store or display other goods in a range of configurations.

The Australian industry, exporter and importer verification visits undertaken as part of the investigation have demonstrated that all steel pallet racking is formed using three main components, namely beams, uprights and braces. In terms of the HDSS exported to Australia and supplied to Bunnings, the uprights and braces are identical to those used in the other pallet racking systems of that exporter. The only difference is the use of step beams, as opposed to box beams, in HDSS. While there are variations in these two types of beams, they do not detract from the overall commonality of the core components.

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<sup>35</sup> <https://adcommission.gov.au/importers/Pages/import-declaration.aspx>

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Bunnings was not able to identify the number of step beams and box beams in use, either in a particular store or generally overall. Furthermore, the Commission has observed pallets held in racking made with step beams, and Bunnings admits this in its submission.

The Commission notes that step beams exported by Bunnings' supplier of HDSS were included in the determination of dumping for that exporter, and step beams manufactured by the Australian industry were included in the injury and causation analysis. The Commission also sighted use of uprights less than 10 feet in height to hold a pallet.

The Commissioner is therefore satisfied that HDSS exported to Australia from China and Malaysia is a good subject to the investigation.

With respect to the claims concerning shelves used with HDSS, wooden and plastic shelves are not goods subject to the investigation as they are not made from steel. While wire shelves are made from steel, the Commission does not consider shelves per se to form part of pallet racking, and has not included any shelves in its analysis of dumping, injury or causation.

### 3.5.3 Changzhou Tianyue and Jiangsu NOVA

Changzhou Tianyue and Jiangsu NOVA made separate but similar submissions claiming that:

- the phrase *dimensions that can be adjusted* in the goods description relates to the dimension of the pallet racking system itself, not individual components;
- for the dimensions of the pallet racking system to be adjustable, the beams and/or uprights must themselves be adjustable—therefore if the beams and uprights are fixed in their dimensions, then the entire pallet racking system is fixed in its dimensions;
- the movement of beams up and down along the slots is not an adjustment of the dimensions; and
- therefore none of the pallet racking systems exported by Changzhou Tianyue or Jiangsu NOVA to Australia during the investigation period were adjustable in their dimensions and as such do not fall within the description of the goods.

#### The Commissioner's assessment – Changzhou Tianyue and Jiangsu NOVA

The Commissioner agrees with Changzhou Tianyue and Jiangsu NOVA that the phrase *dimensions that can be adjusted* in the goods description relates to the dimension of the pallet racking system itself, not individual components, as stated previously at 3.5.1.

The Commissioner disagrees with Changzhou Tianyue and Jiangsu NOVA's claims that for the dimensions of the pallet racking system to be adjustable, the beams and/or uprights must themselves be adjustable. While the length of an upright, pallet beam and horizontal frame brace may set the *external* dimensions of a single bay, a pallet racking system may be multiple bays wide and comprise single sided or double sided racks;<sup>36</sup> any combination of which will determine the *external* dimensions of the pallet racking system.

The Commissioner also disagrees with the view that the movement of beams up and down along the slots is not an adjustment of the dimensions. Clearly the position of the beams and braces will determine the *internal* dimensions of the pallet racking system.

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<sup>36</sup> See figures 1.3.1(a), 1.3.1(b) and 1.3.1(c) in Confidential Attachment 1.

The Commission visited Changzhou Tianyue to verify information submitted by the company and a verification report was prepared and published on the Commission's website.<sup>37</sup> Changzhou Tianyue did not raise any issues regarding the description of the goods subject to the investigation during the verification visit. The visit report and dumping margin calculation based on the goods exported to Australia and like goods sold in the Chinese domestic market was reviewed by Changzhou Tianyue.

The Commissioner is therefore satisfied that based on the information provided to the Commission the steel pallet racking exported to Australia by Changzhou Tianyue or Jiangsu NOVA during the investigation period are the goods subject to the investigation.

#### **3.5.4 Dematic**

Dematic submitted that:

- all the pallet racking components exported to Australia from China and Malaysia during the investigation period fall within the scope of the goods description;
- HDSS, including step beams, can be used to hold palletised goods; and
- steel pallet racking produced locally by the Australian industry members is 'alike' to the imported goods.

#### *The Commissioner's assessment – Dematic*

The Commissioner has considered Dematic's views and notes that the specific issues raised have been addressed in detail elsewhere in this chapter.

#### **3.5.5 Dexion**

Dexion China and Dexion Australia collectively submitted that:

- the description of the goods does not accurately represent the steel pallet racking that is available in the Australian market or that is produced by the Australian industry, as submitted by other interested parties;
- the inclusion of both complete steel pallet racking and components of steel pallet racking is an unnecessarily broad description of the goods, which leads to a situation where it is possible to pick and choose whether certain goods are subject to measures with no regards to whether or not those components are in fact for use as steel pallet racking;
- the generic nature of this description is likely to lead to the consequence that beams, braces and posts (uprights) that are not intended for use in steel pallet racking will be caught by measures, which would create significant uncertainty in imposing measures on items at the point of import;
- it remains unclear as to whether 'beams, braces and uprights' will be captured by the measures when imported individually and not as parts of a complete steel pallet racking structure; and
- the description of the goods should be narrowed to include only steel pallet racking (assembled or unassembled) and should not include mere components of steel pallet racking.

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<sup>37</sup> [EPR 034](#)

*The Commissioner's assessment – Dexion*

The Commissioner has clarified the goods subject to investigation by reference to Australian Standard AS4084-2012 in section 3.3 of this report, and to submissions made in response to the issues paper (as discussed in section 3.5).

The Commissioner is recommending that the Minister exempt from the anti-dumping measures, all components or parts of steel pallet racking other than beams, uprights and braces (section 3.6 refers). The Commissioner confirms that, should the Minister agree to impose anti-dumping measures, these three components will be subject to measures whether imported individually or as parts of a complete pallet racking system.

**3.5.6 Inform Storage**

Inform Storage submitted that it:

- was not selected for verification due to its small export volume to Australia and further investigation would have clarified its unique set of circumstances;
- exclusively supplied only one component of steel pallet racking to one Australian industry member and did not directly compete in the Australian market; and
- used a 'special grade' of steel for that component of the goods and this particular grade of steel is not used in the Chinese domestic market.

Based on above claims, Inform Storage sought exemption from any dumping duty.

*The Commissioner's assessment – Inform Storage*

The Commissioner confirms that the selection of the exporters for verification was conducted in accordance with the sampling process set out in subsection 269TACAA(1). Inform Storage was not one of the four largest exporters from China by volume, therefore it was not selected. This sampling process is discussed in section 6.3.2 of this report.

The Commissioner notes that some of the sampled Chinese exporters supplied only certain components, such as beams from China, and other components, such as uprights and braces, from Malaysia during the investigation period. This indicates that it is not unusual for exporters to supply only certain components.

The Commissioner considers that while Inform Storage does not directly supply the goods to end users in the Australian market, it does supply a particular component of steel pallet racking to an Australian industry member, which is then sold into the Australian market to end users. While that Australian industry member may not manufacture that particular component, the Commissioner is satisfied that other Australian industry members manufacture the equivalent component of their pallet racking systems in Australia, therefore it is clear that like or directly competitive goods are manufactured and available for sale in Australia.<sup>38</sup> The Commissioner therefore does not consider that the criteria for exempting Inform Storage's exports to Australia have been met.

**3.5.7 One Stop**

One Stop submitted that the pallet racking it imports does not meet the goods description because it *is not of adjustable dimensions 'as required'*. One Stop states that it impossible

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<sup>38</sup> Subsection 8(7)(a) of the Dumping Duty Act refers.

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to adjust the dimensions of individual beams, uprights and braces, therefore the goods do not have 'adjustable dimensions as required'.<sup>39</sup>

In its previous submissions of 19 August and 26 November 2018<sup>40</sup> One Stop claimed that Dematic does not produce like goods to imported pallet racking on the following basis:

- *Physical likeness* – Dematic's frames and beams have different measurements and the shape and dimensions of the connectors and holes are different;
- *Commercial likeness* – the components of Dematic's pallet racking are not interchangeable with other brands of pallet racking and Dematic has a monopoly on its style of racking;
- *Functional likeness* – Dematic's uprights cannot be 'flipped', which is an option for other brands if the base of an upright gets damaged; and
- *Production likeness* – the safety load ratings of the products differ.

One Stop also claimed that the other five Australian manufacturers did not produce like goods either, however no reasoning or evidence was provided.

### The Commissioner's assessment – One Stop

As discussed above, it is the steel pallet racking itself that must be *of dimensions that can be adjusted as required*, not the individual components.<sup>41</sup>

The Commissioner notes that One Stop's overseas supplier of steel pallet racking identified the goods exported to Australia and purchased by One Stop as goods subject to the application. This exporter submitted a response to the exporter questionnaire, in which it was asked to identify goods it exported to Australia that met the goods description in the application, and identify the customers in Australia that it sold these goods to. The exporter submitted a list of its export sales to Australia during the investigation period and this included the goods purchased by One Stop. The sales to One Stop were subject to verification and included in the export price for the particular exporter.

The Commissioner is satisfied that the steel pallet racking imported by One Stop during the investigation period is the goods subject to the investigation.

In relation to the claim that Dematic does not produce like goods, the Commissioner has found that:

- *Physical likeness* – despite minor differences, Dematic's pallet racking system and components have similar physical characteristics include size, appearance, structure, strength and the ability to provide storage for standard sized pallets;
- *Commercial likeness* – based on the confidential evidence provided to the Commission shows that buyers are willing to switch between Australian made and imported pallet racking;
- *Functional likeness* – while the ability for one style of upright to be 'flipped' if damaged may provide a competitive advantage, locally produced and imported pallet racking have essentially identical end-uses; and

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<sup>39</sup> One Stop also made this claim in its submission of 8 January 2019 available at [EPR 095](#)

<sup>40</sup> [EPR 054](#) and [EPR 077](#)

<sup>41</sup> See sections 3.5.1 and 3.5.3

- *Production likeness* – both Dematic and One Stop’s pallet racking is manufactured to meet the 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.

### **3.6 Exemption from dumping duty**

In accordance with subsection 8(7)(a) of the *Customs Tariff (Anti-Dumping) Act 1975* (the Dumping Duty Act) the Minister may exempt goods from interim dumping duty and dumping duty if satisfied *that like or directly competitive goods are not offered for sale in Australia to all purchasers on equal terms under like conditions having regard to the custom and usage of trade.*

Following the submissions made to the issues paper by interested parties, the Commissioner reviewed the information upon which its dumping and injury /causation assessments were made. The Commissioner notes that during the investigation the only components of steel pallet racking that were included in the determination of dumping and the material injury and causation assessment were beams, uprights and braces. Beams, uprights and braces comprise approximately 90 per cent of the value of a standard steel pallet racking system.

The applicant does manufacture a small volume of other components as required to supplement its overseas supply. However it is not part of the applicant’s normal business practice to manufacture those steel pallet racking components, nor does the applicant offer those components separately for sale in Australia. The Commission found no evidence that any of the remaining five members of the Australian steel pallet racking industry manufactured any components other than beams, uprights and braces.<sup>42</sup>

Based on the above assessment, the Commissioner is satisfied that like or directly competitive goods to components of steel pallet racking other than beams, uprights and braces are not offered for sale in Australia by the Australian industry members to all purchasers on equal terms under like conditions having regard to the custom and usage of trade. The Commissioner therefore recommends that the Minister exempt from interim dumping duty and dumping duty all components or parts of steel pallet racking, other than the following three components:

- beams;
- uprights; and
- braces.

Common components that will be exempted include base plates, upright protectors, wall or ceiling ties and fasteners such as screws, nuts and bolts.

### **3.7 Finding – Like goods**

In assessing like goods, the Commissioner is required to determine whether the Australian industry produces like goods to the goods the subject of the application, as a whole. Having regard to the factors outlined above at 3.4 and consideration of claims made by One Stop at 3.5.7, the Commissioner considers that the steel pallet racking produced by the Australian industry possesses the same essential characteristics as the

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<sup>42</sup> Refer to Chapter 4 for the examination of the Australian industry and its members.

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imported steel pallet racking, whether or not individual components are readily interchangeable with the importers' brands.

The Commissioner finds that steel pallet racking produced locally by the Australian industry members have characteristics closely resembling those of the goods under consideration and are therefore like goods to the goods exported to Australia.<sup>43</sup>

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<sup>43</sup> Subsection 269T(1)



## 4 THE AUSTRALIAN INDUSTRY

### 4.1 Finding

The Commissioner has found that there is an Australian industry producing 'like' goods and that the like goods are produced in Australia.

From the available information, the Commissioner has identified that the Australian industry producing the goods consists of six members as detailed below:

- APC Storage;
- Brownbuilt;
- Dematic;
- Noble;
- Macrack; and
- Spacerack.

### 4.2 Legislative framework

The Commissioner must be satisfied that the 'like' goods are produced in Australia. Subsections 269T(2) and 269T(3) of the Act specify that for goods to be regarded as being produced in Australia, they must be wholly or partly manufactured in Australia.

In order for the goods to be considered as partly manufactured in Australia, at least one substantial process in the manufacturing of the goods must be carried out in Australia.

### 4.3 Australian industry

In its application, Dematic identified APC Storage, Macrack and Spacerack as other Australian entities producing like goods.

Following the initiation of the investigation, based on its research and information provided by other manufacturers of steel pallet racking, the Commission found that Brownbuilt and Noble also manufactured like goods in Australia during the investigation period.

The Commission undertook a verification visit to Dematic to verify information provided in its application.<sup>44</sup>

The Commission visited all other identified Australian producers and discussed the investigation process. APC Storage provided a submission supporting Dematic's application. APC Storage also submitted detailed information including its sales and cost data to the Commission.<sup>45</sup> The Commission undertook a verification visit to APC Storage to verify information provided and inspect its production facilities.<sup>46</sup>

#### 4.3.1 Submissions – Australian industry

Changzhou Tianyue and One Stop both submitted<sup>47</sup> that the applicant, Dematic, failed to demonstrate that it had the required standing to bring the application.

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<sup>44</sup> [EPR 024](#)

<sup>45</sup> [EPR 015](#)

<sup>46</sup> [EPR 026](#)

<sup>47</sup> [EPR 022](#) and [EPR 106](#)

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Changzhou Tianyue submitted that Dematic did not estimate the value of goods manufactured in Australia by APC Storage and the application was therefore critically deficient.

One Stop submitted that:

- under “Australian Consumer Law”, an importer is classed as the manufacturer, therefore the 109 identified importers of steel pallet racking and the six local producers, constitute the Australian steel pallet racking industry;
- on that basis only two members (APC Storage and Dematic) out of 115 support the application, which does not meet the threshold outlined by the World Trade Organization (WTO); and
- even if only the six local manufacturers are regarded as members of the Australian steel pallet racking industry, Dematic and APC Storage represent only 33.3% of the domestic producers and this also fails to meet the criteria set out by the WTO.

### 4.3.2 The Commissioner’s assessment – Australian industry

The Commissioner found that, in addition to Dematic, five other Australian industry members manufactured and sold steel pallet racking in Australia during the investigation period. All six manufacturers were visited by the Commission and provided information in relation to their sales of pallet racking during the investigation period.

Based on the data provided by the Australian manufacturers, Dematic alone accounted for more than fifty per cent of the Australian production volume and value of steel pallet racking in the investigation period. Dematic therefore meets the statutory requirements to apply for the publication of a dumping duty notice in respect of certain steel pallet racking in accordance with subsections 269TB(6)(a) and 269TB(6)(b).<sup>48</sup>

Regarding One Stop’s claim that an importer is classed as a manufacturer, the Commission notes that, to be considered part of the Australian industry, the Act requires a person to produce or manufacture like goods in Australia.<sup>49</sup> Further, like goods are not taken to be produced in Australia unless they were wholly or partly manufactured in Australia,<sup>50</sup> and to be considered partly manufactured in Australia at least one substantial process in the manufacture of the goods must be carried out in Australia.<sup>51</sup> One Stop, nor other importers, do not claim to manufacture like goods.

## 4.4 Production process

The Commission undertook a verification visit to Dematic’s manufacturing facilities in Narabang Way, Belrose, New South Wales to verify information provided in its application.<sup>52</sup> During the course of the verification, the Commission observed Dematic’s production process of steel pallet racking as summarised below.

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<sup>48</sup> These provisions reflect the WTO requirements set out in Article 5.4 of the *Anti-Dumping Agreement*

<sup>49</sup> Subsection 269TB(6)

<sup>50</sup> Subsection 269T(2)

<sup>51</sup> Subsection 269T(3)

<sup>52</sup> [EPR 024](#)

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Dematic purchases slitted<sup>53</sup> black hot rolled coil (HRC) and galvanised HRC from an unrelated Australian supplier. Dematic uses black HRC to manufacture beams and galvanised HRC to manufacture uprights and braces.

- *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.
- *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.
- *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.

During the installation phase, uprights are connected by beams and supported by braces.

Based on its observations during the visits to the Australian industry members’ production plants, the Commission found that the production process of the other five Australian manufacturers of steel pallet racking was very similar to Dematic’s production process of beams, braces and uprights discussed above.

### 4.5 Findings – Australian industry

Based on the information obtained from verification visits the Commissioner is satisfied, in accordance with subsections 269T(2) and 269T(3) of the Act, that there are like goods wholly, or partly, manufactured in Australia, predominantly by Dematic and APC Storage.

The Commissioner is also satisfied that the production of steel pallet racking by Dematic and APC Storage includes at least one substantial process in the manufacture of the goods carried out in Australia. Other Australian manufacturers of the goods are Brownbuilt, Macrack, Noble and Spacerack.

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<sup>53</sup> HRC coil cut into narrow widths, also known as ‘baby coils’.

## 5 AUSTRALIAN MARKET

### 5.1 Finding

The Commissioner has found that the Australian market for steel pallet racking is supplied by the Australian industry members and imports, predominantly from China and Malaysia. The Commission estimates that the size of the Australian market during the investigation period was approximately \$53 million by value.

### 5.2 Background

#### 5.2.1 Approach to Australian market assessment

For the purpose of assessing the Australian market for steel pallet racking, the Commissioner has relied upon information collected and verified from Dematic, APC Storage, cooperating importers and information obtained from the Australian Border Force (ABF) import database.

In assessing the sales volumes and market shares of the imported goods, the Commission was not always able to identify the volume of imported goods in terms of weight. The Commission has therefore used value as a proxy measure of volume. The Commissioner considers that sales values reasonably reflect sales volume and market share positions and trends over the injury analysis period. While there are unit price variations (per tonne) between various components and finishes of the goods, they are within a broadly similar range. Therefore, sales volume and market share analyses are likely to be similar, whether they are based on volume or value. Where value has been used as a proxy for volume in the analysis in this report, it has been qualified accordingly.

This and other data limitations concerning the volume and value of the goods are set out in more detail below.

#### 5.2.2 Data limitations

The Commissioner has noted the following data limitations when assessing the Australian market for steel pallet racking:

- APC Storage financial data – APC Storage provided sales data from 2011, but the sales revenue figures included amounts pertaining to sales of certain steel pallet racking components that were imported, which was not identified separately;
- Former Australian industry member data – during the course of the investigation, the Commission became aware that one Australian manufacturer closed and relocated its production facilities offshore<sup>54</sup> in 2014. Financial data for this entity was not available;
- Only two out of six Australian industry members provided financial information for the part of the injury analysis period prior to the investigation period.;
- ABF import data:
  - the present tariff classification and statistical codes for the goods were established on 1 January 2015. Prior to this date, the goods would have entered Australia under different tariff classifications, where steel pallet racking

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<sup>54</sup> It appears that the Dexion Group initially moved its production facilities from Australia to Malaysia and then later to China during the injury analysis period.

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was not readily identifiable. Consequently, the Commission was unable to reliably identify the volume or value of steel pallet racking imports prior to 2015. The Commission has therefore relied on ABF import data from 1 January 2015 to 30 September 2015 to estimate the annual value of imported goods in the year ending (YE) September 2015. The market share analysis has been qualified accordingly;

- when entering the goods for home consumption, importers have recorded various units of measure including kilograms, tonnes, or number of pieces. In the circumstances, the Commission has relied on value as a proxy measure of volume.

Notwithstanding the above limitations, the Commissioner considers that:

- the major Australian industry member, Dematic which represents approximately two thirds of the Australian industry, provided reliable sales and costs information from October 2013; and
- ABF import data, after cleansing, is reliable for determining the value of goods imported during the injury analysis period.

The data available is, therefore, suitable for assessing the Australian market size, sales volumes and market shares. The Commissioner also considers the data available is suitable for assessing whether the volume of dumped goods was negligible as discussed in section 6.10 of this report.

### 5.3 Market sectors

The Commissioner has noted that Dematic supplies steel pallet racking into two different market sectors, namely 'Distribution' and 'Project'.

Steel pallet racking sales into the distribution sector are generally steel pallet racking components and parts for smaller warehouse storage solutions (beams, uprights and braces) and do not involve tender processes.

Sales of steel pallet racking into the project sector are generally for larger warehouse storage solutions. These warehouse storage solutions may include steel pallet racking, other types of racking, installation costs, delivery costs, project management costs and accessories.

In the project sector, steel pallet racking is sold as a part of a warehouse storage solution, predominantly through tender processes, where Australian industry members and importers compete to supply the storage solution. While it's not a common practice in the industry, the tender bids sometimes include itemised prices such that the steel pallet racking price can be separately identified within the price of the overall storage solution.

The Commission has noted that during the injury analysis period, the sales value of steel pallet racking in Australia in relation to the project sector was significantly greater than sales into the distribution sector. A major proportion of Dematic sales, and all APC Storage sales were into the project sector. The vast majority of the goods imported from China and Malaysia were also sold into the project sector.

## **5.4 Suppliers**

Steel pallet racking sold into the project sector is generally supplied to customers directly from the manufacturers in Australia, or from importers. Steel pallet racking sold into the significantly smaller distribution sector is supplied primarily by Australian manufacturers and, to a lesser extent, importers.

Dematic and APC Storage domestic sales collectively accounted for almost 30 per cent of the total estimated value of the Australian steel pallet racking market in the investigation period. The remainder of the market needs were met by other Australian producers, imports from China and Malaysia, and to a lesser extent, imports from other countries.

### **5.4.1 Australian manufacturers**

The largest Australian producers (by value) of steel pallet racking are Dematic and APC Storage<sup>55</sup>. The Commission found that Dematic alone accounted for around two thirds of the Australian production volume and value for steel pallet racking in the investigation period.

### **5.4.2 Importers**

Following initiation of the investigation, the Commission examined the ABF import database and identified approximately 109 potential importers of steel pallet racking from China and Malaysia.

The Commission sought the cooperation of the four largest importers (by value) through the completion of an importer questionnaire. All four of those importers fully cooperated with the request, and verification activities were undertaken. These importers are as follows:

- Dexion (Australia) Pty Ltd (Dexion Australia);
- Global Industrial;
- Meca Racking Solutions Pty Ltd trading as BHD Storage Solutions (Meca); and
- Schaefer Systems International Pty Ltd.

The Commissioner estimates that the above importers collectively account for approximately 70 per cent of total imports of the goods from China and approximately 95 per cent from Malaysia during the investigation period.

## **5.5 Market size**

The Commissioner estimates the Australian market size for steel pallet racking during the investigation period was approximately \$53 million.

Figure 1 below demonstrates that the Australian market for steel pallet racking grew during the injury analysis period<sup>56</sup>.

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<sup>55</sup> Other Australian industry members are identified in section 4.1 of this report

<sup>56</sup> The market size assessment for YE Sep 2015 includes an annualised calculation of import data based on the period 1 January 2015 to 30 September 2015.

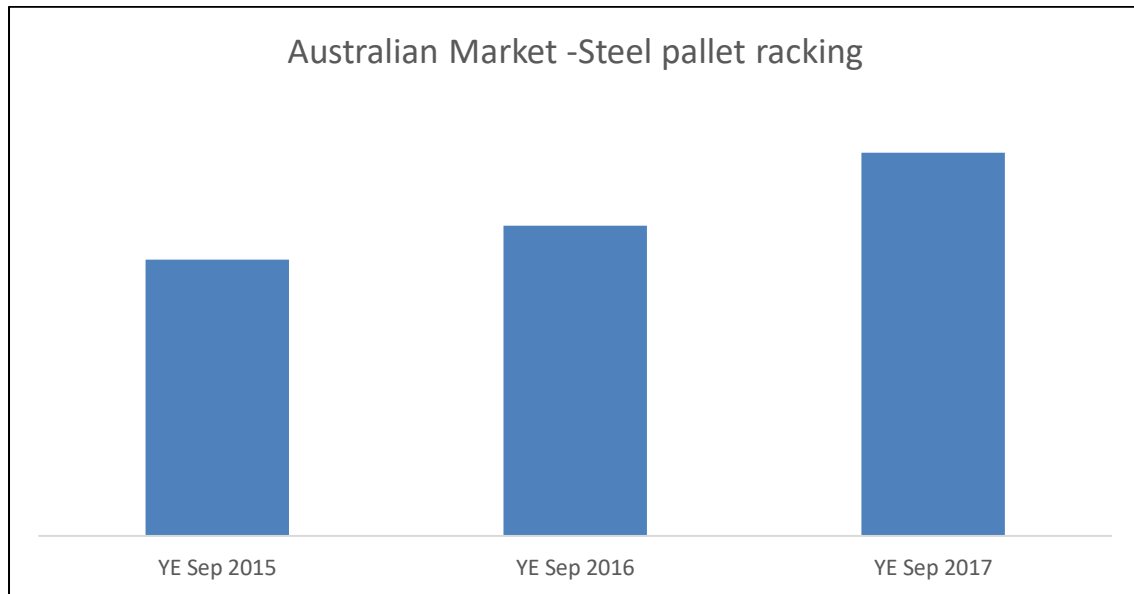


Figure 1 – Australian market share for steel pallet racking

## 5.6 Submissions – Australian market

### 5.6.1 One Stop

One Stop submitted that:<sup>57</sup>

- the Australian industry members are not capable of meeting the steel pallet racking requirements of the Australian warehousing industry without importations;
- the accuracy and validity of the Commission’s preliminary findings in SEF 441 *that Dematic accounted for ‘around’ two thirds of Australian production volume* is questionable when only two of Australia’s six steel pallet racking manufacturers are cooperating with the investigation;
- Dematic sales revenue for the goods must have included information on other Dematic products, namely conveyors;
- there are limitations regarding Dematic’s annual financial year data not aligning exactly with the years SEF 441<sup>58</sup>; and
- the Australian industry members are competitive in the large project market, as One Stop, and other importers, have lost large project tenders to the Australian industry.

#### The Commissioner’s assessment – One Stop

- The Commissioner agrees with One Stop that even at its full capacity, the Australian industry is not able to fully supply the entire volume of the Australian steel pallet racking market, and hence importations of the goods including from China and Malaysia are likely to continue.
- The Commissioner confirms that while APC Storage and Dematic provided the information and was verified by the Commission, the other four industry members were visited during the course of the investigation and provided information in relation to their sales revenue during the investigation period. Based on this

<sup>57</sup> [EPR 077](#)

<sup>58</sup> Page 60 of [SEF 441](#) refers

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information, the Commission has determined that Dematic represents a significant portion of the goods manufactured in Australia.

- The injury assessment discussed in Chapter 7 of this report is based on the verified sales and cost data of the like goods only.

### 5.6.2 Schaefer and Dematic

Schaefer submitted<sup>59</sup> that the graphs in the Australian industry visit report in relation to Australian market size and Australian market share are inaccurate and misrepresent the Australian market such that they are an obvious risk to the materiality and objectivity of any subsequent injury analysis by the Commission.

Schaefer provided an analysis based on its 'own market survey' which it claims to represent a fair indication of the 'true value' of the Australian racking market. Schaefer also claims that Dematic imports a considerable amount of Chinese made components used in the supply of its '*racking systems*'.

Schaefer also claims that:

- the Australian market has been relatively static;
- Australian production by Dexion has not been recognised, where Dexion was the oldest Australian manufacturer and supplier and at one point Dexion had a corporate annual turnover in excess of \$200 million;
- even with this volume, Dexion lost market share to Chinese importers for standard racking systems and decided to close its manufacturing facilities in Australia in 2015 and it moved its plant progressively to Malaysia and China;
- Schaefer's share of the market has grown in the period 2014-2017; and
- from its own analysis, it understands why Dematic's racking turnover has reduced but strongly refutes any suggestion that Schaefer is the cause for Dematic's decline.

In response to Schaefer's submission, Dematic submitted that:<sup>60</sup>

- Dematic's sales volumes in the investigation period declined dramatically and were displaced by the dumped imports of adjustable pallet racking from China and Malaysia;
- the analysis by the Commission is limited by the non-availability of import data in the period prior to '1 July 2015', but Dexion's import volumes following this period are included in the Commission's analysis;
- Schaefer confirms that it has grown its market share over the period 2014 to 2017, supporting Dematic's claims in its application that Dematic has lost sales volumes to imports from China and Malaysia;
- import data available to the Commission from the ABF import database confirms that imports increased in 2016 and 2017, and that there was no decline in import volumes from China and Malaysia post closure of the Woolworths Masters Stores (Masters); and
- it sold the goods in the 'distribution' and 'project' sectors during the investigation period.

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<sup>59</sup> [EPR 041](#)

<sup>60</sup> [EPR 046](#) and [EPR 082](#)



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### *The Commissioner's assessment – Schaefer and Dematic*

- The goods Schaefer is referring to in its submission are “racking systems”. The Commission is aware that there are many different types of racking systems available in the Australian market and only one particular type (steel pallet racking) is subject to this investigation. The Commission, therefore assumes that Schaefer's assessment includes goods that are not subject to the investigation.
- Schaefer's claim in relation to Dexion's Australian production and sales turnover also seems to include products that are not like goods to the goods subject to the investigation.
- Schaefer has not provided the Commission its sources of information and data or the methodology Schaefer has used to assess Australian market size and Australian market share.

The above issues were pointed out in the SEF, however Schaefer did not provide any further information in response to the SEF. The Commissioner is therefore not able to rely on the information Schaefer submitted in relation to the Australian market size and shares of the goods.

The Commissioner has noted Dematic's response to Schaefer's submission.

## **6 DUMPING INVESTIGATION**

### **6.1 Finding**

The Commissioner has found that during the investigation period:

- a particular market situation exists in the domestic steel pallet racking market in China, such that selling prices in that market are not suitable for determining normal value;
- steel pallet racking exported to Australia from China and Malaysia was dumped; and
- the volume of dumped goods from China and Malaysia and the dumping margins for all exporters from these countries were not negligible.

The Commissioner’s determination of dumping is based on the three key components of steel pallet racking, namely beams, uprights and braces. The dumping margins for steel pallet racking are summarised in Table 3 below:

Country	Exporter	Dumping Margin
China	Changzhou Tianyue	78.6%
	Dexion China	33.7%
	Jracking Group	60.1%
	Schaefer Kunshan	72.7%
	Residual Exporters	77.0%
	Uncooperative and all other exporters (other than Dexion China and Jracking Group)	110.3%
Malaysia	Schaefer Malaysia	4.6%
	Uncooperative and all other exporters	4.8%

**Table 3 - Dumping Margin Summary**

The Commissioner’s calculations of export prices, normal values and dumping margins are at **Confidential Attachment 2**.

### **6.2 Legislative framework**

In his report to the Minister under subsection 269TEA(1), the Commissioner must recommend whether the Minister ought to be satisfied as to the grounds for publishing a dumping duty notice under section 269TG.

Under section 269TG, one of the matters the Minister must be satisfied of in order to publish a dumping duty notice is that the goods have been dumped.

Dumping occurs when a product from one country is exported to another country at a price less than its normal value. The export price and normal value of goods are determined under sections 269TAB and 269TAC respectively. Details of the export price and normal value calculations for each exporter are set out in this chapter.

#### **6.2.1 Determining export price**

Subsection 269TAB(1)(a) of the Act provides that, subject to certain conditions, the export price of any goods exported to Australia is the price paid or payable for the goods by the

importer, other than any part of that price that represents a charge in respect of the transport of the goods or any other matter arising after exportation. Where the conditions in subsection 269TAB(1)(a) are not met, such as when the export transactions are not arms length, the export price is determined under subsection 269TAB(1)(b) or subsection 269TAB(1)(c).

Subsection 269TAB(3) of the Act provides that, where the export price cannot be established under those provision, the export price is determined having regard to all relevant information.

### **6.2.2 Determining normal value**

Subsection 269TAC(1) of the Act provides that, subject to certain conditions, the normal value of the goods is the price at which like goods are sold in the domestic market of the country of export. However, subsection 269TAC(1) cannot be used to calculate the normal value of the goods if one of the circumstances in subsections 269TAC(2)(a) or (b) is present. Where one or more of these circumstances are present, the normal value of the goods is to be calculated under either subsection 269TAC(2)(c) or (d).

Subsection 269TAC(2)(c) provides for the normal value to be a constructed amount, being the sum of the cost of production or manufacture of the goods in the country of export, and, on the assumption that the goods had been sold for home consumption in the ordinary course of trade (OCOT) in the country of export instead of being exported, the selling, general and administrative (SG&A) costs and the profit on that sale.

If the Minister directs that it applies, subsection 269TAC(2)(d) provides that the normal value is the price of like goods sold in the OCOT in arms length transactions from the country of export to an appropriate third country.

Subsection 269TAC(6) of the Act provides that, where the normal value cannot be established under subsections 269TAC(1), 269TAC(2)(c) or 269TAC(2)(d), the normal value is determined having regard to all relevant information.

### **6.2.3 Determining dumping margins**

Dumping margins are determined under section 269TACB of the Act. To calculate the dumping margins in this investigation, the Commissioner compared the weighted average of export prices over the whole of the investigation period with the weighted average of corresponding normal values over the whole of that period, in accordance with subsection 269TACB(2)(a).

## **6.3 Exporters**

### **6.3.1 Responses to the Exporter Questionnaire**

At the commencement of the investigation, the Commission contacted known exporters of the goods to Australia from China and Malaysia and invited them to complete an exporter questionnaire. The exporter questionnaire and associated spreadsheets were also placed on the Case Page for investigation 441 on the Commission's website.

The exporter questionnaire sought information regarding the exporters' commercial operations, the goods exported to Australia, like goods sold on the domestic market and to third countries, economic and financial details, and relevant costing information.

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The Commission received exporter questionnaire responses from the following exporters<sup>61</sup>:

Country	Exporter
China	Changzhou Tianyue
	Dexion China
	Jiangsu NOVA
	Jracking Group
	Inform Storage
	Schaefer Kunshan
Malaysia	Dexion Asia Sdn Bhd (Dexion Malaysia)
	Schaefer Malaysia

Table 4: List of exporters who provided a response to the exporter questionnaire

### 6.3.2 Sampling exporters from China

#### Legislative framework

Subsection 269TACAA(1) of the Act provides that where the number of exporters from a particular country of export in relation to the investigation is so large that it is not practicable to examine the exports of all of those exporters, then the investigation may be carried out, and findings may be made, on the basis of information obtained from an examination of a selected number of those exporters:

- who constitute a statistically valid sample of those exporters; or
- who are responsible for the largest volume of exports to Australia that can reasonably be examined.

#### Selection of exporters for this investigation

Six exporters of the goods from China provided a response to the exporter questionnaire. The Commissioner was of the view that it was not practicable to examine the exports of all of those exporters. Therefore, on 16 March 2018, the Commission notified interested parties that it would examine the information received from a selected number of Chinese exporters.<sup>62</sup>

In determining which Chinese exporters to examine, the Commission took into account:

- the number of exporter questionnaires from China that the Commission could practically verify; and
- the individual volume of each identified exporter and the cumulative volume of a manageable number of the largest exporters by volume.

The Chinese exporters selected by the Commission are:

- Changzhou Tianyue;
- Dexion China;
- Jracking Group; and

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<sup>61</sup> Non-confidential exporter questionnaire responses are available on the Commission's website.

<sup>62</sup> [ADN No. 2018/40](#)

- Schaefer Kunshan.

These selected exporters represent the majority of the volume of the goods exported to Australia from China during the investigation period.

### Categorisation of exporters

The Commissioner found, in terms of the definitions in subsection 269T(1) of the Act, that:

- Changzhou Tianyue and Schaefer Kunshan are cooperative exporters;
- Dexion China and Jracking Group are uncooperative exporters;<sup>63</sup>
- Jiangsu NOVA and Inform Storage are residual exporters;<sup>64</sup> and
- all remaining exporters of the goods from China are uncooperative exporters.<sup>65</sup>

### **6.3.3 Submission – Sampling**

Jiangsu NOVA submitted that:<sup>66</sup>

- it disagrees with the Commission’s decision to not select Jiangsu NOVA for further examination and determine an individual margin of dumping given that it had fully cooperated by providing a complete response to the Commission’s exporter questionnaire by the agreed deadline;
- it does not consider that the conditions of section 269TACAA have been satisfied to allow sampling to be carried out:
  - given the ten month period between receiving a complete response to the exporter questionnaire and publishing the SEF;
  - especially noting that Jiangsu NOVA was one of only two residual exporters;
  - the Commission would have sufficient resources to undertake a complete verification of Jiangsu NOVA’s information; and
- the Commission should reconsider treating Jiangsu NOVA as a selected exporter and determine its dumping margin on the basis of its submitted information.

### The Commissioner’s assessment – Sampling

The Commissioner disagrees with Jiangsu NOVA’s claims. As discussed in section 6.3.2, the Commission completed a sampling exercise in accordance with subsection 269TACAA after establishing that it could verify only four exporters of the six Chinese exporters who responded to the exporter questionnaire submitted. The decision not to sample Jiangsu NOVA was made, not only on the basis of its volume of exports, but because to do so would have prevented the timely completion of the investigation. The extensions of time referred to by Jiangsu NOVA were provided based on reasons that do not affect the Commission’s decision to sample exporters.

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<sup>63</sup> Further details are at section 6.4 of this report.

<sup>64</sup> A residual exporter is an exporter whose exportations were not examined as part of the investigation and who was not an uncooperative exporter in accordance with subsection 269T(1).

<sup>65</sup> An exporter is an uncooperative exporter where the Commissioner is satisfied that the exporter did not give the Commissioner information that he considered to be relevant to the investigation, within a period the Commissioner considers reasonable, or an exporter that significantly impeded the investigation.

<sup>66</sup> [EPR 083](#)

The Commissioner affirms that Jiangsu NOVA is a residual exporter for the purpose of this investigation and has accordingly determined Jiangsu NOVA's export price, normal value and dumping as detailed in section 6.7.5 of this report.

## **6.4 Treatment of certain exporters**

### **6.4.1 Legislative framework**

In relation to making determinations that an exporter is an uncooperative exporter, the Commissioner has regard to both subsection 269T(1) of the Act and the *Customs (Extensions of Time and Non-cooperation) Direction 2015* (the Customs Direction).

### **6.4.2 Dexion China and Dexion Malaysia**

Dexion China and Dexion Malaysia's exporter questionnaire responses were not provided within the legislated timeframe. Neither party sought an extension of time before the due date. Pursuant to subsection 8(b) of the Customs Direction, the Commissioner must determine that Dexion China and Dexion Malaysia are uncooperative exporters as defined in subsection 269T(1) of the Act.

On 16 January 2018, the Commissioner notified Dexion China and Dexion Malaysia of his decision to treat them as uncooperative exporters pursuant to subsection 269T(1).

In accordance with the Customs Direction, in circumstances where a response has been received by the Commissioner outside the legislated period, the Commissioner must, when determining whether to have regard to that response, consider if taking the response into account would delay a key aspect of the case. While the responses to the exporter questionnaire submitted by Dexion China and Dexion Malaysia were outside of the period specified by the Commissioner, they were complete and relevant to the investigation. After reviewing the questionnaires the Commissioner was satisfied that taking the responses into account, in this instance, would not prevent timely consideration of whether to make a preliminary affirmative determination<sup>67</sup> or the timely placement of the SEF on the public record.<sup>68</sup> On this basis, the Commission was able to examine the information provided by both Dexion China and Dexion Malaysia in regards to this investigation.

### **6.4.3 Jracking Group**

Seven related entities<sup>69</sup> provided a joint response to the exporter questionnaire, referring to the collective group as Jracking.

Having considered the functions of each of the entities, the common decision making process by the same head of divisions for the two manufacturers, inter-company financial transactions, common customers and use of the same related trading entities for supply and distribution of the goods, the Commission has treated the manufacturers of the goods, namely Jiangsu Jracking Industry Ltd (Jracking Industry) and Danyang

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<sup>67</sup> Subsection 269TD(3)

<sup>68</sup> Subsection 269TDAA(3)

<sup>69</sup> Meca Racking Solutions Pty Ltd; Along International Limited; Nanjing Jracking International Ltd; Jracking (China) Storage Solutions Ltd; Jracking (China) Storage Systems Ltd; Jiangsu Jracking Industry Ltd; and Danyang Hengcheng Metal Products Co., Ltd.

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Hengcheng Metal Products Co., Ltd. (Hengcheng), as a single exporter of the goods (Jracking Group).

Jracking Group provided a response to the Commission's exporter questionnaire that the Commissioner considers did not provide information relevant to the investigation. The Commissioner has therefore determined, in accordance with subsection 8(b)(ii) of the Customs Direction, that Jracking Group is an uncooperative exporter, as defined in subsection 269T(1).

On 18 June 2018, the Commissioner notified Jracking Group of his decision to treat it as an uncooperative exporter pursuant to subsection 269T(1).

### 6.4.4 Submissions – Treatment of certain exporters

#### Schaefer Kunshan

Schaefer Kunshan submitted that:<sup>70</sup>

- the Commission should impose the uncooperative exporters' dumping margin rate from the PAD of 109.1 per cent on Dexion China and Jracking Group because the Commissioner determined that both exporters were uncooperative;
- the Commission should collect securities at a rate of 109.1 per cent for all goods exported by these two exporters, retrospectively from 19 June 2018, being the time the Commissioner applied securities;
- information contained in the exporter questionnaire response submitted by Dexion China was not considered relevant, therefore the Commissioner was not at liberty to conduct an on-site verification for this exporter and use this information to determine Dexion China's export price, normal value and dumping margin;
- the large difference between the preliminary dumping margins of Schaefer Kunshan and Dexion China published in PAD 441 is likely to be a result of the inequity between normal values the Commission established for Schaefer Kunshan and Dexion China. Schaefer Kunshan submitted that this is likely because the Commission has not provided Schaefer Kunshan 'like-for-like' treatment with the data provided by Dexion China in its response to the exporter questionnaire; and
- the Commissioner made an error in law by incorrectly interpreting subsection 269TD(3). Schaefer Kunshan submitted that the Commissioner has dealt with the status of the information contained in the exporter questionnaire response submitted by Dexion China on 16 January 2018 and determined that information was 'not relevant' for the purpose of the investigation. As such, it was beyond the Commissioner's power to subsequently conduct an on-site verification and use Dexion China's information as the basis for export price and normal value.

#### The Commissioner's assessment

The Commissioner disagrees with Schaefer Kunshan's claims that Dexion China and Jracking Group should be subject to the "uncooperative exporters" preliminary dumping margin of 109.1 per cent<sup>71</sup>. The Commission also disagrees with the claims to retrospectively collect securities from 19 June 2018 at a rate of 109.1 per cent for these

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<sup>70</sup> [EPR 050](#) and [EPR 053](#)

<sup>71</sup> Dumping margin rate published in PAD 441.

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two exporters. The reasons for not applying this dumping margin to Dexion China and Jracking Group are explained below.

Subsection 269TACAB(1) requires that export prices and normal values for uncooperative exporters be worked out in accordance with subsection 269TAB(3) and subsection 269TAC(6) respectively. The dumping margin will then be based on those export prices and normal values.

Subsection 269TAB(3) provides that the export price shall be such amount as determined having regard to all relevant information. Subsection 269TAC(6) provides that the normal value shall be such amount as determined having regard to all relevant information.

In relation to Dexion China, the Commission found that Dexion China's verified export sales data, particular to its own exports of the goods to Australia in the investigation period, was the most relevant information for determining export price for Dexion China under subsection 269TAB(3). Similarly, in relation to Jracking Group, the Commission found that Jracking Group's verified export sales data, particular to its own exports of the goods to Australia in the investigation period, was the most relevant information for determining export price for Jracking Group under subsection 269TAB(3).

In determining normal values for Dexion China and Jracking Group, both found to be uncooperative exporters, the Commissioner had regard to all relevant information. Since the preliminary affirmative determination, the Commission has changed its approach to determining normal value for Dexion China, discussed in section 6.7.2 of this report.

In case of Jracking Group, the Commissioner remains of the view that Jracking Group data is not reliable information to determine normal value. The Commissioner has found that the most relevant information for determining normal value for both Dexion China and Jracking Group is the highest weighted average normal value for the investigation period from the selected exporters, adjusted to ensure comparable delivery terms.

### Jracking Group

Jracking Group submitted that:<sup>72</sup>

- it disagrees with the Commission's findings that there are "significant deficiencies" in the information submitted by Jracking Group and with the Commission's finding that it is an uncooperative exporter;
- if the Commission considers that no relevant information was provided by Jracking Group, or that there is other information that is more relevant, the Commission should inform Jracking Group to further provide supplemental information instead of confirming the comprehensiveness of its responses and information provided to the Commission;
- it has submitted its cost records which are in accordance with Chinese generally accepted accounting principles (GAAP) and are kept in accordance with the requirements set out in Article 2.2.1.1 of the *WTO Anti-Dumping Agreement*. It is therefore, unreasonable and abnormal for the Commission to determine the costs provided by Jracking group to be unreliable and totally disregard this data simply due to its comparatively low cost;

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<sup>72</sup> [EPR 049](#) and [EPR 080](#)



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- following the publication of the PAD, Jracking Group met with the Commission on 21 August 2018 and presented further clarification regarding the Commission's assessment of the reasonableness and reliability of the cost information provided to the Commission. Prior to this meeting, Jracking Group provided 'calculation worksheets' for CTMS and reconciliation to '*different pieces of the elements*' and supporting documents. Following the meeting, Jracking Group submitted further comments clarifying the reasons for its 'comparatively low cost';
- steel pallet racking is tailor made to its customers' requirements and therefore a different raw material, technology and selling methodology applies;
- it believes that the Commission's approach is without merit and should be corrected in the final determination:
- alternatively, if the Commission insists to ignore Jracking Group's costs, it should use the weighted average costs of cooperative exporters; and
- the Jracking Group was cooperative and did not dump the goods in Australia during the investigation period.

### The Commissioner's assessment

The Commissioner disagrees with the claims made by Jracking Group. 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 this investigation. The details of all deficiencies identified by the Commission, together with Jracking Group's responses, are in **Confidential Attachment 3**.

Notwithstanding the finding that Jracking Group was an uncooperative exporter, the Commission conducted a 'benchmark verification' to determine if Jracking Group's information was relevant and reliable for determining its export price, normal value and dumping margin. The Commission's assessment is contained in a benchmark verification report, which is available on the Commission website.<sup>73</sup>

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.

## 6.5 Claims of a particular market situation – China

### 6.5.1 Dematic's claims

In its application, Dematic submitted that there is a particular market situation in the Chinese domestic market for steel pallet racking that renders sales in that market

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<sup>73</sup> [EPR 043](#)

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unsuitable for determining normal values under subsection 269TAC(1), due to the influence of the Government of China (GOC) in the Chinese steel industry.

In its application, Dematic stated that it supports the Commission's findings concerning the GOC influences in the Chinese iron and steel industry set out in *Trade Measures Report No. 177* and more recently in *Anti-Dumping Commission Report No. 379* (REP 379). Those findings (and findings in other reports by the Commission) identify GOC interventions in the Chinese market for steel products, including HRC and hollow structural sections (HSS) (which is made from HRC). HRC is the major raw material input to the production of steel pallet racking, and Dematic therefore claims that normal values for steel pallet racking in China are also distorted by the GOC's influence in the steel market.

### 6.5.2 The Commissioner's assessment – Particular market situation

The Commissioner's assessment of a particular market situation is undertaken in accordance with legislative requirements in relation to the goods being investigated. In undertaking this assessment the Commission has also given consideration to conditions within the Chinese HRC market, and the broader Chinese steel markets. HRC is estimated by the Commission to account for approximately 70 per cent of the cost to make for steel pallet racking, and thus is a key determinant of the domestic price of steel pallet racking.

The Commissioner has found 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 and state invested 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).

A detailed discussion of the Commissioner's assessment in relation to the claims of a particular market situation in the Chinese steel pallet racking industry is **Non-confidential Appendix 3**.

## 6.6 Cost replacement for HRC

### 6.6.1 Background and basis of the HRC benchmark

Having determined that a particular market situation exists in the steel pallet racking market in China, such that sales of steel pallet racking in that market are unsuitable for normal value, the Commissioner considered whether it was appropriate and possible to

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construct normal values for certain Chinese exporters<sup>74</sup> in accordance with subsection 269TAC(2)(c) of the Act.

Section 43 of the *Customs (International Obligations) Regulation 2015* (the Regulation) requires that where an exporter keeps records in accordance with GAAP and those records reasonably reflect competitive market costs associated with the production or manufacture of like goods then the cost of production must be worked out using the exporter's records.

The Commissioner has determined that the HRC prices are influenced by the GOC's involvement in the steel market in China. As outlined in **Non-Confidential Appendix 4**, the Commissioner considers that HRC prices are significantly affected by GOC influences such that they do not reasonably reflect competitive market costs.

The Commissioner has therefore considered options for establishing competitive market costs of HRC in China for the purposes of constructing normal value under subsection 269TAC(2)(c).

The Commissioner has determined that an appropriate basis for calculating a benchmark for HRC costs in China is the weighted average domestic HRC price paid by cooperating exporters from Korea and Taiwan in Reviews 456 and 457<sup>75</sup>, at comparable delivery terms to those observed in China. This is because:

- the review period for Reviews 456 and 457 is the same as the investigation period for this investigation; and
- it was determined using verified domestic HRC purchases by exporters in markets free of apparent government influence (in this instance, Korea and Taiwan).

Furthermore, the Commissioner considers that it is not appropriate to use private domestic prices for HRC in China or import prices for HRC in China when determining a benchmark for the reasons discussed in **Non-Confidential Appendix 4**.

### 6.6.2 Adjustments to the HRC benchmark

To ensure that the HRC costs used in establishing normal value were based on amounts that represent the cost of production in China during the investigation period, the Commissioner considers that it is appropriate to adjust the Korean and Taiwanese HRC costs to take into account the comparative differences between the producers of HRC in China, Korea and Taiwan. The Commissioner considers that it would not be possible to isolate and quantify the effect of GOC involvement in the relevant markets and to determine any comparative advantages and disadvantages.

The Commissioner sought to identify any differences in price that can be observed when comparing the prices paid for HRC by Chinese exporters examined in Reviews 456 and 457 and prices paid for HRC by Chinese exporters examined in this investigation. The Commission found that, in the investigation period, Chinese exporters of steel pallet racking paid significantly more for HRC than the Chinese exporters examined in Reviews 456 and 457.<sup>76</sup> The Commission considers this difference is likely to reflect a number of different pricing considerations relevant to HRC purchases in China, including:

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<sup>74</sup> Normal values for uncooperative exporters must be determined under subsection 269TAC(6).

<sup>75</sup> Details of Reviews 456 and 457 are available on the Commission's website.

<sup>76</sup> Calculated as a weighted average for the investigation period.

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- different grades and thicknesses of HRC;
- any slitting costs incurred before purchase;
- intermediary margins; and
- volume based price variations.

Following the publication of the SEF, the Commission noted that in Reviews 456 and 457, one of the Chinese exporters whose information was used to compare the HRC volume and value with the cooperating Chinese exporters in this investigation, purchased HRC at ex-works (EXW) terms. The Commission also noted that in Reviews 456 and 457, another Chinese exporter purchased HRC on number of mixed delivery terms including some on EXW terms. The Commission has, therefore, adjusted both of these exporters' HRC EXW purchase prices using verified domestic inland freight costs of a cooperating Chinese exporter in investigation 441.

The Commission then compared and made an upward adjustment <sup>77</sup> to the HRC benchmark prices using weighted average price differences (calculated as percentages) on a quarterly basis. The Commissioner is of the opinion that a 'quarter by quarter' price adjustment provides a more accurate basis of calculating the price differential when comparing HRC prices in Reviews 456 and 457 with HRC prices in this investigation. The Commission's calculation of the adjusted benchmark is at **Confidential Attachment 4**.

The Commissioner's detailed assessment of an appropriate basis for benchmark HRC costs in China for production of steel pallet racking is at **Non-Confidential Appendix 4**.

### 6.6.3 Submissions – HRC benchmark

#### Changzhou Tianyue

Changzhou Tianyue submitted that: <sup>78</sup>

- the Commission's methodology used to determine the benchmark prices of HRC does not comply with the Minister's requirements for determining the cost of production of the goods, and does not involve a benchmark which is comparable with Changzhou Tianyue's purchases of HRC;
- beyond HRC costs, all other costs of production, including Changzhou Tianyue's actual coil slitting costs, must be relied upon for constructing normal values where they are in accordance with the GAAP and reasonably reflect competitive market costs;
- HRC grade used in the manufacture of steel pallet racking by Changzhou Tianyue is of a different grade than that used to determine benchmark prices;
- a HRC benchmark based on HRC prices paid by exporters in Investigation 449<sup>79</sup> requires adjustment in relation to additional price premiums over the base or standard grade HRC that is used by Changzhou Tianyue;

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<sup>77</sup> HRC prices were based only on purchases of 'black' HRC. While the Commission recognises that Chinese steel pallet racking exporters consumed both 'black' and galvanised HRC, the latter was in small proportion for the manufacture of Australian export sales. The adjustment is based only on the observed differences in prices for 'black' HRC purchases.

<sup>78</sup> [EPR 044](#) and [EPR 086](#)

<sup>79</sup> Interested parties have at times referred to Continuation Inquiry 449 because PAD Report 441 made references to that report inadvertently, when it should have been referencing Reviews 456 and 457. The data relied upon by the Commission in calculating the HRC benchmark for the purposes of the PAD and for this SEF is the same, being data obtained from Reviews 456 and 457.

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- the Commission should rely on HRC purchases by cooperating steel pallet racking exporters from Malaysia as they will reflect the same grade and specification of coils used by Changzhou Tianyue and Jiangsu NOVA. Alternatively the Commission should rely on published HRC data which relates to base grade HRC; and
- level of trade adjustments made to the HRC benchmark are not explained in the PAD 441 report and no opportunity has been afforded to Changzhou Tianyue to present further information to demonstrate that a level of trade adjustment is not warranted.

### Dematic

In response to Changzhou Tianyue's submission, Dematic submitted that:<sup>80</sup>

- HRC consumed by Changzhou Tianyue to manufacture the components of steel pallet racking (braces, uprights and beams) are 'baby coils', not 'mother coils'. Therefore the Commission must include a benchmark price that reflects the cost of 'baby coils';
- the slitting costs are incurred by a third party and represent a necessary cost incurred in the provision of HRC used in manufacturing beams, uprights and brace. The Commission is correct in its approach to include an adjustment for slitting costs so as to reflect the full market costs for the input HRC used in the manufacture of the goods.
- it concurs with the Commission that the HRC benchmark is correctly sourced from verified HRC costs for Korean and Taiwanese galvanised steel manufacturers from Investigation 449, which has the same investigation period as this case. Dematic considers that the Commission's verified HRC costs represent independent HRC prices in markets free of government influence and are suitable for benchmark purposes.

### Jiangsu NOVA

Jiangsu NOVA submitted that:<sup>81</sup>

- the Commission should not include any adjustment for slitting services. If an adjustment is warranted, it would be immaterial;
- it is unclear whether the benchmark accounts for the standard grade coil used in China, which has the lowest price with no additional extras or premiums.

#### **6.6.4 The Commissioner's assessment – HRC benchmark**

##### Slitting costs, HRC grades and level of trade

The Commissioner has considered the Changzhou Tianyue and Jiangsu NOVA submissions in relation to slitting costs, HRC grades and level of trade, and is of the view that no amendment to the calculation or application of the HRC benchmark cost is required.

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<sup>80</sup> [EPR 048](#)

<sup>81</sup> [EPR 047](#)

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It is important to recognise that the uplift of the benchmark used in Reviews 456 and 457 was based on verified evidence of the difference between HRC prices paid by Chinese exporters examined in Reviews 456 and 457, and HRC prices paid by Chinese exporters of steel pallet racking<sup>82</sup>, in the investigation period. There would be a number of reasons for this difference, including but not limited to variations in HRC grades, slitting costs, volume discounts and intermediary margins.

The fact remains that Chinese steel pallet racking exporters paid significantly more for HRC in the investigation period than the Chinese exporters examined in Reviews 456 and 457. It is therefore reasonable for the Commission to take that difference into account when adjusting the HRC benchmark cost used for Chinese exporters in Reviews 456 and 457 to determine a suitable HRC benchmark cost in this investigation.

Notwithstanding, the Commissioner considers it is appropriate to make some observations about the Changzhou Tianyue submission on slitting costs. Changzhou Tianyue submitted what was described as a steel processing agreement with a third party identifying fees for slitting services. It is not possible to discern from that document whether and to what extent any charges for slitting services were in fact incurred by Changzhou Tianyue in relation to steel pallet racking, in the investigation period. The Commission also notes that this submission contradicts earlier written advice from Changzhou Tianyue that it did not incur any additional slitting charges (refer to **Confidential Attachment 5**).

### Using other data as a basis for HRC benchmark costs

Changzhou Tianyue submits that the Commission should rely on HRC purchases by cooperating steel pallet racking exporters from Malaysia as they will reflect the same grade and specification of coils used by Changzhou Tianyue and Jiangsu NOVA or, alternatively, the Commission should rely on published HRC data which relates to base grade HRC.

The Commissioner considers that the most reasonable basis for the HRC benchmark cost is the weighted average of verified HRC prices paid by cooperating exporters from Korea and Taiwan in Reviews 456 and 457 in a period that matches the investigation period. This is considered the most reasonable approach primarily because it represents verified prices paid in relation to HRC produced and sold domestically in the country of production. This aligns with the circumstances of the HRC produced and sold to steel pallet racking exporters in China. Prices paid for HRC imported into Malaysia for manufacturing steel pallet racking were in a market where there was no price competition from a significant domestic HRC industry.

Notwithstanding the Commission's view that Malaysian import prices for HRC are not the most appropriate basis for the HRC benchmark cost, the Commission compared such prices with the benchmark HRC cost being used. The Commission found the weighted average of prices paid for HRC imported by the one cooperative Malaysian exporter of steel pallet racking was similar to the benchmark HRC cost based on HRC prices paid by exporters in Korea and Taiwan, measured after the adjusting the benchmark price as discussed in section 6.6.2 of this report.

The Commissioner is of the view that the verified prices of HRC in Korea and Taiwan are more relevant and reliable than published data for base grade HRC. The Commission

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<sup>82</sup> Based on verified data for HRC purchases from this investigation.

considers that the verified HRC prices in Reviews 456 and 457 reflect actual, net selling prices for HRC in the domestic markets of the countries of production. Those prices could be readily compared with HRC prices paid for similar products in China. In turn, that allowed the Commission to calculate a meaningful measure of how much more the Chinese steel pallet racking exporters paid for HRC when compared with Chinese exporters examined in Reviews 456 and 457.

## **6.7 Dumping assessment – China**

### **6.7.1 Changzhou Tianyue**

The Commission visited Changzhou Tianyue's premises to verify the information provided in its exporter questionnaire response. A report covering the visit findings is available on the public record.<sup>83</sup>

#### Export price

The Commission found that Changzhou Tianyue's Australian export sales during the investigation period were purchased by an unrelated trader and not by the Australian importer. The export price cannot therefore be established under subsections 269TAB(1)(a) or 269TAB(1)(b). The export price has been determined under subsection 269TAB(1)(c), having regard to all the circumstances of the exportation. Specifically, the export price has been determined as the price paid to Changzhou Tianyue by the unrelated trading entity, excluding any part of that price that represents a charge in respect of the transport of the goods after exportation or in respect of any other matter arising after exportation.

#### Normal value

Having preliminarily determined a particular market situation finding, as outlined in section 6.5 of this report, normal value cannot be established under subsection 269TAC(1). The Commission has determined Changzhou Tianyue's normal value in accordance with subsection 269TAC(2)(c) using:

- the exporter's verified cost to make (CTM) the goods exported to Australia, including an adjustment to the cost of HRC<sup>84</sup>;
- SG&A expenses applicable to like goods sold domestically<sup>85</sup>; and
- profit<sup>86</sup> on the domestic sales of like goods made in the OCOT<sup>87</sup>.

#### Adjustments

To ensure the comparability of normal values to export prices, the Commission considered if any adjustments were required pursuant to subsection 269TAC(9).

Following publication of PAD 441, the Commission identified that an adjustment to Changzhou Tianyue's normal value was required. The adjustment was in relation to

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<sup>83</sup> [EPR 034](#)

<sup>84</sup> Subsection 43(2) of the Regulation

<sup>85</sup> Subsection 44(2) of the Regulation

<sup>86</sup> Profit based on a comparison of price and CTMS before the adjustment to the cost of HRC

<sup>87</sup> Subsection 45(2) of the Regulation

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differences in export and domestic prices due to the non-refundable value added tax (VAT) of 8 per cent applicable only to export sales. This adjustment was necessary to ensure normal values were properly compared to export prices.<sup>88</sup> The Commission has therefore adjusted Changzhou Tianyue's normal value by adding this adjustment to the normal value as follows:

Adjustment type	Application
Non-refundable export VAT	Add 8% for non-refundable export VAT

**Table 5: Summary of adjustments - Changzhou Tianyue**

### Submissions

Changzhou Tianyue<sup>89</sup> claims that the determination of profit for Changzhou Tianyue incorrectly includes goods which are not subject to the investigation.

In response to Changzhou Tianyue's submission, Dematic submitted<sup>90</sup>, that in certain circumstances, the Commission may determine the amount of profit based upon the domestic sales of similar goods where there is an absence of domestic sales of identical goods

### The Commissioner's assessment

The Commissioner disagrees with Changzhou Tianyue's claim that in order to determine Changzhou Tianyue's profit the Commission included goods that are not subject to the investigation. The Commission was able to separately identify the goods and non-goods and this was confirmed with the company at the visit.

Furthermore, after examining Changzhou Tianyue's CTMS, the Commission accepted that each of the five categories of the goods identified had its own CTMS (as did all other categories). The Commission was able to compare the domestic sales value and their costs to determine Changzhou Tianyue's profit and the profitability of the goods subject to this investigation. The detailed profit and profitability calculation together with export price, normal value and dumping margin calculations were provided to the company prior to the publication of the verification report.

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<sup>88</sup> The Commission's policy and practice in relation to adjusting for differences in residual VAT liability is covered in Chapter 15 of the *Dumping and Subsidy Manual* (available at [www.adcommission.gov.au](http://www.adcommission.gov.au)) which discusses due allowance. This chapter explains that VAT liability can differ between domestic sales and export sales. Domestic sales prices are usually VAT free (because most companies separately capture the output VAT amount on each sale). Export sales, on the other hand, usually incur VAT liability. The Manual makes it clear that, in circumstances where it is established that a residual VAT liability applies to export sales, this residual VAT liability is treated as having influenced the export price (i.e. it is taken to have been factored in to the invoiced price because the exporter would be seeking to recoup it). Accordingly, where the normal value is calculated from VAT exclusive domestic sales prices (or in this case constructed based on VAT exclusive costs) an upwards adjustment will be applied to the normal value in order to ensure fair comparison between the normal value and export price. The level of adjustment applicable is usually the residual VAT liability (that is, the VAT rate for the goods minus any VAT rebates received).

<sup>89</sup> [EPR 044](#)

<sup>90</sup> [EPR 048](#)



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The Commissioner therefore affirms that only domestic sales of like goods to the goods subject to the investigation were used as a basis for assessing OCOT and for the calculation of profit used in constructing normal value.

### Dumping margin

The Commission calculated the dumping margin in accordance with subsection 269TACB(2)(a), by comparing the weighted average of export prices over the whole of the investigation period with the weighted average of corresponding normal values over the whole of that period.

The dumping margin for Changzhou Tianyue is **78.6 per cent**.

### **6.7.2 Dexion China**

As explained in section 6.4.2 of this report, the Commissioner has determined Dexion China to be an uncooperative exporter. Notwithstanding that determination, the Commission visited Dexion China's premises to verify the information provided in its exporter questionnaire response. A verification report covering the visit findings is available on the public record.<sup>91</sup>

### Export price

As Dexion China is an uncooperative exporter, the Commissioner must determine its export price pursuant to subsection 269TAB(3), having regard to all relevant information. The Commissioner determined export price using Dexion China's verified export sales data. Specifically, the Dexion China export price has been determined as the price paid by the Australian importer, less any part of that price that represents a charge in respect of the transport of the goods after exportation or in respect of any other matter arising after exportation.

Following the publication of the SEF, the Commission noted an error in calculating SG&A expenses for the selected shipments provided by Dexion Australia in its response to the importer questionnaire. When rectified, a significantly higher SG&A expenses was determined, resulting in majority of shipments of the goods sold at a loss in the Australian Market. To satisfy itself that the transactions between Dexion Australia and Dexion China were arms length during the investigation period, the Commission selected additional shipments and asked Dexion Australia to provide all importation documents and supporting evidences in relation to those shipments including some project specific information. The Commission also provided Dexion Australia with its revised SG&A calculations.

Dexion Australia provided all information requested by the Commission within the required timeframe. Furthermore, Dexion China and Dexion Australia collectively submitted that:<sup>92</sup>

- they do not agree with the methodology applied to the calculation of SG&A and claim that certain adjustments applied by the Commission do not accurately reflect the nature of their business;

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<sup>91</sup> [EPR 033](#)

<sup>92</sup> [EPR 084](#)

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- Dexion Australia and Dexion China have and continue to engage in negotiations on price and transactions. These transactions have not been influenced by the commercial relationship between the two related entities;
- Dexion Australia is in no way compensated, reimbursed or otherwise benefited by these transactions.

Following the examination of the additional information that was provided by Dexion Australia and detailed explanation of its high SG&A, the Commissioner is satisfied that all transactions between Dexion Australia and Dexion China during the investigation period were arms length.

### Normal value

As Dexion China is an uncooperative exporter, the Commissioner must determine Dexion China's normal value pursuant to subsection 269TAC(6), having regard to all relevant information.

In the preliminary affirmative determination report, the Commission explained that Dexion China's normal value was constructed using:

- the exporter's verified Australian cost to make, including a raw material cost uplift;
- SG&A expenses applicable to like goods sold domestically; and
- profit of the domestic sales made in the OCOT.

The report also stated that to ensure the normal values were properly compared to export prices, it was necessary to make certain adjustments in relation to packaging and non-refundable export VAT of 8 per cent.

However, the Commissioner subsequently reviewed the preliminary calculations of export price, normal value and dumping margin for Dexion China. After this review, the Commissioner determined that the Dexion China cost to make data is not suitable for the purposes of assessing whether domestic sales were in the OCOT and not suitable as a basis for constructed normal values. The Commission's assessment is at **Confidential Attachment 6**.

The Commissioner has determined normal value for Dexion China under subsection 269TAC(6) using the highest weighted average normal value for the investigation period from the selected cooperating exporters, adjusted to ensure comparable delivery terms.

### Submission

Following the Commissioner's review of the calculations, Dexion China submitted that:<sup>93</sup>

- the rationale and process undertaken for reviewing the dumping margin calculations is not clear;
- it was not given the opportunity to engage with the review;
- it is not clear why the review was undertaken, and not clear why the previous dumping margin calculations have now been found to be unreliable;
- it is concerned that the Commission's letter of 23 October 2018 was published on the electronic public record without Dexion China being consulted on issues of confidentiality or accuracy;

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<sup>93</sup> [EPR 073](#) and [EPR 084](#)

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- in the circumstances, the Commission should refrain from publishing any conclusions regarding Dexion China's dumping margin in the SEF.
- purchase orders had been made since the PAD with pricing based on the original 12 per cent dumping margin, and that a further increase in the prices agreed on the supply contracts to account for a dumping duty rate of 34.9 per cent<sup>94</sup> is not possible; and
- the sudden and unexpected revision of the dumping duty rate has adversely affected its business as well as the businesses of the Dexion Supply Centres and customers.

### The Commissioner's assessment

Dumping margins established by the Commission's exporter verification teams are preliminary.<sup>95</sup> The Commission routinely conducts quality review of these preliminary calculations including the related data, evidence and analysis for each exporter. Where necessary, the Commission revises its assessments of dumping during the course of the investigation. Dexion China has been well aware of this process.

After undertaking its quality review of the Dexion China data, the Commissioner determined that the cost to make data was not suitable for the purposes of assessing whether domestic sales were in the OCOT and not suitable as a basis for constructed normal values. The Commission notified Dexion China to this effect in a letter of 23 October 2018.

In a confidential attachment to that letter, the Commission set out its rationale for the new approach to establishing normal value and the revised dumping margin. It also included calculations to demonstrate its reasoning and revised approach. At the same time, the Commission also provided the new detailed dumping margin calculations to Dexion China.

The Commissioner is of the view that Dexion China has been provided with sufficient explanation to enable a full understanding of the Commission's rationale and methodology for the revised dumping margin calculations. The Commissioner considers that it was reasonable to publish the revised Dexion China dumping margin in the SEF, with an explanation of the revised determination of normal value. This was to allow interested parties an opportunity to respond to these issues before formulating the final report and the Commissioner's recommendations to the Minister.

Furthermore, the dumping margins published by the Commission in Dexion China's verification report, PAD 441 and SEF 441, were clearly stated as being 'preliminary' [*emphasis added*]. This provides that dumping margins are subject to further changes during the course of the investigation. As such all interested parties, including Dexion China, therefore were well aware that those published dumping margins were subject to further changes.

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<sup>94</sup> Dexion China's dumping has been revised after the publication of SEF 441 for the reasons detailed in section 6.6.2

<sup>95</sup> The cover page of the exporter verification visit report for Dexion China states: "*This report and the views or recommendations contained therein will be reviewed by the case management team and may not reflect the final position of the Anti-Dumping Commission*".

Dumping margin

The Commission calculated the dumping margin in accordance with subsection 269TACB(2)(a), by comparing the weighted average of export prices over the whole of the investigation period with the weighted average of corresponding normal values over the whole of that period.

The dumping margin for Dexion China is **33.7 per cent**.

**6.7.3 Jracking Group**

As explained in section 6.4.3 of this report, the Commissioner determined Jracking Group to be an uncooperative exporter. Notwithstanding that determination, the Commission conducted a benchmark verification for Jracking Group to verify the information provided in its exporter questionnaire response. A benchmark verification report is available on the Commission's website.<sup>96</sup>

Jracking Group submitted a single response to the exporter questionnaire on behalf of all its related entities as discussed in section 6.4.3 of this report. The Commission treated the only two manufacturers in the Group, Jracking Industry and Hengcheng, as a single exporter (Jracking Group). Consequently, the Commission has calculated a single dumping margin for Jracking Group.

Export price

As Jracking Group is an uncooperative exporter, the Commission must determine its export price pursuant to subsection 269TAB(3), having regard to all relevant information. The Commissioner determined export price using Jracking Group's verified export sales data. Specifically, the Jracking Group export price has been determined as the price paid by the Australian importer, less any part of that price that represents a charge in respect of the transport of the goods after exportation or in respect of any other matter arising after exportation.

Normal Value

After considering all relevant information, the normal value for Jracking Group was established in accordance with subsection 269TAC(6), using the highest weighted average normal value for the investigation period from the selected cooperating exporters, adjusted to ensure comparable delivery terms.

Submissions

Jracking Group submitted<sup>97</sup> that there was a minor error in the calculation of the export price. Jracking Group claims that allocation of freight forwarding, inland transportation and other charges were based on the volume of all products and not only the goods subject to the investigation. Furthermore Jracking Group stated that the discounts were also incorrectly added to calculate net invoice value.

Jracking Group also submitted<sup>98</sup> that it objects the Commission's methodology to calculate normal value under subsection 269TAC(6). Jracking Group stated that it has

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<sup>96</sup> [EPR 043](#)

<sup>97</sup> [EPR 049](#)

<sup>98</sup> [EPR 061](#)

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been fully cooperating with the investigation and the Commission should, therefore, at least adopt the average cost of the other cooperating Chinese producers to compute normal value for Jracking Group and calculate its dumping margin accordingly.

### The Commissioner's assessment

In relation to export price, the Commissioner has noted calculation errors identified by Jracking Group and has, accordingly rectified the errors and re-calculated Jracking Group's export price.

In relation to normal value, the Commissioner considers that despite the number of opportunities afforded to Jracking Group, it failed to provide reliable cost data for the goods. The Commissioner considers that given Jracking Group's claim that steel pallet racking is tailor made to its customers' requirements and therefore a different raw material, technology and selling methodology applies (as discussed in section 6.4.4), an average cost of the other cooperative Chinese exporters will not necessarily reflect Jracking Group's costs.

### Dumping Margin

The Commissioner calculated the dumping margin in accordance with subsection 269TACB(2)(a), by comparing the weighted average of export prices over the whole of the investigation period with the weighted average of corresponding normal values over the whole of that period.

The dumping margin for Jracking Group is **60.1 per cent**.

### **6.7.4 Schaefer Kunshan**

The Commission visited Schaefer Kunshan's premises to verify the information provided in its exporter questionnaire response. A report covering the visit findings is available on the public record.<sup>99</sup>

### Export price

The Commissioner found, in respect of Schaefer Kunshan's Australian export sales during the investigation period, the goods have been purchased by the importer from the exporter, in arms length transactions. The export price has therefore been established under subsection 269TAB(1)(a) using the price paid or payable for the goods by the importer, other than any part of that price that represents a charge in respect of the transport of the goods after exportation or in respect of any other matter arising after exportation.

### Normal value

Having determined a particular market situation finding, as outlined in section 6.5 of this report, normal value cannot be established under subsection 269TAC(1). The Commissioner has determined Schaefer Kunshan's normal value in accordance with subsection 269TAC(2)(c) using:

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<sup>99</sup> [EPR 038](#)

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- the exporter's verified cost to make (CTM) the goods exported to Australia, including an adjustment to the cost of HRC<sup>100</sup>;
- SG&A expenses applicable to goods sold domestically<sup>101</sup>; and
- profit<sup>102</sup> on domestic sales of like goods made in the OCOT<sup>103</sup>.

### Submission

Schaefer Kunshan<sup>104</sup> submitted that the Commission has included total SG&A costs for domestic sales instead of allocating the SG&A costs to the goods only.

### The Commissioner's assessment

The Commissioner affirms that domestic SG&A costs were correctly allocated only to the goods under investigation to construct Schaefer Kunshan's normal value.

### Adjustments

To ensure the comparability of normal values to export prices, the Commissioner considered adjustments were required pursuant to subsection 269TAC(9) as follows:

Adjustment type	Application
Export credit	Add the cost of export credit
Non-refundable export VAT	Add 9% <sup>105</sup> for non-refundable export VAT

**Table 6: Summary of adjustments - Schaefer Kunshan**

### Dumping margin

The Commission calculated the dumping margin in accordance with subsection 269TACB(2)(a), by comparing the weighted average of export prices over the whole of the investigation period with the weighted average of corresponding normal values over the whole of that period.

The dumping margin for Schaefer Kunshan is **72.7 per cent**.

### **6.7.5 Residual Exporters – China**

Subsection 269TACAB(2) of the Act sets out the provisions for calculating export price and normal value for residual exporters. The subsection specifies that export price must not be less than the weighted average of export prices for like goods of cooperative exporters from the same country of export. It also specifies that normal value must not exceed the weighted average of normal values for like goods of cooperative exporters from the same country of export.

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<sup>100</sup> Subsection 43(2) of the Regulation

<sup>101</sup> Subsection 44(2) of the Regulation

<sup>102</sup> Profit based on a comparison of price and CTMS before the adjustment to the cost of HRC

<sup>103</sup> Subsection 45(2) of the Regulation

<sup>104</sup> [EPR 039](#)

<sup>105</sup> Includes 8 per cent non-refundable export VAT plus a 1 per cent administration charge.

Export price

The export price for the residual exporters has been established in accordance with section 269TAB(3), being the price that the Minister determines having regard to all relevant information. Specifically, the Commissioner has used the weighted average export price of the selected cooperating exporters.<sup>106</sup>

Normal value

The normal value for the residual exporters has been established in accordance with subsection 269TAC(6), being the amount that the Minister determines having regard to all relevant information. The Commissioner has used the weighted average normal value of the selected cooperating exporters.<sup>107</sup>

Dumping margin

The dumping margin for residual exporters was determined by a comparison of the weighted average of export prices over the whole of the investigation period with the weighted average of corresponding normal values in accordance with subsection 269TACB(2)(a).

The dumping margin for residual exporters is **77.0 per cent**.

Submission

Inform Storage submitted that:<sup>108</sup>

- Despite Inform Storage filing a response to the exporter questionnaire, the Commission has not selected it for verification due to its small export volume in comparison with the four other selected Chinese exporters.
- Some exporters were selected despite being classed as uncooperative exporters by the Commission.
- Inform Storage has unique circumstances that differentiates it from other Chinese exporters as discussed below:
  - Inform Storage does not export posts or braces to Australia;
  - beam components are manufactured solely under licence to a single importer and are not sold to customers directly in Australia;
  - beams manufactured for the Australian importer are not sold in China or in any other market that Inform Storage exports to;
  - no design, research and development, testing engineering or approval costs are incurred by Inform Storage, for the component's manufactured, as the importer covers these costs;
  - beams manufactured by Inform Storage for its Australian customer are not the same as the beams manufactured for its other customers. The Australian importer requires 'special grade' steel which is high strength steel not used for production of components for the Chinese domestic market;

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<sup>106</sup> Dexion China and Jacking Group were selected in the sample, but were both found to be uncooperative exporters. Therefore, the Dexion China and Jacking Group export prices were not used in the calculation of export price for residual exporters.

<sup>107</sup> Dexion China and Jacking Group were selected in the sample, but were both found to be uncooperative exporters. Therefore, the Dexion China and Jacking Group normal values were not used in the calculation of normal value for residual exporters.

<sup>108</sup> [EPR 040](#)

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- as a publicly listed company in the racking industry in China, Inform Storage has strict requirements to ensure its business makes a reasonable profit unlike all other exporters listed in the PAD 441 report; and
- Inform Storage exports all beams to its exclusive customer in Australia who then on-sells to end users after adding its design and development costs.

### The Commissioner's assessment

The Commissioner has outlined the reasons and methodology used for sampling Chinese exporters, as required under subsection 269TACAA(1) in section 6.3.2.

While Inform Storage may have some different arrangements for exporting steel pallet racking components (beams in particular) in comparison to other Chinese exporters, the selection of the exporters was based on volumes and Inform Storage was not one of the four largest exporters by volume, and therefore was not selected in accordance with subsection 269TACAA(1).

Furthermore, the Commissioner is aware that some of the sampled Chinese exporters also exported only beams from China in the investigation period, which indicates this situation is not unique to a particular exporter or unusual in this industry.

### **6.7.6 Uncooperative Exporters – China**

Subsection 269TACAB(1) sets out the provisions for calculating export prices and normal values for uncooperative exporters. The Act specifies that for uncooperative exporters, export prices are to be worked out under subsection 269TAB(3) and normal values are to be worked out under subsection 269TAC(6), having regard to all relevant information.

#### Export price

After having regard to all relevant information, the export price for the uncooperative exporters from China (other than Dexion China and Jracking Group) has been established in accordance with subsection 269TAB(3), using the lowest weighted average export price for the entire investigation period from the selected exporters of that country, excluding any part of that price that relates to post-exportation charges.

#### Normal value

After having regard to all relevant information, the normal value for the uncooperative exporters from China (other than Dexion China and Jracking Group) has been established in accordance with subsection 269TAC(6), using the highest weighted average normal value for the entire investigation period from the selected exporters, excluding any downward adjustments made to that figure.

#### Dumping margin

The dumping margin for uncooperative exporters from China was established in accordance with subsection 269TACB(2)(a), by comparing the weighted average export price established under subsection 269TAB(3) with the weighted average normal value established under subsection 269TAC(6).

As a result, the dumping margin for uncooperative exporters from China, other than Dexion China and Jracking Group, is **110.3 per cent**.



## **6.8 Dumping assessment – Malaysia**

### **6.8.1 Schaefer Malaysia**

The Commission visited Schaefer Malaysia’s premises to verify the information provided in its exporter questionnaire response. A report covering the visit findings is available on the public record.<sup>109</sup>

#### Export price

The Commissioner found, in respect of Schaefer Malaysia’s Australian export sales during the investigation period, the goods have been purchased by the importer from the exporter, in arms length transactions. The export price has therefore been established under subsection 269TAB(1)(a) using the price paid or payable for the goods by the importer, other than any part of that price that represents a charge in respect of the transport of the goods after exportation or in respect of any other matter arising after exportation.

#### Normal value

The Commissioner found that Schaefer Malaysia has a sufficient volume of domestic sales of steel pallet racking, for all models exported to Australia, that were arms length transactions and at prices that were in the OCOT. The normal value has therefore been established under subsection 269TAC(1), using Schaefer Malaysia’s domestic invoice prices.

#### Adjustments

To ensure the comparability of normal values to export prices, the Commissioner considered adjustments were required pursuant to subsection 269TAC(8) as follows:

<b>Adjustment type</b>	<b>Application</b>
Domestic credit	Deduct the cost of domestic credit
Export credit	Add the cost of export credit

**Table 7: Summary of adjustments – Schaefer Malaysia**

#### Submission

Schaefer Malaysia submitted that:<sup>110</sup>

- Some non-goods such as light weight beams, LS Beams and U beams could have been included in the export price that was used to compare with its domestic sales;
- the Commission should use the official Bank of Negara exchange rates instead of its internal exchange rate for calculating the dumping margin, as the Bank of Negara rates are used at the time of payment receipt.

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<sup>109</sup> [EPR 037](#)

<sup>110</sup> [EPR 036](#)

The Commissioner's assessment

The Commissioner disagrees with Schaefer Malaysia's claims for the following reasons:

- The verification team excluded all non-goods such as LS beams and U beams from the final export sales data provided to the Commission at the verification visit before determining the export price. A copy of the export price calculations<sup>111</sup>, which demonstrates that only the goods subject of the investigation were included, was provided to Schaefer Malaysia together with the verification report;
- The verification team verified the exchange rate used by Schaefer Malaysia and rejects its request to use the Bank of Negara exchange rate. Furthermore, Schaefer Malaysia has not provided any evidence to support its claims that it used the Bank of Negara exchange rates at the time of payment.

Dumping margin

The Commission calculated the dumping margin in accordance with subsection 269TACB(2)(a), by comparing the weighted average of export prices over the whole of the investigation period with the weighted average of corresponding normal values over the whole of that period.

The dumping margin for Schaefer Malaysia is **4.6 per cent**.

**6.8.2 Dexion Malaysia**

As discussed in section 6.4.2 of this report, Dexion Malaysia was determined to be an uncooperative exporter. The Commission had regard to Dexion Malaysia's response to the exporter questionnaire and determined that relevant information in relation to this investigation was not provided by Dexion Malaysia.

The Commission has therefore determined Dexion Malaysia's export price, normal value and dumping margin using the methodology described for uncooperative exporters from Malaysia, as discussed below.

**6.8.3 Uncooperative exporters – Malaysia**

Subsection 269TACAB(1) sets out the provisions for calculating export prices and normal values for uncooperative exporters. The Act specifies that for uncooperative exporters, export prices are to be worked out under subsection 269TAB(3) and normal values are to be worked out under subsection 269TAC(6), having regard to all relevant information.

Export price

For the purposes of the SEF the export price for the uncooperative exporters from Malaysia was established in accordance with subsection 269TAB(3), using Schaefer Malaysia's export price for the entire investigation period, excluding any part of that price that relates to post-exportation charges.

Normal value

For the purposes of the SEF the normal value for the uncooperative exporters from Malaysia was established in accordance with subsection 269TAC(6), using Schaefer

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<sup>111</sup> Confidential Appendix 1 to the Schaefer Malaysia verification report refers.

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Malaysia's normal value for the entire investigation period, excluding any downward adjustments made to that figure.

### Submission

In a submission made on 25 February 2019, Schaefer Malaysia submitted that the Commission's approach to calculating the dumping margin for uncooperative exporters from Malaysia is flawed.<sup>112</sup>

Schaefer Malaysia claims that while the Commission has correctly determined export price and normal value under subsections 269TAB(3) and 269TAC(6), it has misunderstood and misconstrued the meaning of the expression 'relevant information' in those provisions. Schaefer Malaysia cites Article 6.8 of the WTO *Anti-Dumping Agreement*, the explanatory memorandum to the Customs Amendment (Anti-dumping Improvements) Bill (No. 3) 2012 and second reading speech, the Manual and the decision of Pincus J in *Re Wattmaster Alco Pty Ltd & Ors v the Honourable John Norman Button* [1986] FCA 12; 8 FCR 471 in support of its position.

Schaefer Malaysia proposes alternative methodologies to determine export price and normal value that result in a dumping margin closer to 10 per cent, as opposed to the 4.8 per cent margin published in the SEF.

### The Commissioner's assessment

The methodology for determining the export price and normal value for uncooperative exporters from Malaysia, and the resulting dumping margin of 4.8 per cent, was first published in the PAD on 18 June 2018. This was repeated in the SEF published on 5 November 2018 and interested parties had 20 days to provide a response to the SEF.

Schaefer Malaysia did not respond to the SEF, and did not raise this issue in any of its previous submissions. Schaefer Malaysia has raised this issue for the first time in response to ADN No. 2019/16 published on 4 February 2019. In that ADN the Commissioner extended the deadline to provide his final report and recommendation to the Minister, specifically in order to afford interest parties a further opportunity to provide submissions in relation to two key aspects of the case: the goods and like goods (Chapter 3 refers); and the proposed level of IDD (Chapter 10 refers).

The Commissioner is not obliged to have regard to any submission made in response to the SEF, that is received by the Commissioner more than 20 days after publication of the SEF if to do so would, in the Commissioner's opinion, prevent the timely preparation of his report to the Minister.<sup>113</sup>

Schaefer Malaysia has raised a new issue more than eight months after the preliminary findings upon which the issue is based were first published, and at a late stage of the investigation. Considering the limited time available to assess the issue raised by Schaefer Malaysia in its submission of 25 February 2019, the Commissioner is of the opinion that to properly consider this submission would prevent timely preparation of this report. The Commissioner has therefore not had regard to the submission made by Schaefer Malaysia concerning the dumping margin for uncooperative exporters from Malaysia.

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<sup>112</sup> [EPR 107](#)

<sup>113</sup> Subsection 269TEA(4)

Dumping margin

The dumping margin for uncooperative exporters from Malaysia was established in accordance with subsection 269TACB(2)(a), by comparing the export price established under subsection 269TAB(3) with the normal value established under subsection 269TAC(6). As a result, the dumping margin for uncooperative exporters from Malaysia is **4.8 per cent**.

## **6.9 Findings – Dumping**

The Commissioner has found that in relation to steel pallet racking exported to Australia from China and Malaysia in the investigation period, that:

- the goods have been exported at dumped prices; and
- the dumping margins are not negligible.

### **6.9.1 Volume of dumped exports**

Pursuant to subsection 269TDA(3), the Commissioner must terminate the investigation, in so far as it relates to a country, if satisfied that the total volume of goods that are dumped is a negligible volume<sup>114</sup>. Subsection 269TDA(4) defines a negligible volume as less than three per cent of the total volume of goods imported into Australia over the investigation period.

Using the ABF import database and having regard to the information collected and verified from the importers and exporters, the Commission determined the volume<sup>115</sup> of imports into the Australian market.

Based on this information, the Commissioner is satisfied that, when expressed as a percentage of the total Australian import volume of the goods, the volume of dumped goods from each country, China and Malaysia, were individually greater than three per cent and therefore not negligible (**Confidential Attachment 7** refers).

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<sup>114</sup> The Commission has relied on value as a proxy measure of volume for the purposes of subsection 269TDA(3) – see further explanation at section 5.2

<sup>115</sup> The assessment of volumes for the purpose of determining whether there was a negligible volume of dumped goods was based on value, being used as a proxy measure for volume – the Commission's reasons for taking this approach are provided at section 5.2.1.

## 7 ECONOMIC CONDITION OF THE AUSTRALIAN INDUSTRY

### 7.1 Finding

Having regards to the information contained in the application and the information obtained and verified during this investigation, the Commissioner considers that the Australian industry has experienced injury in the form of:

- loss of sales volume;
- loss of market share;
- price depression;
- price suppression;
- reduced profits;
- reduced profitability;
- reduced revenue;
- declining asset value;
- reduced capital investment;
- reduced return on investment;
- reduced employment and wages;
- reduced capacity;
- reduced capacity utilisation; and
- reduced cash flow.

### 7.2 Introduction and legislative framework

This chapter outlines the economic condition of the Australian industry and assesses whether the Australian industry as a whole has suffered injury.

Under section 269TG, one of the matters that the Minister must be satisfied of in order to publish a dumping duty notice is that, because of the dumping, material injury has been, or is being caused, or has been threatened to the Australian industry producing like goods. The matters that may be considered in determining whether the Australian industry has suffered material injury are set out in section 269TAE.

The Commission has examined the Australian market and the economic condition of the Australian industry from 1 October 2013 for the purposes of its injury analysis.<sup>116</sup> The Commissioner's assessment of injury caused by dumped imports is discussed in section 8 of this report.

### 7.3 Approach to injury analysis

For the purpose of assessing injury, the Commissioner relied on information collected and verified from Dematic, APC Storage, cooperating importers, end users and exporters. The Commission has also analysed details of importations obtained from the ABF import

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<sup>116</sup> Unless otherwise specified, the annual data represented in the charts in this chapter are in relation to the years ending 30 September (for example YE Sep 2017).

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database. The Commissioner's injury analysis is based only on the three key components of steel pallet racking, namely beams, uprights and braces.

The Commissioner has determined that Dematic accounted for around two thirds of the Australian production volume and value of the steel pallet racking during the investigation period. The Commissioner therefore considers that the economic performance of Dematic is likely to be reasonably representative of the entire Australian industry for steel pallet racking. Where available, the Commission has included APC Storage data in the analysis.

The financial data provided by Dematic comprised quarterly production volumes; cost data; sales volumes and values; and profit calculations from 1 October 2013 to 30 September 2017. The sales data could be identified separately in relation to project sales and distribution sales

The financial data provided by APC Storage comprised annual total revenue figures for sales of steel pallet racking for the six financial years up to and including the year ending 30 September 2017. APC Storage provided cost data only for the investigation period.

The Commission verified the data in onsite verification visits to the premises of Dematic and APC Storage. The Commissioner considers the verified data is relevant and reliable for the purposes of assessing the economic condition of the Australian industry.

### 7.4 Volume effects

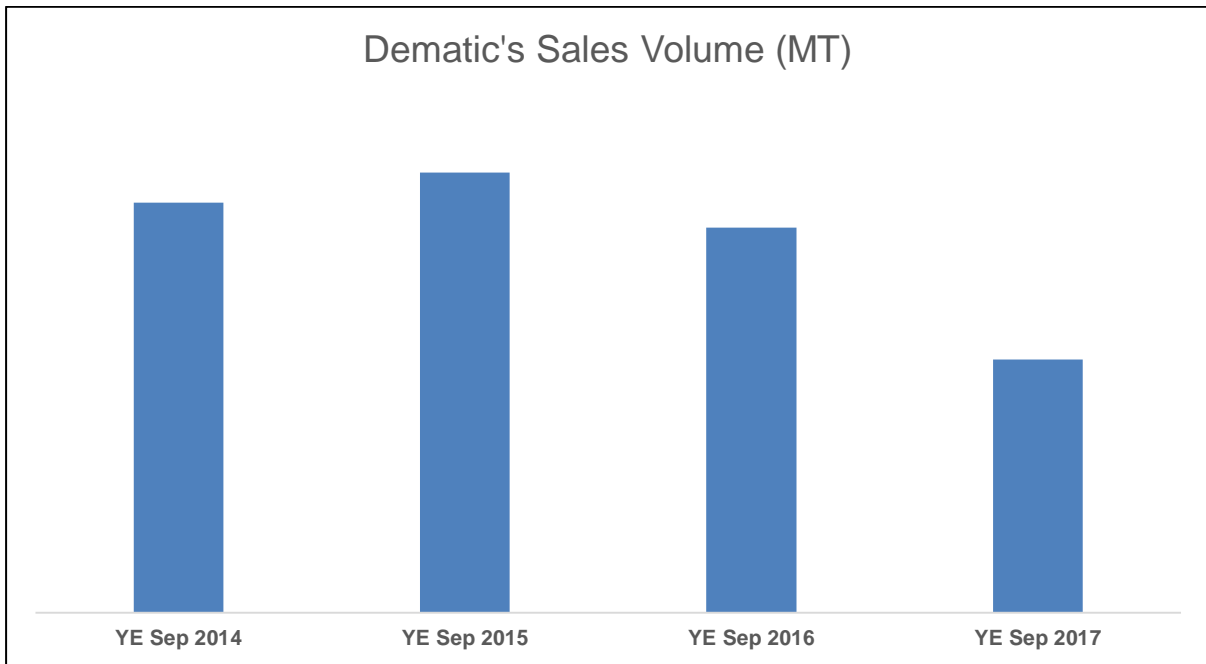
In its application, Dematic claims that it has suffered injury in the form of reduced sales volumes. In undertaking an assessment of volume trends, the Commission has relied on verified data provided by Dematic<sup>117</sup> and exporters, and information available in the ABF import database for the injury analysis period 1 October 2013 to 30 September 2017. The Commission cleansed data obtained from the ABF import database (to remove non-subject goods from the data) and used the value of the imports, noting the limitations discussed in section 5.2.2 of this report.

#### 7.4.1 Sales volume

Figure 2 below shows Dematic's total domestic sales volume of steel pallet racking over the injury analysis period.

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<sup>117</sup> APC Storage only provided this information for the investigation period, therefore it was not included for the purpose of analysing volume trends.



**Figure 2 – Dematic’s annual sales volumes**

The aggregate assessment shows that Dematic’s total domestic sales volume increased from YE Sep 2014 to YE Sep 2015, then decreased in YE Sep 2016. The sales volume then decreased significantly in the investigation period, to a point approximately 34 per cent lower than the previous year. The underlying data shows that Dematic’s significantly decreased sales volume into the project sector was the primary reason for the lower aggregate sales volume in the investigation period.

#### **7.4.2 Market share**

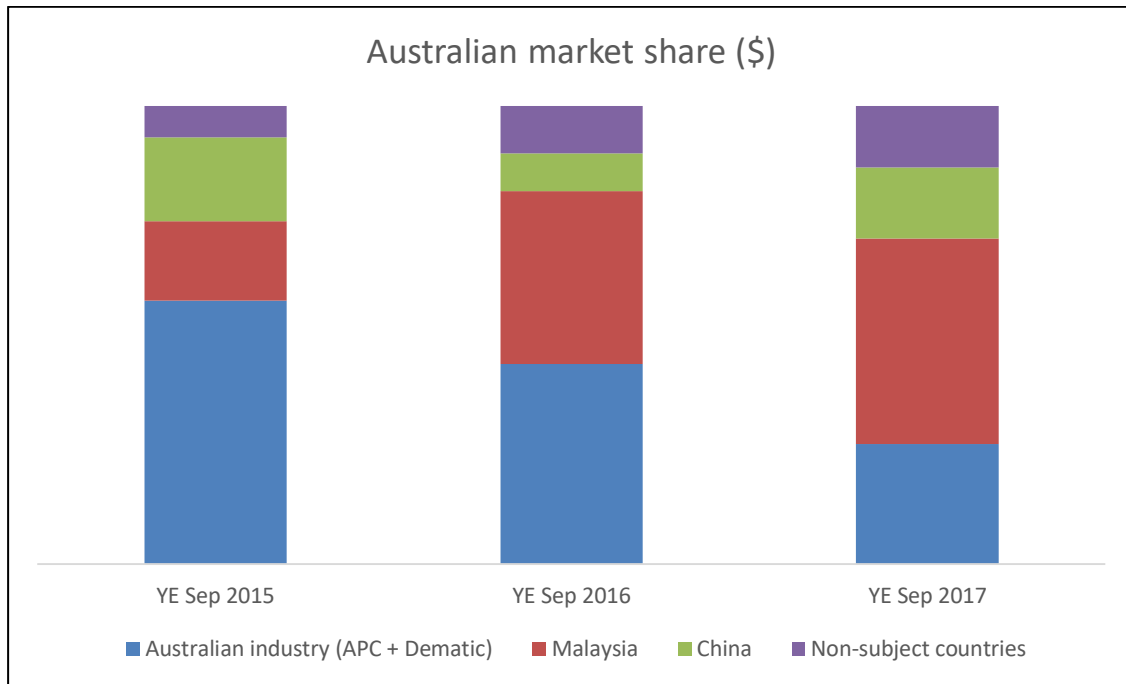
As discussed in section 5.2.2 above, there are limitations to the available import data such that the Commission cannot reliably estimate import volumes prior to 2015. The market share assessment for goods imported in YE Sep 2015 is an annualised calculation of import data based on the period 1 January 2015 to 30 September 2015.

Furthermore, the import data does not always contain measures of volume in terms of weight. Consequently, the market share estimates in this section are based on value, which the Commission considers to be a reasonable proxy for volume.

Subject to the above qualifications, the Commissioner’s assessment of the Australian market share trends is provided in Figure 3 below.<sup>118</sup>

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<sup>118</sup> It is based on sales revenue information from Dematic and APC Storage, and the value of imports (measured at Cost, Insurance, Freight (CIF) value) from the ABF import database.



**Figure 3 – Australian market share for steel pallet racking**

Figure 3 above demonstrates that the market shares of the dumped goods imported from China and Malaysia have both increased from the YE Sep 2016 to the investigation period. In the same period, the Australian industry’s market share decreased from approximately 44 per cent to 26 per cent.

The Commission was unable to accurately assess the market shares separately for the project and distribution sectors of the market. However, based on sales information gathered from the cooperating importers and an end-user, the Commissioner noted that the vast majority of the goods imported from China and Malaysia were sold into the project sector.

### **7.4.3 Findings – Volume effects**

The Commissioner found that Dematic’s sales volumes of steel pallet racking, particularly in relation to sales in the project sector, decreased significantly in the investigation period. This supports the claim that the Australian industry has experienced a loss of sales volume.

In addition, the Commissioner found that the Australian industry’s market share for sales of steel pallet racking has decreased significantly and the evidence supports the claim that the Australian industry has experienced a loss of market share.

## **7.5 Price effects**

In its application Dematic claims that steel pallet racking exported from China and Malaysia at allegedly dumped prices has been sold in the Australian market at prices lower than those of other market participants and that these low prices caused price suppression. While APC Storage supports Dematic’s claims, it did not provide detailed

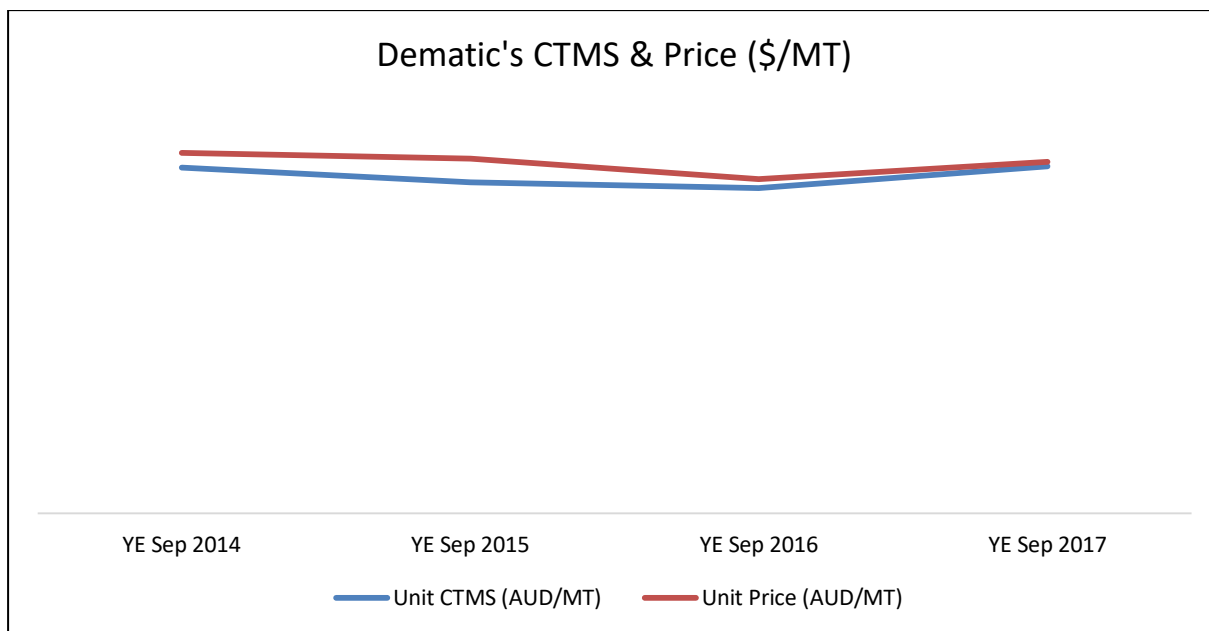


price and cost data. The Commission's analysis of price effects was therefore based on Dematic's verified information.<sup>119</sup>

### 7.5.1 Price depression and suppression

Price depression occurs when a company, for some reason, lowers its prices. Price suppression occurs when price increases, which otherwise would have occurred, have been prevented. An indicator of price suppression may be the margin between revenues and costs.

Figure 4 below demonstrates that Dematic's unit price and unit CTMS data in relation to total domestic steel pallet racking sales over the injury analysis period.



**Figure 4 – Dematic's unit costs and unit price**

The aggregate assessment of the cost and sales data shows that Dematic's unit price was generally trending downwards in correlation with its unit costs from YE Sep 2014 to YE Sep 2016. In the investigation period, Dematic's unit price increased while its unit costs increased at a higher rate.

While Dematic's cost data was not reported separately for sales into the project and distribution sectors, the Commission was able to compare the separate unit prices to the common unit costs in each year. The analysis shows similar trends and relationships between cost and price, although the unit price for sales in the distribution sector were more stable over the injury analysis period than the unit prices in the project sector.

### 7.5.2 Findings – Price effects

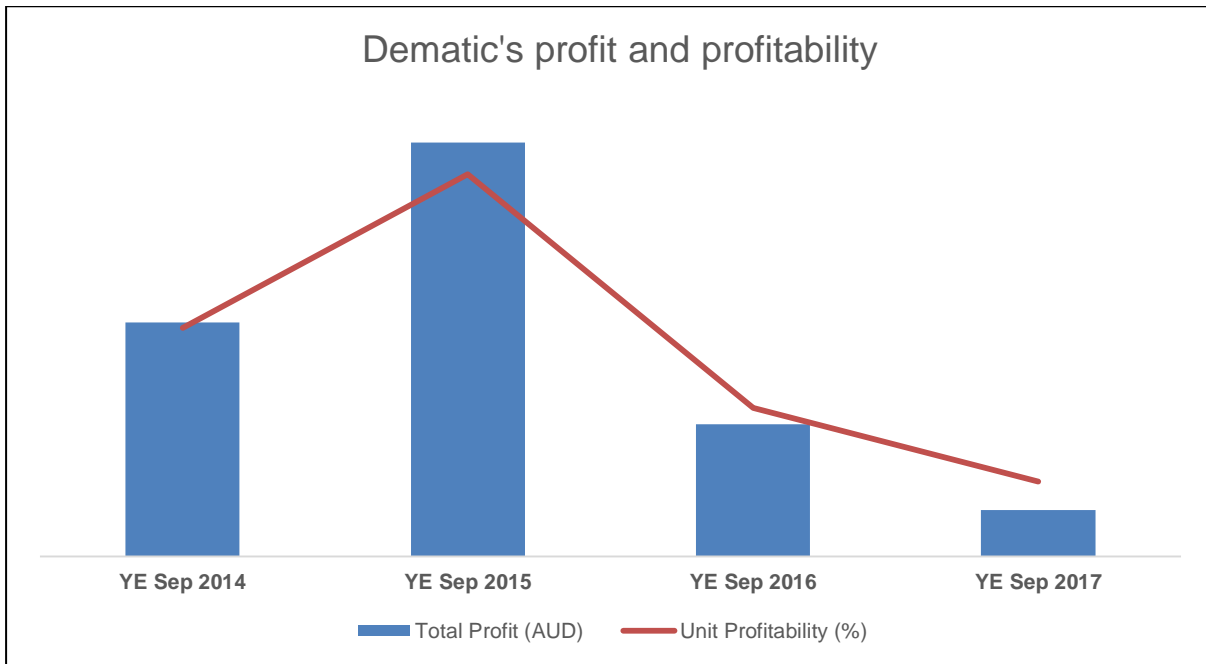
The Commissioner found that Dematic's unit prices for steel pallet racking decreased marginally over the injury analysis period and this supports the claim that the Australian industry has experienced price depression.

<sup>119</sup> Excluding all Dematic's exports.

In addition, the Commissioner found that Dematic’s unit costs and unit prices for steel pallet racking converged over the course of the injury analysis period. Although Dematic increased unit prices in the investigation period relative to the previous year, the rate of increase in Dematic’s unit costs in the same period was higher than compared to the previous period. The Commissioner considers that the analysis supports the claim that the Australian industry has experienced price suppression.

### 7.6 Profits and profitability

Figure 5 below shows Dematic’s profit and profitability in relation to total steel pallet racking sales over the injury analysis period.



**Figure 5 – Dematic’s profit and profitability**

The aggregate assessments of total profits and unit profitability both show an increase from YE Sep 2014 to YE Sep 2015 and then a significant decrease to YE Sep 2016. The profits and profitability decreased further in the investigation period.

The Commission’s analysis shows similar profitability trends over the injury analysis period, it is evident that the profitability rates for sales into the project and distribution sectors in the investigation period were both at their lowest point for the entire injury analysis period.<sup>120</sup>

#### 7.6.1 Findings – Profit effects

The Commissioner found that Dematic has experienced reduced profits and profitability over the injury analysis period in relation to its sales of steel pallet racking. This supports the claim that the Australian industry has experienced reduced profits and profitability.

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<sup>120</sup> Notwithstanding that Dematic’s cost data was not reported separately for sales into the project and distribution sectors, the Commission was able to compare the separate unit prices to the common unit costs in each year.

## **7.7 Other economic factors**

In its application, Dematic claims<sup>121</sup> that the Australian industry had suffered injury in the form of other injury factors regarding:

- reduced revenue;
- declining asset value;
- reduced capital investment;
- reduced return on investment;
- reduced employment;
- reduced capacity utilisation; and
- reduced cash flow.

The Commission has noted that while Dematic provided financial data for each of these indicators, it did so in relation to financial years (from July to June) for the injury analysis period, and separately for the last quarter of the investigation period<sup>122</sup>. The annual financial year data does not align exactly with the years used in the injury analysis for volume, price and profit indicators in the sections above, which were based on the years ending 30 September. Nevertheless, the Commissioner is of the view that the data and analysis relating to the other economic factors are suitable for assessing the economic condition of the Australian industry over the injury analysis period.

In addition to the other economic factors listed above, the Commission also examined the Dematic financial data submitted in relation to capacity, wages, stocks and productivity.

### **7.7.1 Revenue**

Dematic and APC Storage provided the Commission with information in relation to annual sales revenue for domestic sales of steel pallet racking.

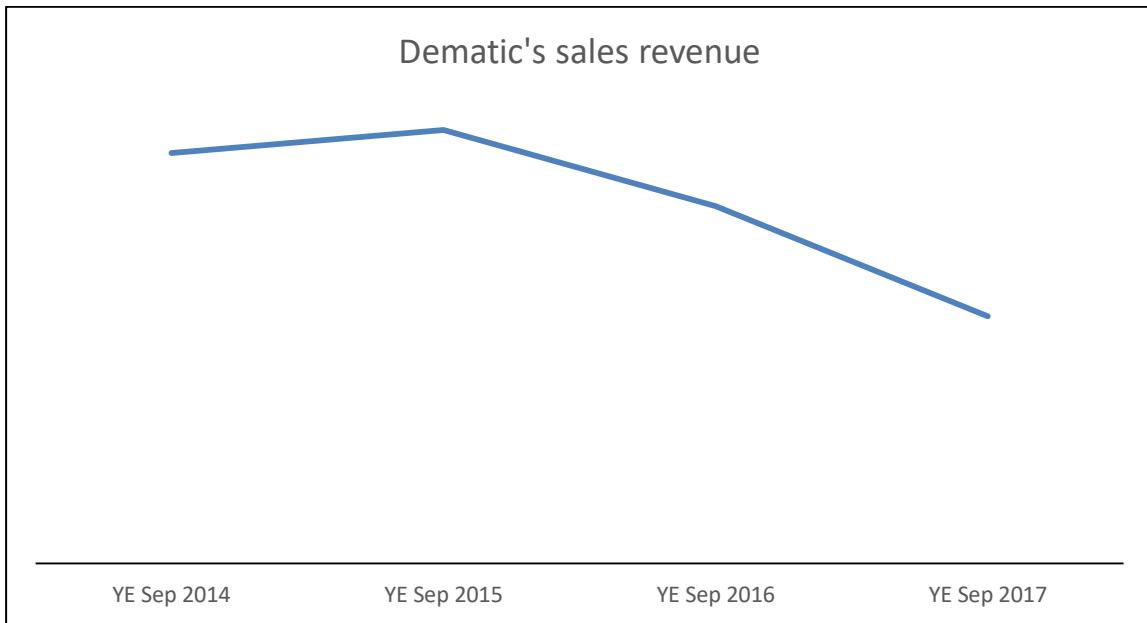
#### *Dematic*

In its application, Dematic claims that its sales revenue declined over the injury analysis period. The Commission has analysed the aggregate net sales revenue achieved by Dematic as shown in Figure 6 below.

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<sup>121</sup> APC Storage did not provide information in relation to these factors other than for annual sales revenue. The analysis in this section is therefore based primarily on the information submitted by Dematic.

<sup>122</sup> However, in the case of sales revenue data, the Commission was able to use Dematic's quarterly sales revenue data to realign the annual data to ensure the analysis of its sales revenue was presented for the years ending September.

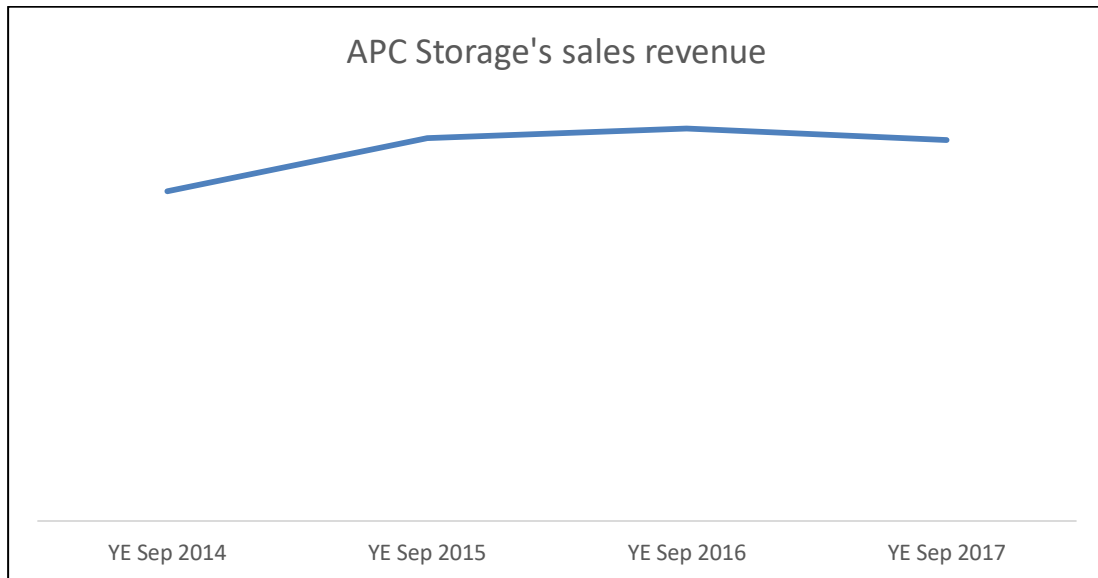


**Figure 6 – Dematic’s annual revenue**

The aggregate assessment shows that Dematic’s total domestic sales revenue increased from YE Sep 2014 to YE Sep 2015, then decreased in YE Sep 2016. The sales revenue decreased further in the investigation period, to a point approximately 31 per cent lower than the previous year. The underlying data shows that Dematic’s significantly decreased sales revenue into the project sector was the primary reason for the lower aggregate sales revenue in the investigation period.

APC Storage

APC Storage submitted its sales revenue data claiming loss of revenue from YE Sep 2012 to YE Sep 2017. The Commission notes the first two years of this data are prior to the injury analysis period and has therefore examined only the four years ending YE Sep 2017. APC Storage’s revenue is shown in Figure 7 below.



**Figure 7 – APC Storage’s annual net revenue**

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The Commission notes that APC Storage's sales revenue increased from YE Sep 2014 to YE Sep 2015 and remained relatively stable for the remainder of the injury analysis period.

When considered in aggregate, the total sales revenue for Dematic and APC Storage's domestic sales of steel pallet racking was lower in the investigation period than in any previous year of the injury analysis period.

### 7.7.2 Additional observations

In addition to the observations outlined above, the Commission has noted that the following injury factors based the information provided by Dematic<sup>123</sup>:

**Assets** – asset values calculated in relation to the production and sales of steel pallet racking declined in each year of the injury analysis period.

**Capital investment** – capital investment undertaken in relation to the production and sale of steel pallet racking fluctuated over the injury analysis period, but was at its lowest point in FY 2016/17.

**Return on investment** – return on investment in relation to the production and sales of steel pallet racking, measured as net profit divided by asset value, declined in each year of the injury analysis period.

**Employment numbers and wages** – the number of employees involved in the production and sale of steel pallet racking and the related wages both declined in each year of the injury analysis period.

**Capacity** - the capacity for production of steel pallet racking was relatively stable from FY 2013/14 to FY 2016/17.

**Capacity utilisation** – the rate of capacity utilisation in relation to the production of steel pallet racking declined in each year of the injury analysis period.

**Productivity** – productivity was relatively stable over the injury analysis period, although it was lower in FY2016/17 than in the previous three years.

**Stocks** – the value of closing stock fluctuated over the injury analysis period, but was significantly lower in FY 2015/16 and FY 2016/17 than the previous two years.

**Cash flow** – the measure of cash flow provided was in terms of a receivables turnover ratio, which fluctuated over the injury analysis period, but was at its lowest point for the injury analysis period in FY 2016/17.

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<sup>123</sup> APC Storage did not provide any information in relation to other injury factors.

### **7.7.3 Findings – Other economic factors**

The Commissioner considers that the Australian industry for steel pallet racking has experienced:

- reduced revenue;
- declining asset value;
- reduced capital investment;
- reduced return on investment;
- reduced employment and wages;
- reduced capacity;
- reduced capacity utilisation; and
- reduced cash flow.

### **7.8 Findings – Injury to the Australian industry**

Based on the assessment of the information contained in the application and obtained and verified during the Commission's visits to Dematic and APC Storage, the Commissioner is of the view that the Australian industry, as a whole, has experienced injury in the form of:

- loss of sales volume;
- loss of market share;
- price depression;
- price suppression;
- reduced profits;
- reduced profitability;
- reduced revenue;
- declining asset value;
- reduced capital investment;
- reduced return on investment;
- reduced employment and wages;
- reduced capacity utilisation; and
- reduced cash flow.

Data and analysis forming the basis of the Commissioner's assessment of the Australian market and Australian industry's economic performance is at **Confidential Attachment 7**.

## 8 HAS DUMPING CAUSED MATERIAL INJURY?

### 8.1 Finding

The Commissioner found that dumped steel pallet racking from China and Malaysia has caused material injury to the Australian industry.

### 8.2 Introduction and legislative framework

This chapter examines whether steel pallet racking exported to Australia from China and Malaysia at dumped prices has caused material injury to the Australian industry producing like goods.

Under section 269TG of the Act, one of the matters the Minister must be satisfied of in order to publish a dumping duty notice is that, because of the dumping, material injury has been, or is being caused, or is threatened to the Australian industry producing like goods.

Subsection 269TAE(1) outlines the factors that the Minister may take into account in determining whether material injury to an Australian industry has been, or is being caused, or is threatened.

The Commissioner has found that, during the investigation period:

- steel pallet racking exported to Australia from China and Malaysia was at dumped prices;
- the volume of dumped goods from China and Malaysia and the dumping margins for all exporters from these countries were not negligible; and
- the Australian industry experienced injury in the form outlined in section 7.8 of this report.

Subsection 269TAE(2A) requires that regard be had to whether any injury to an industry is being caused by a factor other than the exportation of the goods and provides examples of such factors.

In assessing material injury, the Commission has also had regard to the *Ministerial Direction on Material Injury 2012* (Material Injury Direction).<sup>124</sup>

### 8.3 Approach to assessing material injury

#### 8.3.1 Australian market survey

During the course of the investigation, the Commission conducted a survey of the Australian market for the steel pallet racking using an Australian Market Questionnaire (AMQ).<sup>125</sup> The survey sought information regarding buyer preferences (including factors such as brand, model, supplier preferences, relationships and price), market dynamics and the effect of the second-hand steel pallet racking market.

The Commission did not receive any responses to the AMQ and has therefore relied on the best available information in assessing buyer preferences for the goods and like goods.

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<sup>124</sup> Ministerial Direction on Material Injury 2012, 27 April 2012, available at [www.adcommission.gov.au](http://www.adcommission.gov.au)

<sup>125</sup> Targeting distributors, contractors, resellers, installers and end-users.

### **8.3.2 Project and distribution sectors of the market**

The Commissioner has noted that while the selling prices specific to steel pallet racking could be identified in sales to the distribution sector, the same was not readily available for sales of steel pallet racking in the project sector. This is because sales in the project sector often involve a total price for a storage or logistics solution, where that price can include consideration for other factors including accessories<sup>126</sup> and racking systems<sup>127</sup>, which are not goods the subject of this investigation. Project sale prices can also include consideration for services such as delivery, installation, and project management fees.

The Commissioner has, therefore sought to ensure its analysis and assessment of price competition was as specific to steel pallet racking as possible. To this end, the Commission selected certain projects from a list of projects where detailed information was provided by the cooperating importers and Australian industry members. The selection was based on the following criteria:

- where the value<sup>128</sup> of the steel pallet packing represented the majority of the total project price;
- the project was tendered and awarded within the investigation period; and
- where detailed information pertaining to multiple competing tenders was available.

By applying these criteria, the Commission identified projects where sufficient evidence exists to examine price competition between the Australian industry's products and the dumped goods from China and Malaysia during the investigation period. The projects were used to assess price and volume effects in particular. Collectively, the value of the successful bids represented approximately 10 per cent of the total value of the Australian market for steel pallet racking in the investigation period. The collective sales value of the Australian industry bids relevant to these projects represents a significant proportion of the Australian industry's sales value in the investigation period.

Given the collective value of the identified projects, the Commissioner considers that the price competition observed for the selected projects is reasonably representative of price competition between the dumped goods from China and Malaysia and the locally manufactured goods, in other projects in the investigation period.

It is important to note that the Commissioner's following assessment of whether dumping has caused material injury to the Australian industry is primarily focused on steel pallet racking sales into the project sector. This is because the evidence shows:

- only relatively small volumes of steel pallet racking imported at dumped prices were sold into the distribution sector; and
- the volume of steel pallet racking sold by the Australian industry into the distribution sector was considerably lower than its sales into the project sector over the injury analysis period.

In assessing whether material injury has been caused by dumping, the Commission compared sales volumes and market shares of goods supplied by the Australian industry with those of the dumped goods from China and Malaysia.

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<sup>126</sup> For example mesh, footings, shelving products, etc.

<sup>127</sup> Such as cantilever racking, driving-in racking and others

<sup>128</sup> This value was based on the Australian producer's costs of the steel pallet packing, particular to each project.



The Commission also compared the prices of steel pallet racking supplied by the Australian industry with those of the dumped goods from China and Malaysia. The price comparisons were focused on the steel pallet racking sales into the project sector. In assessing the direct price competition between dumped goods and the locally produced goods in the project sector, the Commission focused on the itemised steel pallet racking prices where available. Otherwise, it was necessary to examine the total project prices and have regard to the proportion of those prices represented by the value of steel pallet racking.

The Commission's assessment of injury caused by dumped goods is at **Confidential Attachment 8**.

#### **8.4 Cumulation of injury**

Subsection 269TAE(2C) of the Act sets out the requirements for assessing the cumulative effects of goods exported to Australia from different countries. In relation to a dumping investigation, where exports from more than one country are the subject of investigations resulting from applications under section 269TB that were lodged on the same day, the cumulative effects of such imports may be assessed if:

- the margin of dumping established for exporters in each country is not negligible;
- the volume of dumped imports from each country is not negligible; and
- cumulative assessment is appropriate having regard to the conditions of competition between the imported goods and between the imported goods and like goods that are domestically produced.

The Commission has noted that the applicant lodged the dumping applications in relation to China and Malaysia on the same day as a combined application. The dumping margins determined by the Commissioner and the volume of dumped imports from China and Malaysia are not negligible. The Commission has assessed the conditions of competition between the goods exported from China and Malaysia and like goods produced by the Australian industry.

Steel pallet racking exported from the countries subject to this investigation have competed in tenders in Australia. During the course of the investigation, the Commission became aware that some importers imported certain components of the steel pallet racking from China and other components from Malaysia when competing for projects. Similarly, APC Storage imported certain components and produced other components of like goods domestically. Dematic produced all major components of the goods and competed against exports from China and Malaysia for projects in Australia through tender processes.

As discussed at 5 of this report, the Commissioner has found that steel pallet racking produced by the Australian industry and the respective imported goods are alike, have similar specifications, have similar end-uses, and compete in the same primary market sectors. The Commissioner is, therefore of a view that it is appropriate to consider the cumulative effects of the dumped imports from China and Malaysia.

#### **8.5 Size of the dumping margins**

Subsection 269TAE(1)(aa) of the Act states that in determining whether material injury has been caused by dumping, the Minister may have regard to the size of each of the dumping margins, worked out in respect of goods of that kind that have been exported to Australia.

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As outlined in Section 6.1 of this report, the Commission found the dumping margins for:

- China range from 33.7 per cent to 110.3 per cent; and
- Malaysia range from 4.6 per cent to 4.8 per cent.

All these dumping margins are above negligible levels (i.e. above two per cent).

The Commissioner considers that the magnitude of dumping provided exporters from China and Malaysia with the ability to offer steel pallet racking to importers at significantly lower prices than would otherwise have been the case.

### 8.5.1 Submission – Size of dumping margin

In response to the SEF, Jiangsu NOVA referred to the Commission’s consideration of the magnitude of dumping margins, and the Commission’s treatment of Jiangsu NOVA’s imports for the purposes of the Commission’s injury analysis.<sup>129</sup>

The Commissioner’s assessment of Jiangsu NOVA’s submission is discussed in section 6.3.3 of this report.

## 8.6 Volume effects

In its application, Dematic claims that the Australian industry experienced a reduction in sales volume and market share over the injury analysis period.

Figure 8 below compares the Australian industry’s<sup>130</sup> market share with that of goods imported collectively from China and Malaysia, and imports from other countries, in the Australian market from YE Sep 2015 to YE Sep 2017.<sup>131</sup>

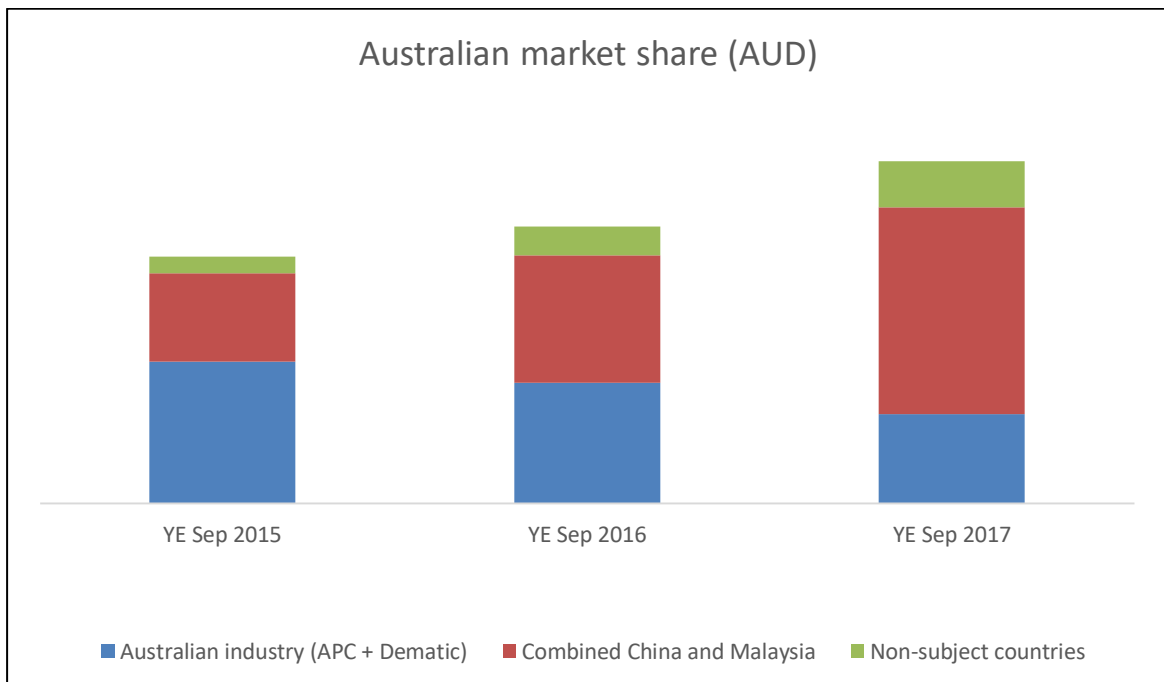


Figure 8 – Australian market share for steel pallet racking

<sup>129</sup> [EPR 083](#)

<sup>130</sup> Based on Dematic and APC Storage consolidated data

<sup>131</sup> Data qualifications are discussed in section 5.2.2

Figure 8 demonstrates that the size of the steel pallet racking market in Australia increased from YE Sep 2015 to YE Sep 2017. In that period, the sales from China and Malaysia increased significantly, to a point where the goods from China and Malaysia account for approximately two thirds of the Australian market in the investigation period. The growth in sales of the goods from China and Malaysia displaced the Australian industry's sales which fell from 44 per cent to 26 per cent of the total market share from YE Sep 2016 to YE Sep 2017.

Evidence pertaining to the tenders and awarding of supply contracts shows that the Australian industry lost sales in the investigation period to the goods imported from China and Malaysia at dumped prices.

The Commission considers that the magnitude of dumping provided exporters from China and Malaysia with the ability to offer steel pallet racking to the Australian importers and/or end users at significantly lower prices than would otherwise have been the case. This provided a significant competitive advantage on price when competing with the Australian industry to secure contracts for the supply of steel pallet racking.

The Commissioner considers that dumping of steel pallet racking from China and Malaysia has caused injury to the Australian industry in the investigation period in the form of lost sales volume and lost market share.

## **8.7 Price effects**

In its application, Dematic claims that steel pallet racking exported from China and Malaysia at dumped prices has been sold in the Australian market at prices lower than those of other market participants and that these low prices caused price suppression.

Dematic and APC Storage provided information specifically relating to tenders (won and lost) for projects that indicates a number of tenders were lost based on pricing considerations during the investigation period.

The tender documents collected from cooperating importers and Australian industry members showed that a number of Dematic's and APC Storage's customers sourced the goods from more than one supplier, including a combination of imported (predominantly from China and Malaysia) and domestically produced goods. This demonstrates that the purchasers of steel pallet racking in the Australian market are well informed about the sources from which they can purchase the goods at competitive prices. It also demonstrates that the purchasers of steel pallet racking have the ability to gather intelligence and compare prices of domestically produced product with imported product.

The Commission has used the information obtained from Dematic, APC Storage and cooperating importers of steel pallet racking to undertake a price undercutting analysis. This analysis was undertaken by comparing Dematic and APC Storage prices tendered for projects where importers were successful in winning those tenders and were importing the goods from China and/or Malaysia in the investigation period.

The Commission noted that Dematic and APC Storage's prices of steel pallet racking were undercut between 7 per cent and 26 per cent<sup>132</sup> by suppliers importing the goods

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<sup>132</sup> Following the publication of the SEF, the Commission obtained further information from Australian industry members and Cooperating importers and re-assessed price under cutting.

from China and Malaysia. The price undercutting was calculated on the basis of itemised steel pallet racking prices where available. In those cases where steel pallet racking was not priced separately, the Commission compared values of pallet racking in competing bids that were calculated with reference to the overall project bid and the proportion of steel pallet racking value within that bid. That proportion was based on the itemised value of steel pallet racking within the overall project bid by the Australian industry. The Commission's price undercutting analysis is at **Confidential Attachment 8**.

The Commissioner considers that the magnitude of dumping allowed the goods imported from China and Malaysia to be significantly cheaper than otherwise would have been the case. This has allowed the goods imported from China and Malaysia to be supplied at dumped prices that regularly undercut the prices of the Australian industry when tendering for the supply of steel pallet racking in the investigation period.

Furthermore, the Commissioner considers that the Australian industry responded to the pricing pressure from a significant volume and market share of dumped goods from China and Malaysia by maintaining or reducing prices at a time when it was experiencing rising unit costs. APC Storage provided evidence in the form of emails to demonstrate that the price of goods imported from China was used when negotiating the price for supply of the APC Storage goods.

The Commissioner considers that dumping of steel pallet racking from China and Malaysia has caused injury to the Australian industry in the form of price depression and price suppression.

#### **8.7.1 Submission – Price effects**

One Stop submitted<sup>133</sup> that in sourcing goods from overseas, price was not the determining factor. One Stop stated that it considers Dematic's product to be 'inferior in style and functionality', to products that can be sourced from overseas.

##### *The Commissioner's assessment*

The Commissioner has determined that while some end users have certain supplier preference based on their relationship, price is a key factor in sourcing pallet racking systems, as demonstrated by the loss of tenders by the Australian industry based on pricing considerations during the investigation period. One Stop has not provided any evidence to the Commission to support its claims.

#### **8.8 Profit effects**

In its application, Dematic claims that dumped imports of steel pallet racking from China and Malaysia caused the Australian industry to experience injury in the form of reduced profits and profitability.

In sections 8.6 and 8.7 above, the Commissioner found that the Australian industry lost sales volume and market share to the dumped goods from China and Malaysia. The Commissioner has also found that the Australian industry has experienced price depression and price suppression caused by the dumped goods from China and Malaysia. The Commissioner is, therefore of the view that lower sales volumes and adverse price effects have consequently resulted in the Australian industry experiencing

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<sup>133</sup> [EPR 077](#)

reduced profits and profitability that can also be attributed to the dumping of the goods from China and Malaysia.

## **8.9 Other economic factors**

### **8.9.1 Revenue effects**

As discussed in section 7.7.1 of this report, the aggregate sales revenue for Dematic and APC Storage domestic sales of steel pallet racking was lower in the investigation period than in any previous year of the injury analysis period.

The Commission has noted that Dematic's total volume of sales declined significantly in the investigation period compared to YE Sep 2015 (Figure 2 refers).

The Commission considers that Dematic and APC Storage lost sales volume in relation to supply contracts that were won by dumped imports at lower prices. In addition, Dematic and APC Storage experienced price depression and price suppression in other contracts where they were competing with imported goods at dumped prices. These factors caused injury to the Australian industry in the form of lost revenue.

### **8.9.2 Other factors**

Based on the assessments of other economic factors discussed in section 7.7.3 of this report, the Commission found that the Australian industry has experienced injury in the form of:

- declining asset value;
- reduced capital investment;
- reduced return on investment;
- reduced employment and wages;
- reduced capacity;
- reduced capacity utilisation; and
- reduced cash flow

The Commissioner has found that Dematic's profit and profitability was adversely affected by lower sales volumes, price depression and price suppression caused by the impact of the dumped imports. The Commissioner considers that these factors have, in turn, caused injury to the Australian industry in the form of declining asset value, reduced return on investment, reduced employment and wages, reduced capacity, reduced capacity utilisation and reduced cash flow.

## **8.10 Injury caused by factors other than dumping**

Subsection 269TAE(2A) of the Act states that the Minister must consider whether any injury to an industry, or hindrance to the establishment of an industry, is being caused or threatened by a factor other than the exportation of those goods and states that any such injury or hindrance must not be attributed to the exportation of those goods.

The Commission has considered all factors outlined in subsection 269TAE(2A), and has also examined other potential causes of injury to the Australian industry, other than dumped goods exported from China and Malaysia.

During the course of the investigation the Commission has identified certain matters and a number of interested parties have made submissions about other factors that could have caused injury to the Australian industry as discussed below.

### 8.10.1 Second-hand steel pallet racking

During the course of the investigation the Commission became aware that Dematic exclusively supplied steel pallet racking to Woolworths Masters Stores (Masters)<sup>134</sup>. Masters closed its operations in December 2016 and all steel pallet racking used in Masters stores were sold in the Australian market as 'second-hand' goods

In its application, Dematic claims that it does not consider that second-hand steel pallet racking would have any material impact on the market in Australia for new steel pallet racking.

#### Submissions

- (i) *Global Industrial* submitted that the closure of the Masters franchise flooded the Australian market with \$20 - 25 million dollars' worth of used pallet racking. Global Industrial claims there is another \$5 million dollars' worth of used racking available in the market;<sup>135</sup>
- (ii) *ReadyRack Pty Ltd (ReadyRack)* submitted that availability of large amount second-hand racking originally supplied by Dematic to Masters stores during the investigation period was also a factor in Dematic losing market share;<sup>136</sup>
- (iii) *Rack'N Stack Warehouse Pty Ltd (Rack N Stack)* submitted that as a result of the closure of Masters, the volume of second-hand steel pallet racking available in the market was equivalent to approximately 2 years of pallet racking and shelving supply in the Cairns and Mackay areas;<sup>137</sup>
- (iv) *Alpha Storage & Equipment Pty Ltd (Alpha Storage)* claims that the closure of 63 Masters stores and the subsequent large scale increase in the supply of second-hand pallet racking has been the primary driver for injury experienced by Dematic;<sup>138</sup>
- (v) *Dexion Australia, Dexion China and Dexion Malaysia* collectively submitted that hardware chain Masters was placed into liquidation in December 2016 and a total of approximately 61 stores were closed. Excess stock including steel pallet racking 'Colby brand supplied by Dematic' was auctioned off. The auction flooded the Australian market with inexpensive second-hand products including the like goods which had a wide ranging effect on not only other hardware retailers in the market but suppliers of equivalent goods<sup>139</sup>; and
- (vi) *One Stop* submitted that the new and second-hand pallet racking markets are directly competing as One Stop's clients seek quotations for both new and second-hand pallet racking when costing projects, and disputes Dematic's claim that the release of second-hand pallet racking in the Australian market following the closure of Masters had no material effect on the market for Dematic's new pallet racking.<sup>140</sup>

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<sup>134</sup> Dematic was unable to confirm the volume or value of the second-hand steel racking in relation to these particular sales.

<sup>135</sup> [EPR 027](#)

<sup>136</sup> [EPR 045](#)

<sup>137</sup> [EPR 052](#)

<sup>138</sup> [EPR 062](#)

<sup>139</sup> [EPR 059](#)

<sup>140</sup> [EPR 054](#), [EPR 069](#) and [EPR 077](#)

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One Stop submitted that a comparison between the graphs for sales revenue for Dematic and APC Storage in SEF 441 demonstrates a decline in Dematic sales revenue for the period that correlates with the closure of Masters stores, while the APC Storage sales revenue is stable or increasing. One Stop contends the difference in sales revenue trend is due to Dematic second-hand goods being available in large volumes while APC Storage second-hand goods were not readily available.

### The Commissioner's assessment

The Commissioner considers that the volume of second-hand steel pallet racking in the market may have caused some injury to the Australian industry, particularly in the distribution market. The parties making the submissions have made these claims unsupported by evidence.

There may be some level of cross-over between the second-hand and new pallet racking markets. However, as discussed above, the parties making the submissions have made these claims unsupported by evidence. The evidence available to the Commission demonstrates that there is no or very little competition between second-hand steel pallet racking and new steel pallet racking markets.

Furthermore, the Commissioner considers second-hand steel pallet racking market is separate and distinct to the market in Australia for new steel pallet racking, for the following reasons:

- suppliers of second-hand steel pallet racking do not compete with suppliers of new steel pallet racking in tendering and supplying to customers in the project sector;
- second-hand steel pallet racking is sold by distributors, traders and resellers and not by suppliers of new steel pallet racking;
- new steel pallet racking is designed for new warehouse storage solutions which are likely to have specific requirements such as engineering design, and structure to maximise the storage capacity;
- second-hand steel pallet racking is normally used for smaller storage solutions while new steel pallet racking products are generally for large warehouses.

Based on the above observations, the Commissioner considers that injury to the Australian industry that was not caused by sales of second-hand steel pallet racking. Furthermore, the Commissioner notes that material injury was apparent in relation to the project sector where Dematic and APC storage compete directly with the dumped imports from China and Malaysia.<sup>141</sup>

### **8.10.2 Submissions – Other factors**

The following interested parties

- Alpha Storage;<sup>142</sup>
- Bunnings;<sup>143</sup>
- Dematic;<sup>144</sup>

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<sup>141</sup> Dematic and APC Storage do not compete in second-hand market

<sup>142</sup> [EPR 062](#)

<sup>143</sup> [EPR 081](#)

<sup>144</sup> [EPR 046](#), [EPR 082](#) and [EPR 089](#)

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- Dexion Australia and Dexion China;<sup>145</sup>
- One Stop;<sup>146</sup>
- ReadyRack;<sup>147</sup> and
- Schaefer Kunshan.<sup>148</sup>

separately submitted that:

- the volume of steel pallet racking exported to Australia by one exporter namely Schaefer Kunshan from China in the investigation period is insignificant to cause material injury to the Australian industry;
- Dematic's inability to buy large volumes of HRC has disadvantaged Dematic in terms of volume discounts and 'economies of scale' to minimise the purchase costs of HRC;
- Dematic's loss of market share was due to the loss of Dematic's largest distributor (Colby Southern<sup>149</sup>) which became a distributor of Shanghai Stow Storage Equipment Co., Ltd (Stow) (Dematic's competitor) based in China;
- Stow was amongst the biggest exporters from China during the investigation period, but the Commission has not selected Stow in its sampling and not verified Stow's information;
- it is likely that due to Masters closing down its operations in Australia, Dematic has lost significant volume of its sales in the investigation period;
- Dematic is not interested in doing business with smaller market players;
- dumping duties, if imposed, will make it hard for certain locally owned and operated businesses to survive;
- the fluctuating Australian dollar and Dematic's inability to relocate offshore to take advantage of cheaper production costs has caused injury to Dematic;
- Dematic has won tenders as a result of significantly under quoting for the work beyond what was necessary in order to win tenders. The aggressive pricing strategy was most likely a factor in any price suppression and/or price depression that may have occurred;
- Dematic does not record its sales of steel pallet racking separately to other sales in its business. It is therefore difficult to determine if any injury Dematic alleges to have incurred is not the result of other factors which relate to other aspects of Dematic's business;
- there is a potential conflict of interest of Dematic's representative Mr John O'Connor who represents BlueScope (Dematic's HRC supplier) given that BlueScope is a member of the International Trade Remedies Forum (ITRF) and that Mr O'Connor is a registered government lobbyist;
- BlueScope is currently under investigation by the ACCC for possible cartel conduct. Dematic has been purchasing HRC from BlueScope and the ACCC's investigation may affect the calculations during the injury period;
- '*step beams*' sold to Masters by Dematic for use in a structure with the primary purpose of holding pallets should be ignored from injury assessments as *step beams* are used in shelving products (HDSS); and

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<sup>145</sup> [EPR 059](#) and [EPR 084](#)

<sup>146</sup> [EPR 054](#), [EPR 069](#) and [EPR 077](#)

<sup>147</sup> [EPR 045](#)

<sup>148</sup> [EPR 039](#)

<sup>149</sup> The Commission understands that there is no longer an entity known as Colby Southern.



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- *downstream effects of measures* - the Commissioner should consider downstream effects of measures as outlined in the “*Streamlining Australia’s Anti-Dumping System*” report published by the Australian Government in June 2011 in response to the Productivity Commission’s recommendation in relation to a ‘public interest test’.

Dematic has responded to some of the above claims as summarised below:

- HRC is a globally traded commodity and Schaefer’s statement asserting that Dematic’s size means it does not possess the HRC buying power is incorrect;
- in the absence of dumping, Dematic will be able to compete fairly in tenders and obtain higher volumes and market share;
- Dematic’s application for measures seeks to address the disparity that exists between the dumped, unfairly-priced imports and the locally produced like goods where dumping, material injury and causal link have been established in the PAD;
- some importers fail to acknowledge the significant injury sustained by local manufacturers of pallet racking over the injury analysis period. This is represented by the closure of Dexion’s Australian pallet racking manufacturing plant in 2014 and the continued injury sustained by Dematic;
- the effect of the closure of Masters is relatively small;
- step beams used in HDSS are like goods and are used to store pallets and for other common unit loads in warehouses and also retail applications; and
- no interested party provided evidence to support the claims made in their submissions.

### The Commissioner’s assessment

The Commissioner has considered whether any injury to Australian industry members is being caused by a factor other than the exportation of dumped goods from China and Malaysia. The Commissioner’s assessment of the submissions is as follows:

- The Commission had regard to the HRC costs incurred by Dematic and the relationship of those costs to global HRC prices. The Commission is of the view that Dematic’s HRC costs are not causing it to be uncompetitive in the steel pallet racking market in Australia, and notes that interested parties have submitted no evidence to the contrary.
- The Commission understands there is no longer an entity known as Colby Southern, and it is therefore unable to establish the reasons why Colby Southern changed its supplier from Dematic to Stow.
- The Commission’s approach to sampling Chinese exporters is discussed in section 6.3.2 of this report. Stow did not submit a response to the exporter questionnaire, the Commissioner was therefore not able to verify the claims relating to Stow’s volume of exports. Based on the information available, the Commission selected those exporters responsible for the largest volume of sales to Australia who provided a response to the exporter questionnaire.
- During the investigation, the Commission became aware that while Masters closed its operations in Australia in December 2016, it had not opened any new warehouses since early 2015. The closure of Masters is therefore likely to have had some adverse effect of Dematic’s sales volume in the injury analysis period. However, the Commission has been provided with evidence of significant lost sales volumes in the investigation period that are unrelated to Masters’ requirements.

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- No evidence has been provided to the Commission that suggests that there is any relationship between Dematic and BlueScope other than their commercial supply arrangement.
- Investigation by the ACCC is not a matter which can be considered within the scope of this investigation.
- Australia's anti-dumping legislation does not provide for the consideration of the public interest when assessing whether dumping has caused material injury to the Australian industry. In addition, the Commissioner did not receive any responses to the AMQ and therefore has no information to assess the downstream effects of measures.<sup>150</sup>
- In relation to other issues raised in the submissions, the Commission notes that no supporting evidence has been provided to support the claims made in those submissions.

### **8.11 Findings - Injury caused by factors other than dumping**

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.

### **8.12 Materiality of injury caused by dumping**

In assessing the materiality of the injury caused by dumping, the Commissioner had regard to the size of the Australian market for steel pallet racking and the relative market shares. The Commissioner noted that the volume of dumped goods from China and Malaysia increased by approximately 135 per cent during the injury analysis period, exceeding the rate of growth in the total market. This growth in imports of the dumped goods caused a significant displacement of the Australian industry's sales volumes and market share.

In the investigation period, the dumped goods from China and Malaysia were in the Australian market in volumes and market share that influenced prevailing prices. The evidence shows that the Australian industry lost sales to the lower prices of dumped goods. The evidence also shows that the Australian industry secured sales at prices that were depressed and suppressed by the competition with dumped goods. The lost sales volume, price depression and price suppression caused by dumping has resulted in the Australian industry incurring significantly reduced profits and profitability that can also be attributed to dumping.

The Commissioner considers that the dumping of steel pallet racking from China and Malaysia has caused material injury to the Australian industry. The Commissioner is of the view that the injury experienced by the Australian industry is not immaterial, insubstantial or insignificant.<sup>151</sup>

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<sup>150</sup> AMQ is discussed in section 8.3.1 of this report

<sup>151</sup> Ministerial Direction on Material Injury 2012, ADN 2012/24

### **8.13 Findings – Causation**

The Commissioner is satisfied that, based on the information submitted in the application and information collected and verified during the course of this investigation, dumping of steel pallet racking exported to Australia from China and Malaysia, has caused material injury to the Australian industry producing like goods.

## 9 WILL DUMPING AND MATERIAL INJURY CONTINUE?

### 9.1 Finding

The Commissioner has found that exports of steel pallet racking from China and Malaysia in the future may be at dumped prices and that continued dumping may cause further material injury to the Australian industry.

### 9.2 Legislative framework

Subsection 269TG(2) of the Act provides that where the Minister is satisfied, among other things, that dumping may continue and because of that material injury to the Australian industry producing like goods has been caused or is being caused, anti-dumping measures may be imposed on future exports of like goods.

### 9.3 Will dumping continue?

The Commission's analysis shows that steel pallet racking was exported to Australia from China and Malaysia during the investigation period at dumped prices, with dumping margins ranging between 4.6 per cent and 110.3 per cent.

The Commission notes that, even at its full capacity, the Australian industry is not able to fully supply the entire volume of the Australian steel pallet racking market, and hence importations of the goods from China and Malaysia are likely to continue.

The Commissioner recognises that there were many suppliers of dumped steel pallet racking from China and Malaysia during the investigation period, and these established sources of supply are likely to remain available for Australian importers and customers into the future. Given the supply options, it is likely the exporters will continue to offer dumped prices.

Considering the above factors existing in the Australian steel pallet racking market, the Commissioner considers that dumping will continue if anti-dumping measures are not imposed.

### 9.4 Will material injury continue?

The Commission has reviewed the Australian industry's performance over the injury analysis period and has made a finding that steel pallet racking exported to Australia at dumped prices from China and Malaysia caused material injury to the Australian industry.

The Commission considers that the continuation of price competition from dumped imports from China and Malaysia is likely to have a continuing adverse impact (such as loss of sales volumes, price depression, price suppression, reduced profits and reduced revenue), on the Australian industry, particularly if volumes from China and Malaysia were maintained or increased.

Based on the available evidence, the Commissioner finds that exports of steel pallet racking from China and Malaysia at dumped prices and that continued dumping is likely to cause further material injury to the Australian industry.

## 10 NON-INJURIOUS PRICE

### 10.1 Finding

The Commissioner has found that the:

- Minister is not required to have regard to the lesser duty rule because the normal value of the goods exported from China was not ascertained under subsection 269TAC(1) due to the operation of 269TAC(2)(a)(ii) (i.e. due to the existence of a particular market situation in the steel pallet racking market in China); and
- non-injurious price (NIP) for dumped goods from Malaysia is not lower than the normal value, therefore the lesser duty rule does not come into effect.

The Commissioner therefore recommends to the Minister that measures be imposed in relation to steel pallet racking exported to Australia from China and Malaysia at the full margin of dumping.

### 10.2 Legislative framework

Duties may be applied where it is established that dumped imports have caused or threatened to cause material injury to the Australian industry producing like goods. The level of dumping duty imposed by the Minister cannot exceed the margin of dumping, but the Minister must have regard to the desirability of fixing a lesser amount of duty if it is sufficient to remove the injury (the lesser duty rule).

Under subsection 269TACA(a) of the Act, the NIP of the goods exported to Australia is the minimum price necessary to prevent the injury, or a recurrence of the injury, to the Australian industry caused by the dumping of the goods.

However, pursuant to subsection 8(5BAAA) of the Dumping Duty Act the Minister is not required to have regard to the lesser duty rule in circumstances where:

- the normal value of the goods was not ascertained under subsection 269TAC(1) because of the operation of 269TAC(2)(a)(ii) (i.e. due to the existence of a particular market situation in the domestic market of the exporting country);<sup>152</sup> or
- an Australian industry in respect of the like goods consists of at least two small-medium enterprises, whether or not the industry consists of other enterprises.<sup>153</sup>

Even where one or both of these conditions are met, the Minister may still have regard to the lesser duty rule.

### 10.3 Exceptions to mandatory consideration of the lesser duty rule

In this case, the Commissioner has found a particular market situation exists in China and therefore the normal value of the goods exported from China could not be ascertained under subsection 269TAC(1) because of the operation of subsection 269TAC(2)(a)(ii) (section 6.5 and Non-confidential Appendix 3 refer).

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<sup>152</sup> Subsection 8(5BAAA)(a)

<sup>153</sup> Subsection 8(5BAAA)(b)

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The Commissioner has also considered whether the Australian industry in respect of like goods consists of at least two small-medium enterprises, and has had regard to the Act<sup>154</sup> and the definition of small-medium enterprise in the *Customs (Definition of “small-medium enterprise”) Determination 2013*.<sup>155</sup>

The Commissioner has identified that the Australian industry producing the goods consists of six members (Chapter 4 refers). The applicant, Dematic, has more than 200 employees, is a related body corporate, and is therefore not a small-medium enterprise.

The other five industry members have less than 200 full time employees, however only one of these was not a related body corporate and therefore qualifies as a small-medium enterprise in accordance with subsection 269T(1). The remaining four industry members are related to other bodies corporate within a small group of companies, and are therefore not small-medium enterprises within the meaning of the relevant legislation.

However, the Commission notes that each of these groups are family owned businesses with less than 200 employees in total, which might be considered to be small-medium enterprises under a different definition.

### 10.4 Calculation of the USP and NIP

Under subsections 269TACA(a) and 269TACA(b), the NIP of the goods exported to Australia is the minimum price necessary to prevent the injury, or a recurrence of the injury, or to remove the hindrance to the Australian industry caused by the dumping of the goods.

The Commissioner generally derives the NIP by first establishing a price at which the Australian industry might reasonably sell its product in a market unaffected by dumping. This price is referred to as the unsuppressed selling price (USP).

The Commissioner’s preferred approach to establishing the USP, as outlined in chapter 24 of the Manual, observes the following hierarchy:

- industry selling prices at a time unaffected by dumping;
- constructed industry prices – industry CTMS plus profit; or
- selling prices of un-dumped imports.

#### 10.4.1 USP Calculation

In accordance with the policy outlined above, the Commissioner looked to the Australian industry’s selling prices from a previous period unaffected by dumping. The three key locally produced components of the like goods (beams, uprights and braces) are all made from HRC. Dematic claimed that HRC prices fluctuated considerably over the injury analysis period. The Commission is aware from a recent investigation regarding HRC, that HRC prices have risen during 2017 and 2018 compared to earlier periods, which is likely to have influenced the prevailing market prices for products made from HRC, including steel pallet racking. The basis for USP therefore cannot be reliably determined using selling prices of steel pallet racking at an earlier time unaffected by dumping.

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<sup>154</sup> Subsections 269T(1)

<sup>155</sup> That determination prescribes that a small-medium enterprise is a producer or manufacturer with 200 or less full-time staff, which is independently operated and which is not a related body corporate for the purposes of the *Corporations Act 1901*.

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The Commissioner is satisfied that reliable information is available to construct a USP based on the industry's CTMS plus profit. Conversely, there is no reliable information in relation to selling prices of steel pallet racking imported from other sources.

The Commissioner has therefore construct the USP based on Dematic's weighted average CTMS for the injury analysis period, plus an amount for profit achieved by Dematic on its sales of beams over the financial years 2012/13 to 2014/15.

### 10.4.2 NIP Calculation

Having calculated the USP, the Commissioner then calculates a NIP by deducting the costs incurred in getting the goods from the export FOB point (or another point if appropriate) to the relevant level of trade in Australia. The deductions normally include overseas freight, insurance, into-store costs and amounts for importer expenses and profit.

The Commission's USP and NIP assessments are in **Confidential Attachment 9**.

### 10.4.3 Submissions – USP and NIP

#### Dematic

In its submissions Dematic claims<sup>156</sup> that the USP should be determined on the basis of Dematic's CTMS for the goods in the investigation period (for each separate component of the steel pallet racking beams, uprights and braces). Dematic claimed this should be uplifted by the weighted average level of profit it achieved on its sales of beams over the financial years 2012/13 to 2014/15.

#### Schaefer

In its submission Schaefer claims<sup>157</sup> that Dematic's CTMS is not a reasonable indicator of a USP nor is it a fair methodology to apply. The cost of steel which is heavily influenced by the volume of steel purchased, constitutes close to 50 per cent of the cost of steel pallet racking. Schaefer also claims that in 2016/17, Dematic had lower production/sales volumes due mainly to the closure of Masters hardware stores and aggressive market activities and consequently there would have been less absorption of factory overheads and higher costs for standard components.

#### The Commissioner's assessment

The Commissioner considers that it is reasonable to construct the USP based on Dematic's weighted average CTMS for the injury analysis period, plus an amount for profit achieved by Dematic on its sales of beams over the financial years 2012/13 to 2014/15.

Using the weighted average CTMS data for the injury analysis period takes into account unit cost fluctuations over four years. This addresses the concern of Schaefer's that the Dematic CTMS data for the investigation period alone will reflect higher unit fixed costs because of the lower Dematic production and sales volumes in that year.

The profit rate submitted by Dematic is based on verified data sales and cost data, and the Commission considers it is reasonable to expect that the Australian industry could

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<sup>156</sup> [EPR 030](#)

<sup>157</sup> [EPR 041](#)

achieve such a profit level for steel pallet racking generally in a market unaffected by dumping.

The Commissioner considers that in a market unaffected by dumping, the Australian industry should have been able to achieve a USP that reflects the weighted average CTMS of Dematic for the injury analysis period and an amount of profit based on Dematic's sales of beams in the financial years 2012/13 to 2014/15. The Commissioner considers that a NIP can be calculated by deducting from the USP costs incurred in getting the goods from the export FOB point to the relevant level of trade in Australia.

The Commissioner compared the NIPs with the calculated weighted average normal values of exporters from China and Malaysia. The Commissioner determined that the NIP was higher than the normal value for all exporters of the goods from Malaysia. As a result, the NIP will not be the operative measure for exports from Malaysia, and the lesser duty rule will not come into effect.

The Commissioner determined that the NIP was lower than the normal values for all exporters of the goods from China. However, the Minister is not required to have regard to the desirability of fixing a lesser amount of duty in relation to the goods exported from China because of the exceptions outlined above.

## **10.5 Submissions – Level of IDD**

In ADN No. 2019/16 published on 4 February 2019 the Commissioner called for submissions on the level of IDD proposed in the SEF. Two of the submissions received in response to the ADN referenced the proposed level of IDD.

### Speedlog Group

Shanghai Speed Logistics Equipment Co., Ltd and Shanghai Maxrac Storage Equipment Engineering Co., Ltd (Speedlog Group) submitted that:<sup>158</sup>

- it did not previously make any submissions or complete the exporter questionnaire due to its inexperience with the anti-dumping system;
- it is not selling the goods to Australia at a dumped price;
- most of Speedlog Group's Australian customers are small to medium size and want to buy from Speedlog Group due to the quality of the goods;
- goods from Malaysia with lower dumping margins are of inferior quality;
- the Australian industry has increased its selling prices and has used the anti-dumping system to protect its benefits;
- imposition of dumping duties would lead to industry monopoly by Dematic;
- over protection will bring more problems to the market and end-users won't be able to source components compatible with the system currently in use;
- local manufacturers have insufficient production capacity to supply the whole Australian market; and
- one of the Australian industry members is Speedlog Group's customer.

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<sup>158</sup> [EPR 104](#)



One Stop

One Stop submitted that:

- tariffs will result in higher prices for consumers, the cost of which will exceed the benefits for the recipient industries;
- tariffs will substantially lessen the competition in the market as local importers will not be able to compete against Dematic; and
- section 45 of the *Competition and Consumer Act* prohibits certain practices that lessen competition in the market.

The Commissioner's assessment

The Commissioner has noted issues raised by Speedlog Group and One Stop. The Commission considers that these issues do not specifically address the level of IDD, but relate to public interest considerations that are outside the scope of the Act.

**10.6 Findings – Lesser duty rule and NIP**

The Commissioner has found that the:

- Minister is not required to (but may) have regard to the lesser duty rule because the normal value of the goods exported from China was not ascertained under subsection 269TAC(1) due to the operation of 269TAC(2)(a)(ii) (i.e. due to the existence of a particular market situation in the steel pallet racking market in China); and
- non-injurious price (NIP) for dumped goods from Malaysia is not lower than the normal value, therefore the lesser duty rule does not come into effect.

The Commissioner therefore recommends to the Minister that measures be imposed in relation to steel pallet racking exported to Australia from China and Malaysia at the full margin of dumping.

## 11 PROPOSED FORM OF MEASURES

### 11.1 Finding

The Commissioner recommends to the Minister that measures be imposed using the *ad valorem* duty method. Under this method, amount of duty payable will be ascertained as a percentage of export price.

### 11.2 Forms of measures available

The forms of duty available when implementing measures are prescribed in the *Customs Tariff (Anti-Dumping) Regulation 2013* and include:

- combination of fixed and variable duty method (combination method);
- floor price duty method;
- fixed duty method (e.g. \$X per tonne); or
- *ad valorem* duty method (i.e. a percentage of the export price).

### 11.3 Submissions – Form of measures

#### 11.3.1 Dematic

Dematic submitted<sup>159</sup> that the most effective form of measures to be applied to the dumped goods from China and Malaysia is one based on the *combination duty method* as it reflects the variable factors that applied during the investigation period and is not readily circumvented.

In response to the *ad valorem* form of measure proposed in SEF 441, Dematic submitted that it does not wish to see the Commission forgo the intended effect of the measures that can be easily achieved via the combination form of measures, in preference for the more “easily-administered” *ad valorem* measures that can result in the exporter reducing export prices to avoid the intended effect of measures.

#### 11.3.2 Jracking Group

Jracking Group submitted<sup>160</sup> that the combination duty method punishes exporters who sell at a price that is less than the average export price in the investigation period. Jracking Group claims the approach can result in collection of duties in excess of the dumping margin, contrary to the provisions of Article 9.3 of the WTO *Anti-Dumping Agreement*, and is therefore unreasonable and unjustifiable.

#### 11.3.3 The Commissioner’s assessment

The Commissioner, in considering which form of measures to use, has had regard to the Commission’s *Guidelines on the Application of the Form of Dumping Duty 2013* (the Guidelines), relevant factors in the steel pallet racking market and submissions received from interested parties.

The Guidelines set out issues to be considered when determining the form of duties. The various forms of dumping duty available all have the purpose of removing the injurious

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<sup>159</sup> [EPR 030 and EPR 082](#)

<sup>160</sup> [EPR 061](#)

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effects of the dumping however certain forms of duty will better suit particular circumstances. The Guidelines list the key advantages and disadvantages of each form of duty.

The floor price method can limit the negative effect of price increases in the goods that are associated with the ad valorem duty method. It acts to prevent price manipulation by the exporter such as where they artificially decrease their export price under the ad valorem duty method which would decrease the amount of duty paid. A disadvantage is that a floor price can quickly become out-of-date and in a rising market become ineffective. This duty method may not suit the situation where there are many models or types of good with significantly different prices.

The combination duty method is considered appropriate where circumvention behaviour is likely (particularly because of related party dealings), where complex company structures exist between related parties, and where there has been a proven case of price manipulation in the market. Conversely, the combination duty method is less suitable in circumstances where there are many model types of the goods with a wide price range, or where a falling market exists.

The ad valorem duty method is one of the simplest and easiest forms to administer when delivering the intended protective effect, is common in other jurisdictions, is similar to other types of Customs duties, and is suitable where there are many models or types or where the market prices of goods fluctuate over time. The ad valorem duty method may also require fewer duty assessments and reviews than other duty methods. However, the ad valorem duty method has a potential disadvantage in that export prices might be lowered to abrogate the intended effects of the duty.

The Commissioner affirms his consideration in SEF 441, in the steel pallet racking case, the ad valorem duty method is the most appropriate form of duty. Based on the information obtained during the course of the investigation, the Commissioner considers that the three main components namely beams, uprights and braces of the goods, can have different finishes and exhibit a wide range of prices per tonne. In addition, it is likely that prices for 'parts thereof' are unlikely to be identifiable in terms of a price per unit of weight.

Notwithstanding the proposed form of measures is the ad valorem duty method, the Commissioner considers it appropriate to address the Jracking Group submission that the combination duty method is unreasonable and unjustifiable. The following extract from the Commission's website<sup>161</sup> addresses the Jracking Group's claims:

*"A duty assessment enables a reconciliation of interim duty, and final duty payable under the Dumping Duty Act. An importer who has paid interim duty on particular goods may apply, within specified time limits, for an assessment of duty payable on those goods.*

*Where dumping or countervailing duty has been imposed on goods exported to Australia, the importer is liable to pay an amount known as the interim dumping duty or interim countervailing duty at the time of importation. The interim duty is based on prices verified during the original dumping investigation or subsequent review of the duty.*

*To ensure that the amount of dumping duty collected by Customs does not exceed the actual dumping margin for each consignment over the five-year period, provision exists for assessment of the final duty liability. This system allows for any excess interim duty to be*

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<sup>161</sup> <https://www.adcommission.gov.au/accessadsystem/dutyassessments/Pages/default.aspx>

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*refunded where it is found that prices have changed since the original investigation or subsequent review.*

*The Customs Act 1901 provides that:*

- if the duty is less than the interim duty, the excess is to be refunded;*
- if the duty is more than the interim duty, the interim duty is treated as final duty and the balance waived;*
- if the importer fails, within the time limits available, to seek an assessment of duty, the interim duty paid on the goods is taken to be final duty*

### **11.4 Recommendation**

The Commissioner recommends to the Minister that a dumping duty notice be published in respect of steel pallet racking exported to Australia by all exporters from China and Malaysia using the ad valorem duty method.

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The Commissioner is satisfied that the dumped steel pallet racking exported to Australia from China and Malaysia has caused material injury to the Australian industry producing like goods.

### The Commissioner recommends the Minister publish:

- a dumping duty notice in relation to steel pallet racking exported to Australia from China and Malaysia.

### The Commissioner recommends the Minister be satisfied that:

- *in accordance with subsection 269TAAD(1)*, like goods were sold in sales that are arms length transactions in substantial quantities during an extended period for home consumption in China and Malaysia, at a price less than the cost of such goods and it is unlikely that the seller of the goods was able to recover the cost of such goods within a reasonable period, the price paid for the goods is taken not to have been paid in the ordinary course of trade;
- *in accordance with subsection 269TAB(3)*, sufficient information has not been furnished, or is not available, to enable the export price of steel pallet racking exported to Australia from China and Malaysia by the category of 'uncooperative and all other exporters' be determined under subsection 269TAB(1);
- *in accordance with subsection 269TAC(6)*, sufficient information has not been furnished or is not available to enable the normal value of steel pallet racking exported to Australia from China and Malaysia by the category of 'uncooperative and all other exporters' to be ascertained under the preceding subsections of section 269TAC;
- *in accordance with subsection 269TAE(2C)*, the cumulative effect of exportations of steel pallet racking from China and Malaysia can be considered because:
  - each of the exportations is the subject of an investigation;
  - the investigations of those exportations resulted from applications lodged with the Commissioner on the same day;
  - the margin of dumping from China and Malaysia established is not negligible;
  - the volume of imports from each country is not negligible; and
  - a cumulative assessment is appropriate in light of the conditions of competition between the imported goods and the conditions of competition between the imported goods and the like domestic goods.
- *in accordance with subsection 269TG(1)*, the amount of the export price of steel pallet racking exported to Australia from China and Malaysia is less than the amount of the normal value of those goods and because of that, material injury to the Australian industry producing like goods would have been caused if securities under section 42 had not been taken;
- *in accordance with subsection 269TG(2)*, the amount of the export price of steel pallet racking that has already been exported to Australia from China and Malaysia is less than the amount of the normal value of those goods, and the amount of the

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export price of like goods that may be exported to Australia from China and Malaysia in the future may be less than the normal value of the goods and because of that, material injury to the Australian industry producing like goods is being caused.

- in accordance with subsection 8(7)(a) of the *Customs Tariff (Anti-Dumping) Act 1975* (the Dumping Duty Act) *that like or directly competitive* components or parts of steel pallet racking, other than the three components namely beams, uprights and braces, whether imported individually or as parts of the complete pallet racking system, *are not offered for sale in Australia to all purchasers on equal terms under like conditions having regard to the custom and usage of trade.*

### **The Commissioner recommends the Minister determine:**

- in accordance with subsection 269TAAD(4), and for the purpose of working out the cost of goods and determining whether the price paid for like goods sold in the country of export in sales that are arms length transactions and are taken to have been in the ordinary course of trade, that the amounts for the cost of production or manufacture of steel pallet racking in China and Malaysia and the selling, general and administrative costs associated with the sale of those goods are as set out in Confidential Attachment 2;
- being satisfied that in accordance with subsection 269TAB(1)(a), that the export price of steel pallet racking exported to Australia from:
  - China by Schaefer Kunshan; and
  - Malaysia by Schaefer Malaysia,

is the price paid or payable for the goods by the importer, other than any part of that price that represents a charge in respect of the transport of the goods after exportation or in respect of any other matter arising after exportation, as set out in Confidential Attachment 2;

- being satisfied that in accordance with subsection 269TAB(1)(c) that the export price of steel pallet racking exported to Australia from China by Changzhou Tianyue, is determined having regard to all the circumstances of the exportation as set out in Confidential Attachment 2;
- being satisfied that in accordance with subsection 269TAB(3), having regard to all relevant information, that the export prices for steel pallet racking exported to Australia from:
  - China by Dexion China and Jracking Group;
  - China by residual exporters;
  - China and Malaysia by 'uncooperative and all other exporters';

are as set out in Confidential Attachment 2;

- being satisfied that in accordance with subsection 269TAC(1), like goods are sold in the ordinary course of trade for home consumption in sales that are arm's length transactions, the normal value of steel pallet racking exported to Australia from Malaysia by Schaefer Malaysia, is the price paid or payable for like goods and adjusted in accordance with subsection 269TAC(8) as set out in Confidential Attachment 2.

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- being satisfied that in accordance with subsection 269TAC(2)(c), because a particular market situation exists in the Chinese domestic market for steel pallet racking, that the normal value of steel pallet racking exported to Australia from China by Changzhou Tianyue and Schaefer Kunshan, is constructed using:
  - the exporter's verified cost to make of the goods exported to Australia; including an adjustment to the cost of HRC;
  - expenses applicable to like goods sold domestically; and
  - profit on the domestic sales of like goods made in the ordinary course of trade for home consumption in sales that are arms length transactions,and adjusted in accordance with subsection 269TAC(9) as set out in Confidential Attachment 2;
- being satisfied that in accordance with subsection 269TAC(6), having regard to all relevant information, the normal values of steel pallet racking exported to Australia from:
  - China by Dexion China and Jracking Group;
  - China by residual exporters; and
  - China and Malaysia 'uncooperative and all other' exporters,is calculated and adjusted in accordance with subsection 269TAC(8) as set out in Confidential Attachment 2;
- in accordance with subsection 269TAC(8), that, as the normal value of steel pallet racking exported to Australia is the price paid or payable for like goods sold in Malaysia, the normal value be adjusted for specified differences between like goods sold in Malaysia and export sales, as set out in Confidential Attachment 2;
- having applied subsection 269TACB(1), 269TACB(2)(a) and 269TACB (4):
  - that steel pallet racking exported to Australia from China and Malaysia is taken to have been dumped over the investigation period; and
  - the dumping margins for exporters in respect of those goods in the period is the difference between the weighted average of export prices of those goods and the weighted average of corresponding normal values, as set out in Confidential Attachment 2;
- in accordance with subsection 8(5) of the Dumping Duty Act, that the interim dumping duty payable in respect of steel pallet racking exported to Australia from China and Malaysia is an amount which will be worked out in accordance with the ad valorem duty method pursuant to subsection 5(7) of the *Customs Tariff (Anti-Dumping) Regulation 2013*.

### **The Commissioner recommends that the Minister consider:**

- in accordance with subsection 8(5BA) of the Dumping Duty Act, in relation to steel pallet racking exported to Australia from China and Malaysia the desirability of specifying a method such that the sum of the amounts outlined in subsections 8(5BA)(c), (d) and (e) do not exceed the non-injurious price;

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- in accordance with subsection 8(5BAAA) of the Dumping Duty Act, the Minister is not required to but may have regard to the desirability of fixing a lesser amount of duty in certain circumstances. Two of these circumstances are cases where;
  - the normal value of the goods was not ascertained under subsection 269TAC(1) because of the operation of 269TAC(2)(a)(ii); and
  - an Australian industry in respect of the like goods that consists of at least two small-medium enterprises (SME), whether or not the industry consists of other enterprises.<sup>162</sup>

A particular market situation exists in China, normal value for the goods exported from China to Australia is, therefore, ascertained in accordance with subsection 269TAC(2)(a)(ii).

While five of the six Australian industry members have less than 200 full time staff, only one member qualifies as an SME. This is because the other four Australian industry members have a related body corporate for the purposes of the *Corporations Act 2001*, which disqualifies them as an SME.

### **The Commissioner recommends the Minister declare:**

- in accordance with subsection 269TG(1), by public notice, that section 8 of the Dumping Duty Act applies to (subject to section 269TN):
  - like goods exported by all exporters from China and Malaysia to Australia; and
  - like goods exported to Australia by all exporters from China and Malaysia after the Commissioner made a PAD under section 269TD on 18 June 2018, but before publication of the notice;
- in accordance with subsection 269TG(2), by public notice, that section 8 of the Dumping Duty Act applies to like goods that are exported to Australia by all exporters from China and Malaysia after the date of publication of the notice.

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<sup>162</sup> *Customs (Definition of small-medium enterprise) Determination 2013* prescribes an SME as a producer of manufacturer with 200 or less full time staff, which is independently operated and which is not a related body corporate for the purpose of the *Corporations Act 2001*.



**13 APPENDICES AND ATTACHMENTS**

<b>Non-Confidential Appendix 1</b>	List of submissions
<b>Non-Confidential Appendix 2</b>	Assessment of a Particular Market Situation claims – China
<b>Non-Confidential Appendix 3</b>	HRC Benchmark - China
<b>Confidential Attachment 1</b>	Details of adjustable steel pallet racking sourced from AS 4084-2012
<b>Confidential Attachment 2</b>	Dumping margin summary
<b>Confidential Attachment 3</b>	Determination of Jracking Group as an uncooperative exporter
<b>Confidential Attachment 4</b>	Benchmark calculations for HRC costs replacement
<b>Confidential Attachment 5</b>	Changzhou Tianyue’s correspondence on slitting costs
<b>Confidential Attachment 6</b>	Revised assessment of normal value and dumping margin of Dexion China
<b>Confidential Attachment 7</b>	Assessment of Australian market and Australian industry’s economic performance
<b>Confidential Attachment 8</b>	Assessment of injury caused by dumping
<b>Confidential Attachment 9</b>	USP and NIP calculations

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**NON-CONFIDENTIAL APPENDIX 1 – LIST OF SUBMISSIONS**

<b>Date</b>	<b>Interested party</b>	<b>EPR<sup>163</sup> document no.</b>
4/04/2018	Changzhou Tianyue	22
14/05/2018	Global Industrial	27
25/05/2018	Dematic	30
8/06/2018	Schaefer Malaysia	32
19/06/2018	Schaefer Malaysia	36
20/06/2018	Schaefer Kunshan	39
28/06/2018	Inform Storage	40
28/06/2018	Schaefer Kunshan & Schaefer Malaysia	41
2/07/2018	Dexion China	42
10/07/2018	Changzhou Tianyue	44
10/07/2018	ReadyRack	45
12/07/2018	Dematic	46
12/07/2018	Jiangsu NOVA	47
23/07/2018	Dematic	48
27/07/2018	Jracking Group	49
1/08/2018	Schaefer Kunshan	50
2/08/2018	Schaefer Kunshan	51
13/08/2018	Rack N Stack	52
14/08/2018	SSI Schafer Systems	53
20/08/2018	One Stop	54
24/08/2018	Dematic	55
28/08/2018	Bunnings	56
28/08/2018	Jracking Group	57
30/08/2018	Dexion China & Dexion Malaysia	59
30/08/2018	Dematic	60
3/09/2018	Jracking Group	61
3/09/2018	Alpha Storage	62
25/09/2018	Dematic	63
10/10/2018	Jracking Group	65
24/10/2018	Dexion China	73
25/10/2018	One Stop	69
31/10/2018	Abbott Storage	70

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<sup>163</sup> Electronic public record, available at <https://www.adcommission.gov.au/cases/Pages/CurrentCases/EPR-441.aspx>

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<b>Date</b>	<b>Interested party</b>	<b>EPR<sup>163</sup> document no.</b>
31/10/2018	Abbott Storage	71
31/10/2018	Abbott Storage	72
1/11/2018	Dexion Liverpool	74
26/11/2018	One Stop	77
26/11/2018	Abbott Storage	78
26/11/2018	Global Industrial	79
26/11/2018	Jracking Group	80
26/11/2018	Bunnings	81
26/11/2018	Dematic	82
26/11/2018	Jiangsu NOVA	83
27/11/2018	Dexion Australia & Dexion China	84
27/11/2018	TWB	85
27/11/2018	Changzhou Tianyue	86
30/11/2018	Dematic	87
3/12/2018	Abbott Storage	88
3/12/2018	Dematic	89
17/12/2018	Bunnings	91
19/12/2018	BHD Storage Solutions Pty Ltd	92
24/12/2018	Jracking Group	94
16/01/2019	One Stop	95
18/01/2019	Instant Racking	96
22/01/2019	Global Industrial	98
22/01/2019	Modular Storage Systems	99
22/01/2019	Industor Pty Ltd	100
24/01/2019	Tong Li Logistic Co., Ltd	101
22/02/2019	Speedlog Group	104
25/02/2019	Abbott Storage	105
25/02/2019	One Stop	106
25/02/2019	Schaefer Malaysia	107
25/02/2019	Bunnings	108
26/02/2019	Dematic	109
26/02/2019	Changzhou Tianyue	110
26/02/2019	Inform Storage	111
26/02/2019	Jiangsu NOVA	112
26/02/2019	Dexion Australia & Dexion China	113
1/03/2019	Dematic	114
6/03/2019	Abbott Storage	115

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<b>Date</b>	<b>Interested party</b>	<b>EPR<sup>163</sup> document no.</b>
12/03/2019	Central Storage Systems Int. Group Pty Ltd <sup>164</sup>	116
28/03/2019	Dematic*	117
28/03/2019	Abbott Storage*	118
28/03/2019	Dexion Australia & Dexion China*	119
29/03/2019	Global Industrial*	120
29/03/2019	Abbott Storage*	121
02/04/2019	Dematic*	122
03/04/2019	Abbott Storage*	123
04/04/2019	APC Storage Solutions Pty Ltd*	124

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<sup>164</sup> The Commission received a submission from Central Storage System on 18 January 2019 in a format which was not possible to publish on the Commission's EPR. Central Storage System did not respond to multiple attempts made by the Commission to contact the company and seek a suitable version of its submission. The Commission finally published Central Storage System's submission on the EPR on 12 March 2019 by printing and scanning the version provided to the Commission. The Commission noted that the issues raised in Central Storage System's submission were identical to those contained in another interested party's submission.

\* These five submissions were received very late by the Commission. The Commissioner is not obliged to have regard to any submissions received after 25 February 2019 as to do so would, in the Commissioner's opinion, would prevent the timely preparation of his report to the Minister.



**Australian Government**  
**Department of Industry,  
Innovation and Science**

**Anti-Dumping  
Commission**

**NON-CONFIDENTIAL APPENDIX 2 – ISSUES PAPER No. 2019/01**

**The Goods and Like Goods**

**1. Purpose**

This issues paper provides interested parties further opportunity to comment on the description of the goods in relation to the investigation.

The Commission hereby invites all interested parties to this investigation to provide submissions concerning the Commission’s assessment of the goods and like goods prior to the Commissioner of the Anti-Dumping Commission (the Commissioner) providing his final report and recommendations to the Minister for Industry, Science and Technology if the case is not terminated.

The Commissioner will have regard to submissions received in response to this paper, provided they are received no later than **25 February 2019**. The Commissioner may not have regard to submissions received after this date as it would prevent the timely preparation of his final report and commendation to the Minister.

Interested parties making a submission should attach relevant information to support any views expressed in their submission. A non-confidential version of submissions must be provided. Submissions should be provided by email to [investigations4@adcommission.gov.au](mailto:investigations4@adcommission.gov.au), or by mail to:

The Director, Investigations 4  
Anti-Dumping Commission  
PO Box 2013  
Canberra, ACT 2601  
AUSTRALIA

Confidential submissions must be clearly marked accordingly and a non-confidential version of any submission is required for inclusion on the Public Record. A guide for making submissions is available on the Commission website.<sup>165</sup>

The Public Record contains non-confidential submissions made by interested parties, which together with the Commission’s visit reports and other publicly available documents are available on the Commission website. Documents on the Public Record should be read in conjunction with this paper.

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<sup>165</sup> [www.adcommission.gov.au](http://www.adcommission.gov.au)

## **2. Legislative framework**

Subsection 269TC(1) of the Act provides that the Commissioner shall reject an application for a dumping duty notice if, inter alia, the Commissioner is not satisfied that there is, or is likely to be established, an Australian industry in respect of like goods.

In making this assessment, the Commissioner must firstly determine that the goods produced by the Australian industry are “like” to the imported goods.

Subsection 269T(1) defines like goods as:

*“Goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration”.*

An Australian industry can apply for relief from material injury caused by dumped imports even if the goods it produces are not identical to those imported. The industry must however, produce goods that are ‘like’ to the imported goods.

The *Dumping and Subsidy Manual* (the Manual)<sup>166</sup> outlines certain “likeness tests” which provide a framework for assessing whether the goods manufactured by Australian industry members are like to the imported goods. Where the locally produced goods and the imported goods are not alike in all respects, the Commissioner assesses whether they have characteristics closely resembling each other against the following considerations:

- physical likeness;
- commercial likeness;
- functional likeness; and
- production likeness.

## **3. The goods**

The goods the subject of this investigation are:

*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).*

In its application, the applicant provided the following additional details in relation to the goods:

- the goods are adjustable static racking structures capable of carrying and storing product loads, and components used to make static racking structures.
- adjustable racking is a structure typically made from cold-formed or hot rolled steel structural members and includes components such as plates, rods, angles, shapes, sections, tubes and the like. Welding, bolting or clipping are the typical methods to assemble them. It may be racking installed within a building.
- a typical storage configuration comprises upright frames perpendicular to the aisles and independently adjustable, positive locking beams parallel to the aisle, spanning between the upright frames, and brace designed to support unit load actions.

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<sup>166</sup> Copy available at [www.adcommisison.gov.au](http://www.adcommisison.gov.au)

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- the racking layout and components used are designed to get the best efficiency for the shape and volume of the items stored. The applicable Australian Standard is AS4084-2012.

### Tariff classification

The goods are generally, but not exclusively, classified to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995*:

Tariff code	Statistical code	Unit	Description
7308.90.00 <sup>167</sup>	58	Tonnes	<p><u>Tariff code</u>: Structures (excluding prefabricated buildings of 9406) and parts of structures (for example, bridges and bridge-sections, lock-gates, towers, lattice masts, roofs, roofing frameworks, doors and windows and their frames and thresholds for doors, shutters, balustrades, pillars and columns), of iron or steel; plates, rods, angles, shapes, sections, tubes and the like, prepared for use in structures, of iron or steel.</p> <p><u>Statistical code</u>: Other – Racking and shelving</p>

### 3.1. Submissions in relation to the scope of the goods description

The Commission has received numerous submissions from interested parties in relation to the scope of the goods description throughout the course of the investigation. All submissions received to date from the following interested parties regarding the scope of the goods description are addressed in this paper.

- Abbott Storage Systems (Abbott Storage);
- BHD Storage Solutions;
- Bunnings Group Ltd (Bunnings);
- Changzhou Tianyue;
- D&S Liverpool Pty Ltd (Dexion Liverpool) made on behalf of the Dexion Supply Centre and Distributor Network;
- Global Industrial Pty Ltd (Global);
- Hodesh Pty Ltd trading as Instant Racking (Instant Racking);
- Jracking Group;
- One Stop Pallet Racking Pty Ltd (One Stop);
- Schaefer Kunshan and Schaefer Malaysia (collectively referred to as Schaefer);
- Industor Pty Ltd trading as Industor Industrial Solutions;
- The Trustee for SNC Family Trust trading as Modular Storage Systems and
- Tong Li Logistic Equipments Co., Ltd.

The Commission has summarised the submissions as follows, noting that a number of similar issues were raised across a number of different submissions:

- Schafer and One Stop stated that steel pallet racking cannot be sold as a complete product without other key components such as base plates, frame spacers and

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<sup>167</sup> Effective from 1 January 2015

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- rack protectors, among other components, and, as such, all components of the steel pallet racking should be included in the description of the goods;<sup>168</sup>
- Bunnings stated that Heavy Duty Store Shelving (HDSS) does not fall within the scope of the goods as its end use makes it a separate and distinct product from 'steel pallet racking', and as such should be excluded from the investigation for reasons including:<sup>169</sup>
    - the applicant's choice of phrasing for the goods to be investigated was deliberate and did not include the word 'shelving', thus it would be 'unnatural' to include HDSS in the interpretation of 'steel pallet racking';
    - application of principles derived from case law regarding the identification of goods requires the focus to be on the normal and predominant use of a good, rather than a minor or incidental use. While it was acknowledged that the top section of HDSS can be used to store palletised goods, it is claimed that this is a secondary use, and not what HDSS is predominantly used for, nor designed for;
    - while HDSS is often comprised of similar components to steel pallet racking, consisting of uprights connected by beams and supported by bracings, there are significant differences in the types of beams and the design configuration of the different structures;
    - differences in load bearing abilities of the two systems. HDSS is usually comprised of shelving and 'step or shelf' beams<sup>170</sup> while steel pallet racking most commonly uses 'box beams'. A step beam is designed to support a lower weight load capacity than a box beam;
    - differences in height of structures, with HDSS generally being less than 4 metres in height and often designed for products loaded by hand;
  - Abbott Storage<sup>171</sup>, BHD Storage Solutions<sup>172</sup>, Instant Racking<sup>173</sup>, Jracking Group<sup>174</sup> and One Stop<sup>175</sup> argue that their goods are exempt from the investigation due to the phrase 'adjusted as required' in the goods description. Abbott Storage claims its goods are subject to physical and engineering limitations that are inconsistent with being 'adjusted as required', and the phrase is incompatible with Australian Standard AS4084-2012;<sup>176</sup>. Similar arguments were raised by BHD Storage Solutions, Instant Racking, Jracking Group and One Stop.
  - Global claims that the goods under consideration do not match the goods description of the investigation<sup>177</sup>. It is claimed that '*beams, uprights and posts*' are '*very generic parts*' and are not solely used for steel pallet racking structures. As a result, it is contended that structures that are certified by an engineer as 'not steel

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<sup>168</sup> [EPR 041](#), [EPR 050](#) and [EPR 077](#)

<sup>169</sup> [EPR 056](#), [EPR 081](#) and [EPR 085](#)

<sup>170</sup> Step or shelf beam contains a step into which a shelf can lock in position.

<sup>171</sup> [EPR 070](#), [EPR 071](#), [EPR 072](#), [EPR 078](#) and [EPR 088](#)

<sup>172</sup> [EPR 092](#)

<sup>173</sup> [EPR 096](#)

<sup>174</sup> [EPR 094](#)

<sup>175</sup> [EPR 095](#)

<sup>176</sup> [EPR 070](#), [EPR 071](#), [EPR 072](#) and [EPR 078](#)

<sup>177</sup> [EPR 079](#)



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pallet racking', and thus not subject to Australian Standard AS4084-2012, should be exempt from the investigation and any resulting dumping duties.

### 3.2. The Commissioner's assessment

The Commissioner is satisfied that all of the steel pallet racking exported to Australia from China and Malaysia during the investigation period, upon which the assessments in this paper are based, falls within the scope of the goods description.

The Commission's assessment of the submissions received in relation to the scope of the goods description is discussed below.

#### Components needed for a steel pallet racking structure

Steel pallet racking can contain a number of components such as base plates, frame spacers and rack protectors to name a few.<sup>178</sup> Having reviewed the documents provided by Schaefer and Dematic, the Commission notes that these and other descriptors are used interchangeably when discussing various components of steel pallet racking. The Commissioner therefore considers that the reference in the goods description to *parts thereof, assembled or unassembled* captures all of the components that Schaefer and One Stop have referred to in their submissions.

During the course of the investigation, the Commission identified that some components of steel pallet racking used in particular projects are manufactured and sourced from different countries.<sup>179</sup> As described above, the description of the goods captures the component parts of steel pallet racking. This means that steel pallet racking components that are imported from multiple Chinese and Malaysian sources, also fall within the scope of the goods description.

#### HDSS

The Commissioner considers that the type of HDSS referred to by Bunnings is covered by the goods description as detailed below. Since the publication of the SEF, the Commission has reviewed the material it gathered during the investigation and undertaken further research into HDSS sold in the Australian market and what components are included in HDSS.

Bunnings' submission refers to particular decisions made by the Administrative Appeals Tribunal in support of its claim that, an objective assessment of the normal and predominate use of the goods is the test that must be conducted to determine if goods are captured by the goods description.<sup>180</sup> The submission makes particular reference to *Re Tridon Pty Ltd and Collector of Customs* [1982] AATA 119 (*Re Tridon*). However, the submission falls short of discussing all of the eight principles that are described in the decision, instead only focusing on three.<sup>181</sup> The Commission notes that reasoning set out in the decisions referred to, only relate to Schedule 3 to the *Customs Tariff Act 1987* as opposed to the collection of anti-dumping measures. The Commissioner considers that

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<sup>178</sup> Schafer's general catalogue and Dematic's catalogue refers.

<sup>179</sup> For example, beams may have been imported from China while braces and uprights may have been imported from Malaysia. Some Australian industry members imported beams from China and produced braces and uprights in Australia.

<sup>180</sup> [EPR 081](#)

<sup>181</sup> *Re Tridon Pty Ltd and Collector of Customs* [1982] AATA 119, 15(i),(iv),(vii).

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the principles described in *Re Tridon* are confined to the process of identification of goods similar to that considered by the Commission when making an assessment of like goods.

One of the mandatory requirements of a notice initiating an investigation is setting out the particulars of the goods the subject of the application.<sup>182</sup> In *GM Holden Limited v Commissioner of the Anti-Dumping Commission* [2014] FCA 708 the Court stated that the use of the term ‘particulars’ implies physical features of the goods. The Commissioner is of the view that ‘particulars’ relate to considerations of material composition, appearance and uses in a commercial and practicable sense.<sup>183</sup>

The Commission notes that Bunnings is an end user of steel pallet racking.<sup>184</sup> Bunnings confirms that the components of its HDSS systems do include uprights, beams and bracing that can be adjusted as described in the goods description.<sup>185</sup> The Commission has also observed that Bunnings does use HDSS solutions made of these components to store pallets.

Bunnings claims that HDSS predominantly uses step or shelf beams and that the design purpose of those beams is to hold shelves. The Commission has received no evidence to indicate that particular beams, uprights or braces are used in HDSS rather than pallet racking. The evidence before the Commission is that there are not discrete uses for the different types of beams produced for storage systems. For example, box beams can be used to store pallets but also be used as shelves to display certain products. Additionally, step beams can be used to hold shelves and also to store pallets.

The Commission has found that step beams can be and are used as part of the system that holds pallets. Step beams are generally described as roll formed components with a step along one edge. The step is used to hold any load support components such as pallet supports, shelves or wire decks. There is no evidence before the Commission that demonstrates that step beams are exclusively use in HDSS.

Dematic claims that pallets and other types of unit loads come in a range of sizes and weights and any beam of any shape is able to support these unit loads subject to correct structural design.<sup>186</sup>

Bunnings submitted that the height of HDSS uprights is limited to 4 metres for commercial and functional reasons whereas steel pallet racking can use uprights over 4 metres in height for the purpose of storing palletised goods. This was evident in the Commission’s visit to one of the Bunnings retail stores based in Canberra.<sup>187</sup> For the purpose of this investigation, uprights of heights *up to* 12 metres, including uprights of 4 metres or below, fall within the goods description. No evidence has been provided to the Commission to support Bunnings’ argument that there are minimum heights for pallet racking structures.

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<sup>182</sup> Subsection 269TC(4)(a), see ADN 2017/161 for the description.

<sup>183</sup> *GM Holden Limited v Commissioner of the Anti-Dumping Commission* [2014] FCA 708 [124].

<sup>184</sup> See also [EPR 085](#) – Jonathan Xie also confirms that pallet can be stored in HDSS solutions.

<sup>185</sup> Bunnings submission, [EPR 081](#), p. 6.

<sup>186</sup> [EPR 089](#)

<sup>187</sup> [EPR 064](#)

Adjusted as required

Abbott Storage's submissions<sup>188</sup> state that its particular steel pallet racking components fall outside the goods description because they cannot be adjusted to any dimensions desired, and therefore cannot be adjusted as required. BHD Storage Solutions, Global<sup>189</sup>, Industor Pty Ltd trading as Industor Industrial Solutions<sup>190</sup>, Instant Racking, The Trustee for SNC Family Trust trading as Modular Storage Systems<sup>191</sup>, Tong Li Logistic Equipments Co., Ltd.<sup>192</sup>, Jracking Group and One Stop made similar claims in their submissions.

Abbott Storage's submissions primarily focus on the particular end use of its pallet racking as opposed to the characteristics and features of its pallet racking.

The Commission has viewed Abbott Storage's brochure for 'Selective Pallet Racking' and its pallet racking products do consist of uprights, beams and bracing that can be adjusted.<sup>193</sup> These adjustments are incremental based on the spacing of the slots in the uprights and, while not infinitely adjustable, are able to be adjusted to a high degree. This allows the end user to adjust the pallet racking as required to meet the requirements of their particular needs.

The Commission considers that any steel pallet racking components that are adjustable as required, regardless of whether an item is limited in its adjustability, fall within the scope of the goods description.

Generic nature of component parts

Global claims that the Commission's investigation is invalid on the basis that the goods being investigated do not fully meet the goods description. Global states that 'beams, uprights and posts' are generic parts and are not used solely for use in pallet racking structures.<sup>194</sup>

The Commissioner agrees that the beams, uprights and posts covered by the goods description are used in a range of racking and storage solutions. The fact that these components can and are used in a range of racking structures does not affect the validity of the goods description or the range of components covered under the description. Furthermore, the goods description does not mandate compliance with the Australian Standard AS4084-2012. While the Commission considers that completed steel pallet racking systems are required to meet this standard when assembled, individual parts are not subject to this standard.

#### **4. Like goods assessment**

Having established the scope of the goods the subject of the application, the Commissioner has considered whether the locally manufactured product is like to the goods the subject of the application. Dematic provided information on the physical,

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<sup>188</sup> [EPR 070](#), [EPR 071](#), [EPR 072](#), [EPR 078](#) and [EPR 088](#)

<sup>189</sup> [EPR 098](#)

<sup>190</sup> [EPR 100](#)

<sup>191</sup> [EPR 099](#)

<sup>192</sup> [EPR 101](#)

<sup>193</sup> Accessed via Abbott Storage's website at 12.00pm on 18 December 2018

<https://www.abbott-group.com.au/products/racking-systems/selective-pallet-racking>

<sup>194</sup> [EPR 079](#)

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commercial, functional and production likenesses between imported steel pallet racking and steel pallet racking manufactured by the Australian industry in its application as detailed below:

### *i. Physical likeness*

Dematic submitted in its application that the steel pallet racking it manufactures has a physical likeness to the goods exported to Australia from China and Malaysia. The locally produced steel pallet racking is manufactured to meet the Australian Standard AS4084-2012 once it is assembled. The Commission confirmed that imported steel pallet racking is represented in the Australian market as being AS4084-2012 compliant when assembled.

Furthermore based on information gathered during the course of the investigation, the Commission considers imported and locally produced steel pallet racking, have physical characteristics that are similar. These similar physical characteristics include size, appearance, structure, stated standards, strength and the ability to provide storage for pallets.

### *ii. Commercial likeness*

Dematic submitted in its application that locally produced steel pallet racking competes directly with imported steel pallet racking from China and Malaysia. Information provided by the applicant and importers regarding tenders indicates that steel pallet racking buyers are willing to switch between Australian made and imported steel pallet racking.

The Commissioner is satisfied that the Australian made and imported steel pallet racking is commercially alike on the basis that these directly compete in the same markets.

### *iii. Functional Likeness*

In its application, Dematic claims that locally produced steel pallet racking and imported steel pallet racking has comparable or identical end-uses.

The Commission notes that steel pallet racking is used primarily for the storage of palletised goods. During the course of the investigation, the Commission became aware that some components of the steel pallet racking such as step beams can be configured to hold a range of goods, and each of the components when configured can hold pallets.

The Commissioner is satisfied that imported and Australian made steel pallet racking is functionally alike.

### *iv. Production Likeness*

Dematic submitted in its application that locally produced steel pallet racking and imported steel pallet racking are manufactured in a similar manner and via similar production processes.

During the Commission's verification visits to Australian producers and to exporters of the goods from China and Malaysia, it was observed that the Australian and imported steel pallet racking are produced in a similar manner. It was also noted that Australian producers and the Chinese and Malaysian exporters use similar raw materials in the production process.

#### **4.1. Submissions in relation to like goods**

Submissions were received from the following interested parties:

- Bunnings;
- One Stop; and
- TWB Engineering Solutions Pty Ltd (TWB Engineering).

The Commission has summarised the claims in these submissions as follows:

- Australian industry does not produce like goods to One Stop, for the following reasons:<sup>195</sup>
  - Physical likeness – One Stop’s goods are different due to the dimensions of component parts, as well as stylistic differences in the connecting elements of those component parts;
  - Commercial likeness – Colby<sup>196</sup> goods are only available through a single commercial channel (Dematic);
  - Functional likeness – Colby goods have less situational flexibility than the imported range of goods (i.e. “*Colby frames cannot be flipped*”). This difference in flexibility results in differences in long term cost considerations for end users;
  - Production likeness – the goods are different due to differences in safety load ratings between imported goods and Australian produced goods.
- the Australian industry does not produce ‘like goods’ within itself, due to a lack of interchangeability between components made by different companies.<sup>197</sup> For example, a beam with diamond shaped connectors can only be used in a pallet racking system with diamond shaped locking on its uprights. A lack of interchangeability between steel pallet racking brands limits the options for end users with regards to repairs and expansion of their installations;
- HDSS is not ‘like goods’ to ‘steel pallet racking’ for the following reasons:<sup>198</sup>
  - Physical likeness – HDSS and steel pallet racking systems have different design considerations, loading/unloading methods, and componentry;
  - Commercial likeness – HDSS does not compete with steel pallet racking for functional use, and there is not price competition;
  - Functional likeness – HDSS and steel pallet racking systems are different products and used in different ways;
  - Production likeness – Bunnings accepts that production of uprights, beams and bracing may be similar between HDSS and steel pallet racking, however, it claims the other components necessary to display goods on HDSS then distinguishes HDSS from steel pallet racking; and
  - Steel pallet racking and HDSS utilise different types of beams that are not interchangeable as the beams have different physical, commercial, functional and production characteristics.

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<sup>195</sup> [EPR 077](#)

<sup>196</sup> ‘Colby’ is the brand name of the steel pallet racking manufactured by Dematic

<sup>197</sup> [EPR 054](#), [EPR 056](#), [EPR 081](#) and [EPR 085](#)

<sup>198</sup> [EPR 081](#) and [EPR 085](#)

#### **4.2. The Commissioner's assessment**

The Australian Industry visits and completed exporter and importers visits as part of the investigation have demonstrated that all steel pallet racking is formed using three main components, namely uprights, braces and beams. While there are variations in each of these components that encompass different sizes and shapes, these variations do not detract from the likeness of the core components.

The Commission recognises that steel pallet racking components supplied by different manufacturers under different brand names in the Australian market can have different designs and structures, including unique interlocking design patterns. Consequently, the various components of different brands of steel pallet racking may not always be interchangeable.

The Commission also recognises that HDSS systems do include uprights, beams and bracing that can be adjusted as described in the goods description. The Commission has also observed that Bunnings does use HDSS solutions made of these components to store pallets.

As discussed above, the Commission has received no evidence to indicate that particular beams, uprights or braces are used in HDSS rather than pallet racking. The step is used to hold any load support components such as pallet supports, shelves or wire decks. There is no evidence before the Commission that demonstrates that step beams have a predominant use in HDSS.

In assessing what are like goods, the Commissioner is required to assess whether the Australian industry produces like goods to the goods the subject of the application, as a whole. The Commissioner considers that parts of steel pallet racking are appropriately included in the description of the goods. Therefore, all components of pallet racking produced by the Australian industry are like goods, whether or not they are readily interchangeable with the importers' brands.<sup>199</sup>

#### **4.3. Preliminary findings - Like goods**

Having regard to the above, the Commissioner considers that steel pallet racking produced locally by the Australian industry members is like to the imported goods, and possesses the same essential characteristics as the imported steel pallet racking.

### **5. Exemption from dumping duty**

In accordance with subsection 8(7)(a) of the *Customs Tariff (Anti-Dumping) Act 1975* (Dumping Duty Act) the Minister may exempt goods from interim dumping duty and dumping duty if satisfied *'that like or directly competitive goods are not offered for sale in Australia to all purchasers on equal terms under like conditions having regard to the custom and usage of trade.'*

Based on the assessment of the information and submissions received by the Commission, at this stage, the Commissioner does not propose to recommend that the Minister exempt any type of steel pallet racking system, or component or part thereof.

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<sup>199</sup> Subsection 269T(1)

## NON-CONFIDENTIAL APPENDIX 3 – ASSESSMENT OF A PARTICULAR MARKET SITUATION – CHINA

### 1. Introduction

This appendix sets out the Commissioner's assessment of the Australian industry's claim that there was a situation in the steel pallet racking market in China during the investigation period such that domestic sales in that market were not suitable for determining normal values under subsection 269TAC(1).

### 2. Applicant's Claims

In its application, Dematic claimed that a particular market situation exists in respect of steel pallet racking. Steel pallet racking is manufactured using the major raw input material HRC. Dematic claims that the price of HRC in China is influenced by the GOC.<sup>200</sup> It claims that distortions to the HRC market in China caused by the government influence renders sales of steel pallet racking in that market unsuitable for determining normal values under subsection 269TAC(1).

Dematic referred to the Commission's previous findings in relation to HRC prices in China where the Commissioner found that, due to distortions in the market for HRC, a particular market situation rendered domestic selling prices for the value-added products unsuitable for the determination of normal values. Specifically, Dematic referred to the following Commission investigations and findings in relation to steel products where the Commissioner found a particular market situation existed:

- Investigation No. 177 (2012) HSS;
- Reinvestigation No. 203 (2013) HSS;
- Investigation No. 190 (2013) Aluminium zinc coated steel and galvanised steel;
- Investigation No. 193 (2015) Aluminium zinc coated steel and galvanised steel; and
- Continuation Inquiry No. 379 (2017) HSS.<sup>201</sup>

To substantiate its claims in relation to a particular market situation for steel pallet racking, Dematic provided HRC price comparisons between China and other Asian countries demonstrating that the bare (black) HRC selling prices in China, during the financial year 2016/17, were approximately \$192 per metric tonne below the combined average domestic selling prices of HRC in Japan, South Korea and Taiwan. In addition, the price of galvanised HRC in China was approximately \$218 per metric tonne below the combined average domestic selling prices of Japan, South Korea and Taiwan during the same period.

Based on these comparisons and the previous findings of the Commission, Dematic claims that artificially low Chinese HRC prices influence the prevailing domestic selling

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<sup>200</sup> The GOC refers to all levels of government in China, unless otherwise specified. Similarly, the Commission has referred to Chinese state owned enterprises and state invested enterprises collectively as SOEs. The Commission has adopted this approach as it considers the GOC has the ability to directly influence decision making in a similar fashion within these two types of entities

<sup>201</sup> Details of these investigations are available on the Commission's website.

prices of steel pallet racking in China and, therefore, Chinese steel pallet racking prices are not suitable to determine normal values under subsection 269TAC(1).

### **3. Legal framework and information relied upon**

Subsection 269TAC(2) provides for circumstances where the normal value of goods cannot be ascertained under subsection 269TAC(1) including where “because the situation in the market of the country of export is such that sales in that market are not suitable for use in determining a price under subsection 269TAC(1)”.<sup>202</sup> If a particular market situation exists in a country, normal values may instead be constructed under subsection 269TAC(2)(c) or determined by reference to prices from a third country under subsection 269TAC(2)(d).

In considering whether sales are not suitable for use in determining a normal value under subsection 269TAC(1) because of the situation in the market of the country of export, the Commissioner may have regard to factors such as:

- whether the prices are artificially low; or
- whether there are other conditions in the market that render sales in that market not suitable for use in determining prices under subsection 269TAC(1).

Government influence<sup>203</sup> on prices or input costs could be one cause of artificially low pricing. In assessing whether a particular market situation exists due to government influence, the Commission assesses whether government involvement in the domestic market has materially distorted market conditions. If market conditions have been materially distorted, then domestic prices may be artificially low or not substantially the same as they would be in a competitive market.

Prices may also be artificially low or lower than they would otherwise be in a competitive market due to government influence on the cost of inputs. The Commission looks at the effect of any such influence on market conditions and the extent to which domestic prices can no longer be said to prevail in a normal competitive market.

The Manual provides further guidance on the circumstances in which the Commissioner may find a particular market situation exists.<sup>204</sup>

#### **3.1 Evidentiary threshold**

When relevant and reasonably reliable prima facie evidence supporting the proposition that there is a particular market situation is set out in the application, and an investigation is initiated, the Commissioner:

- notifies relevant government(s) and exporters of the claims and of the evidence provided and seeks further information from such governments and exporters; and
- if the relevant government(s) and exporters fail to respond, or do not provide probative evidence in response, all available evidence is weighed up, including prima facie evidence contained in the application.<sup>205</sup>

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<sup>202</sup> Section 269TAC(2)(a)(ii) is Australia’s implementation of Article 2.2 of the WTO *Anti-Dumping Agreement*.

<sup>203</sup> from any level of government (such as local, provincial etc).

<sup>204</sup> The Manual, p36.

<sup>205</sup> The Manual, p37.



### **3.2 Information relied upon**

In undertaking assessment of a particular market situation, the Commissioner considered the following:

- Dematic's application for a dumping duty notice;
- previous market situation assessments undertaken by the Commission;
- responses to the exporter questionnaire by selected exporters; and
- research, including information obtained from departmental resources and third party information providers.

Following the initiation of the investigation, the Commission provided the GOC with a government questionnaire seeking specific information in relation to the particular market situation claim in the application. The GOC did not provide a response to the government questionnaire.

## **4. Approach to assessing a particular market situation**

In line with its legislative requirements, the Commission's particular market situation assessments are undertaken at the level of the goods being investigated.

The major raw material identified for steel pallet racking is HRC. HRC accounts for a significant proportion of the cost to make steel pallet racking, and therefore the Commission considers that distortions in the HRC market have a substantial impact on the prices paid for these goods. Accordingly, the Commission in assessing the particular market situation claims, has considered conditions within the Chinese HRC market.

The Commission has also given consideration to conditions within the broader Chinese steel industry. This approach was adopted due to the lack of available information concerning certain aspects of the Chinese steel pallet racking and HRC markets, which was, in part, due to the GOC's decision not to provide any information to the Commission. Noting that HRC was the most exported steel product worldwide, accounting for more than 18 per cent of all global steel exports between 2011 and 2016<sup>206</sup> and is a key input into the production of a number of different steel products, the Commission considers that conditions within the broader Chinese steel industry are likely to be representative of conditions affecting the HRC market.<sup>207</sup>

### **4.1 Previous findings**

A number of past dumping investigations by the Commission has found that a particular market situation exists in relation to steel and steel related products in China. The following cases are particularly relevant to this investigation, as these products examined HRC as the major raw material input for these steel products:

- Investigation No. 177 (2012) - Hollow Structural Sections;
- Investigation No. 190 (2013) - Galvanised and Aluminium Zinc Coated Steel;
- Reinvestigation No. 203 (2013) - Hollow Structural Sections;
- Continuation Inquiry No. 379 (2017) - Hollow Structural Sections; and
- Review Nos. 456/457 (2018) - Galvanised and Aluminium Zinc Coated Steel

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<sup>206</sup> Own calculations from World Steel in Figures 2017, p.25 available at: <http://www.orissaminerals.gov.in/Download/World%20Steel%20in%20Figures%202017.pdf>

<sup>207</sup> [World Steel](#) in Figures 2017, p.25

## 5. The GOC influence in Chinese steel markets

The Commissioner considers the GOC's involvement in the Chinese steel industry to be a primary cause of the prevailing structural imbalances within both the broader steel industry and the HRC market. Some of the examples of the GOC's involvement in the steel market includes the GOC's planning guidelines and directives along with provisions of direct and indirect financial support.<sup>208, 209</sup>

The Organisation for Economic Co-operation and Development (OECD) reported that between 2006 and 2015, Chinese steelmaking capacity more than doubled, from 488 million metric tonne (mmt) to 1,150 mmt<sup>210</sup>. Over the past decade the Chinese steel industry experienced significant investment and expansion of production capacity.

The OECD Economic Survey of China for 2017 states that China's adjustment towards lower but higher-quality growth urgently requires a reduction of overcapacity and a shift towards more efficient and less energy-intensive production through market-oriented mechanisms<sup>211</sup>. The Report states that a number of industries are affected by excess capacity, including steel and coal. It claims that the overcapacity reduces corporate profits, weighs on enterprise investment and absorbs resources that could be used more efficiently elsewhere, thereby constraining potential growth. The OECD report also notes that measures to eliminate capacity taking into account different levels of technology, energy efficiency, emissions and other criteria are, however, challenging to operationalise.

In drawing conclusions regarding the GOC's involvement in the distortion of Chinese steel markets, the Commissioner also recognises the GOC's recent attempts to restructure and reorganise the industry to manage excess capacity, oversupply and environmental concerns. While noting these efforts are targeted at correcting current imbalances and resulting distortions, the Commissioner considers them to be further evidence of the extent of distortions and the GOC's involvement within and influence over the broader steel industry in China. Examples of these capacity management measures include the tightening of bank lending to smaller mills; industry consolidation through mergers and acquisitions; and the use of stricter environmental requirements to forcibly shut down capacity.

While the Commission notes that the growth in steel production has come from a combination of state owned and privately owned steel producers, the Commission holds that both types of producers have received significant assistance from the GOC.

The Commission is aware that some of the specific initiatives announced in recent years to address these imbalances include the following:

- the Central Government's 'supply-side reform' initiative;
- advice on addressing excessive capacity and relieving hardship for the steel industry';

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<sup>208</sup> Support measures include stimulus programs, land and energy subsidies and soft lending policies.

<sup>209</sup> Duke Centre on Globalisation, Governance & Competitiveness (Duke Centre), 2016. *Overcapacity in Steel: China's role in a global problem*, September 2016, p24.

<sup>210</sup> Recent developments in steelmaking capacity, OECD 2018

<sup>211</sup> OECD Economic Surveys: China 2017 p62

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- ‘the opinions of the State Council on reducing overcapacity in the Iron and Steel Industry’;
- proposals that SOE capacity be reduced by 100 to 150 million tonnes by 2020, via the banning of new steel projects and elimination of ‘zombie mills’<sup>212</sup>;
- in 2016 the central government also pledged a RMB 100 billion fund for employee compensation, social security payments, and plant closure incentives in the coal and steel sectors<sup>213</sup>; and
- the ‘opinions of the State Council on reducing overcapacity in the Iron and Steel Industry’ strictly forbids the registration of new production capacity in any form and demands that any production that does not meet environmental, energy consumption, quality, safety or technical standards be taken offline<sup>214</sup>.

In citing the GOC’s ongoing interventions within the domestic steel industry, it is the Commissioner’s view that to date these attempts to address existing structural imbalances, have had limited success. Constraints on the effectiveness of these initiatives not only relate to the extent of the imbalances but also the difficulties in coordinating activities between central, provincial and local levels of government. The resistance of provincial and local governments to closing down mills relates to their role as major employers, sources of tax revenue and providers of social services within their respective regions. Specific examples of these issues include the reliance of their tax systems on business revenue (including production based VAT) and GDP oriented performance measures which encourage over investment in capacity<sup>215</sup>.

The effectiveness of the GOC’s attempts to address overcapacity has also been constrained by its desire to promote the replacement of older mills with new larger and more efficient mills. It is the Commissioner’s view that while this initiative is likely to improve the industry’s structure over the longer term, its current impact has been to increase production and exacerbate the existing structural imbalances. The difficulties faced by the GOC in achieving these objectives are also reflected in the reality that many smaller mills need to be shut down to offset the commissioning of new larger mills and the difficulties in ensuring that once mills are closed, they are not brought back on line as market conditions improve<sup>216</sup>.

An example of these issues is demonstrated in the context of Baosteel (*now China BAOWU Steel Group*) which while indicating in 2016 that it would mothball 2.5 million tonnes of capacity as part of its plan to address overcapacity, commissioned 9 million tonnes of new capacity at its Zhanjiang facility. The GOC’s attempts to remove unprofitable capacity from the steel industry has also been constrained by the significant presence of ‘zombie mills’ which under normal competitive market conditions would be shut down due to either poor profitability or insolvency. The challenges posed by these issues are also evident in commentary by the China Iron and Steel Association which expects the ‘shake out’ of the industry to take at least a decade and states that Chinese

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<sup>212</sup> Liu. H & Song. L, 2016, pp338-339. AME Group, 2016. Steel 2016: June Quarter, Strategic Market Study. 2016, Q2. p9.

<sup>213</sup> Duke, 2016, p29.

<sup>214</sup> KPMG, 2016. The 13th 5 Year Plan: China’s Transformation and Integration with the World Economy, p29. Sourced from ‘State Council Guiding Opinions on Reducing Overcapacity in the Iron and Steel Industry’, State Council, 4 February 2016.

<sup>215</sup> Duke, 2016, p38.

<sup>216</sup> Liu. H & Song. L, 2016, p357.

mills were in no hurry to consolidate despite the government's attempts to encourage mergers and acquisitions<sup>217</sup>.

The Commissioner considers that some of the mechanisms through the GOC has distorted conditions within the Chinese steel industry, including the demand for and markets for major raw materials, are;

- the role and operation of SOEs.
- industry planning guidelines and directives.
- the provision of direct and indirect financial support.
- taxation and tariff policies.

### **5.1 Role of State Owned Enterprises**

In a recent document published by the European Commission, the European Commission noted that Chinese SOEs represent approximately 49 per cent of total Chinese steel production<sup>218</sup>. It is the Commissioner's view that these entities continue to receive significant direct and indirect financial support from central, provincial and local levels of government as a means to increase tax revenues, expand employment and maintain social stability.

The World Bank has found that state enterprises have close connections with the GOC. SOEs are more likely to enjoy preferential benefit such as access to bank loans at preferential terms and conditions (including reduced interest rates) and access to other key raw material inputs, access to business opportunities, and protection against competition to name a few.<sup>219</sup>

While the Commission does not consider that the presence of these entities alone causes markets distortions, it does consider that their presence increases the likelihood that the GOC's plans and directives will be adhered to. The Commission also considers that the support provided to these entities by the GOC has enabled many of them to be operated on non-commercial terms (operating at losses) for extended periods, significantly impacting supply and pricing conditions within the domestic Chinese market.<sup>220</sup>

Some of the examples that support these mechanisms include government subsidies, support from associated enterprises (through direct subsidy, interest-free loans or provision of loan guarantees) and loans from state-owned banks.<sup>221</sup>

The Commissioner considers these mechanisms have supported the rapid expansion of steel production capacity in the SOE segment, in spite of repeated attempts by the Central Government to reduce the scale of steel production. It is also the Commissioner's view that these support mechanisms have created rigidities in the way recipient firms

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<sup>217</sup> Platts, 2016. Global Market Outlook, Steel Business Briefing. March 2016 p15.

<sup>218</sup> European Commission (2017). *Commission staff working document on significant distortions in the economy of the People's Republic of China for the purposes of trade defence investigations*, SWD(2017) 483 final/2, Brussels, p. 358,

<sup>219</sup> World Bank, *China 2030: Building a Modern, Harmonious, and Creative Society*, Report No. 96299 (March 2013), p25.

<sup>220</sup> Anti-Dumping Commission, *Analysis of Steel and Aluminium Markets Report to the Commissioner of the Anti-Dumping Commission August 2016* (Commissioner's Steel Report), p47.

<sup>221</sup> Liu. H & Song. L, 2016, p348.

respond to price and profit signals and hence have significantly contributed to the excessive investment in capacity, excess steel production and distorted prices.

The significance of SOEs to the broader Chinese economy, including the steel industry, is also reflected in the State Council of China's recent *Guidance on the Promotion of Central Enterprises Restructuring and Reorganisation* (the *Guidance*).<sup>222</sup> In introducing the *Guidance*, the State Council notes the important role of SOEs in actively promoting structural adjustment, optimisation of structural layout and quality improvement within the Chinese economy. The *Guidance* also indicates that the State Council will deepen reform of SOE policies and arrangements to optimise state owned capacity allocation, promote transformation and upgrading. Details concerning the promotion of central enterprises restructuring and reorganisation include the 'safeguard measures' theme, the strengthening of the organisation and leadership of SOEs, strengthening of industry guidance, increased policy support and improved support measures more generally.

While there is limited transparency about the operations of Chinese state-owned corporations, the Commissioner understands that these companies can receive loans at less than commercial rates, that dividend policies can be set to pursue government objectives and that extended periods of loss-making may be tolerated—all of which reduce the normal commercial pressures for companies to operate efficiently and for poorly performing firms to cut back or cease operations.<sup>223</sup>

Analysis by the OECD indicates that some SOEs in the steel industry continue to receive preferential lending from state owned banks, despite the significant overcapacity within the sector.<sup>224</sup> An SOE's decision about levels of production are often based on broader political goals as opposed to market signals.<sup>225</sup>

## **5.2 Industry planning guidelines and directives**

The Commissioner considers that the GOC's involvement within the Chinese steel industry, through its planning guidelines and directives also materially contributed to its overcapacity, oversupply and distorted structure during the investigation period. The extent of this involvement is reflected through the numerous planning guidelines and directives regarding the industry's structure and composition.

The World Steel Association estimates that more than 320 steel-related policies and measures were implemented by the GOC between 1990 to 2016, of which about half were aimed at capacity control.<sup>226</sup> In noting that some of the listed documents are now dated, the Commission considers that this further demonstrates long term involvement of the GOC within the Chinese steel industry and hence it's central role in contributing to the structural imbalances and distorted prices, including for steel material inputs.

- National Steel Industry Development Policy (2005).

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<sup>222</sup> State Council issues guideline on reorganization of SOEs, [http://english.gov.cn/policies/latest\\_releases/2016/07/26/content\\_281475402145108.htm](http://english.gov.cn/policies/latest_releases/2016/07/26/content_281475402145108.htm).

<sup>223</sup> Anti-Dumping Commission, *Analysis of Steel and Aluminium Markets Report to the Commissioner of the Anti-Dumping Commission August 2016*, p. 47.

<sup>224</sup> Kowalski, P. and Rabaioli, D. (2017). *Bringing together international trade and investment perspectives on state enterprises*, OECD Trade Policy Papers, No. 201, OECD, p. 18.

<sup>225</sup> European Union Chamber of Commerce in China, *Overcapacity in China: An Impediment to the Party's Reform Agenda* (2016), p. 10.

<sup>226</sup> DBS Asian Insights, China's steel sector supply reform, April 2017 p4.

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- Blueprint for the Adjustment and Revitalisation of the Steel Industry (2009).
- 2011-2015 Development Plan for the Steel Industry (2011).
- Steel Industry Adjustment Policy (2015 Revision).
- Advice on Addressing Excessive Capacity and Relieving Hardship for the Steel industry (2016).
- The Opinions of the State Council on Reducing Overcapacity in the Iron and Steel Industry of Gain Profit and Development (2016).
- The Iron and Steel Industry Adjustment and Upgrade Plan (2016-2020)

In addition to the planning guidelines and directives listed above, the GOC's involvement within the steel industry is also demonstrated through broader industrial restructuring and reorganising directives listed below.<sup>227</sup>

- Notice of Several Opinions on Curbing Overcapacities and Redundant Constructions in Certain Industries and Guiding the Healthy Development of Industries (2009).
- Guiding Opinions on Pushing Forward Enterprise Mergers & Acquisitions (M&A) and Reorganisation in Key Industries (2013).
- Guiding opinions on Resolving Serious Excess Capacity Contradictions (2013).
- Directory Catalogue on Readjustment of Industrial Structure (2013 Amendment).
- Guidance on the promotion of central enterprises restructuring and reorganisation (2016).

Chinese steel industries are often governed by government policy directives. For example, the *Standard Conditions of Production and Operation of the Iron and Steel Industry* ('the standard conditions') serve as 'the basic conditions for production and operation of...[the] industry'. It sets out the requirements of steelmakers, for example in relation to product quality and production requirements. Firms are incentivised to comply with the standard conditions, as doing so provides the basis for policy support. In contrast, firms that do not conform are required to reform, and if they still fail to conform, must gradually exit the market.<sup>228</sup>

"Another example is the National Mineral Resource Plan (2016-2020), which provides 'indicative targets' for the level of production of one set of resources (including oil, gas, coal, iron ore, and various nonferrous metals) and 'binding targets' for the level of production of tungsten and rare earths"<sup>229</sup>.

As recently as 2016, the GOC presented a framework for granting or denying market entry in 12 product categories of which one is some primary materials including iron ore and nonferrous metals (*State Council Notice on Announcing the Catalogue of Government Approved Investment Projects 2016 Edition*)<sup>230</sup>.

The 13th Five Year Plan for Mineral Resources (2016 – 2020) identifies that one of the problems in the sector is '[relatively numerous] government interventions in resource

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<sup>227</sup> These directive are targeted at multiple industries including the Chinese steel industry.

<sup>228</sup> *Announcement on the Standard Conditions for the Iron and Steel Industry* (Revised 2015).

<sup>229</sup> *United States Department of Commerce (US DOC), China's Status as a Non-Market Economy, 2017. Page 121*

<sup>230</sup> *United States Department of Commerce (US DOC), China's Status as a Non-Market Economy, 2017. Page 132*

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*allocation [and] market principles applicable to mining rights are not comprehensive, the modern mining market system is not yet complete [...]*<sup>231</sup>.

This plan highlights for iron ore: ‘*Stabilize the domestic supply capacity, set up iron ore bases and ensure guidance of local resources to concentrate them towards large-sized mining groups in Anben, Jidong, Panxi, Baobai, Xinzhou-Luliang, Ningwu and Lucong; build a number of new large-sized mines; promote a fair tax burden; reduce the burden on iron ore enterprises; not build new open air iron ore mines with a yearly production below 200 000 tonnes or underground iron ore mines with a yearly production below 100 000 tonne*’<sup>232</sup>

### Relevance and enforceability of planning guidelines and directives

In assessing the relevance of these planning guidelines and directives, the Commission notes the importance of the GOC’s national five year plans which provide the overarching framework for the industry and local government plans. Regarding industry specific planning guidelines and directives, the Commission notes that in previous investigations, the GOC’s stated that they are for guidance only and are not enforceable.

Mechanisms through which the Commissioner considers the GOC is able to enforce these guidelines and directives include the presence and role of SOEs within the broader steel industry, the role of the National Development and Reform Commission (NDRC) and explicit enforcement mechanisms. In regards to SOEs, their significant share of total Chinese steel production and propensity to follow government guidance and directives ensures the GOC is able to influence broader trends in industry capacity and steel production.

Similarly, the NDRC through its dual role of developing planning guidelines and directives and approving large scale investment projects, has the capacity to ensure that the broader objectives of the central government are implemented. Explicit enforcement mechanisms detailed within directives, such as the State Council notice on ‘*further strengthening the elimination of backward production capabilities and guidelines*’, includes:

- revoking of pollutant discharge permits;
- restrictions on the provision of new credit support;
- restrictions on the approval of new investment projects; and
- restrictions on the issuing of new and cancelling of existing production licenses.

### Summary of themes, objectives and implementation

Key themes and objectives of major government planning guidance and directives used to influence the structure of the Chinese steel industry are listed below.

#### *2011-2015 Development Plan for the Steel Industry (2011)*

- Increased mergers and acquisitions to create larger, more efficient steel companies.
- Chinese Government restrictions of steel capacity expansions.
- Upgrading steel industry technology.
- Greater emphasis on high-end steel products.

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<sup>231</sup> 13th FYP for Mineral Resources, Section I-2.

<sup>232</sup> European Commission (EC), Commission staff working document on significant distortions in the economy of the People’s Republic of China for the purposes of trade defence investigations, 2017.

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- Relocation of iron and steel companies to coastal areas.
- Minimum capacity requirements to reduce the number of small steel producers.
- Increased controls on the expansion of steel production capacity.
- Accelerating the development of higher value steel products.

### *Guiding Opinions on Pushing Forward Enterprise M&A and Re-organisation in Key Industries (2013)*<sup>233</sup>

- Top ten companies accounting for 60 per cent of production.
- Three to five major steel corporations with core competency and international impact.
- Six to seven steel corporations with regional influence.
- Encouraging steel corporations to participate in foreign steel companies' M&A.

### *Steel Industry Adjustment Policy (2015 Revision)*

- Upgrading product mix.
- Rationalising steel production capacity.
- Adjustments to improving organisational structures.
- Energy conservation, emission reductions, environmental protection.
- Production Distribution.
- Supervision and administration.
- Guiding market exit.
- Methods of, orientation and oversight of mergers and reorganisations.
- Consolidate number of steel companies.
- Lift capacity utilisation rates to 80 per cent by 2017.

### *Circular of the State Council on Accelerating the Restructuring of the Sectors with Production Capacity Redundancy*

- Promoting of economic restructuring to prevent inefficient expansion of industries that have resulted from blind expansion.
- Intensify the implementation of industrial policies related to the iron and steel sector to strengthen the examination thereof and to improve them in practice.

### *State Council Guidance on the Promotion of Central Enterprises Restructuring and Reorganisation*

- SOEs restructuring and reorganisation should serve national strategies, respect market rules, combine with reforms, follow laws and regulations, and stick to a coordinated approach.
- State-owned capital should support SOEs, whose core businesses are involved in national and economic security and major national programmes, to strengthen their operations, and allow non state-owned capital to play a role, while ensuring the state-owned capital's leading position.
- Related departments and industries requested to steadily promote restructuring of enterprises in fields such as equipment manufacturing, construction engineering, electric power, steel and iron, nonferrous metal, shipping, construction materials,

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<sup>233</sup> <http://rhg.com/notes/beijings-2015-industry-consolidation-targets-problem-or-solution>



tourism and aviation services, to efficiently cut excessive overcapacity and encourage restructuring of SOEs.

*The Iron and Steel Industry Adjustment and Upgrade Plan (2016-2020)*

- Removal of 100 to 150 million tonnes of capacity between 2016 and 2020.
- Raising of capacity utilisation rates to 80 per cent by 2020.
- Further industry consolidation leading to 10 largest producers accounting for 60 per cent of production by 2020.

### **5.3 Direct and indirect financial support**

Chinese banks appear to be guided by government policies, as well as national economic and social development needs.<sup>234</sup>

Subsidies and tax concessions reduce the operating costs of Chinese steel enterprises, confer a competitive advantage through the ability to offer steel products at lower prices, and increase the profitability of steel production.<sup>235</sup>

The OECD has highlight price influences in the Chinese energy market. A 2015 report notes that energy prices “do not reflect the true social and environmental cost of production, making for a widespread misallocation of resources”.<sup>236</sup>

Examples of specific support programs provided to Chinese steel producers by the GOC, as identified by the American Iron and Steel Institute and the Steel Manufacturers Association, include preferential loans and directed credit, equity infusions and/or debt-to-equity swaps, access to land at little or no cost, government mandated mergers (permitting acquisition at little or no cost) and direct cash grants for specific steel construction projects.<sup>237</sup>

Similar programs have been previously identified by the Commission in respect of the Chinese steel industry. It is the Commission’s view that these programs have directly contributed to conditions within the Chinese steel industry during the investigation period by providing direct financial support to recipient steel producers.

### **5.4 Taxation arrangements**

The Commission has previously identified evidence of export taxes and export quotas on a number of key inputs in the steel making process including coking coal, coke, iron ore and scrap steel in *Anti-Dumping Commission Report No. 198*.<sup>238</sup> The Commission found that these measures would keep input prices artificially low and create significant incentives for exporters to redirect these products into the domestic market, increasing domestic supply and reducing domestic prices to a level below what would have prevailed under normal competitive market conditions.

The GOC has traditionally operated, amongst other taxation arrangements, a VAT and a VAT rebate system for certain exports. Under the Chinese VAT system, a 17 per cent tax

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<sup>234</sup> Article 34 of the Law of the People's Republic of China on Commercial Banks (2003).

<sup>235</sup> Anti-Dumping Commission, *Analysis of Steel and Aluminium Markets Report to the Commissioner of the Anti-Dumping Commission August 2016*, p. 45.

<sup>236</sup> OECD, *OECD Economic Surveys: China* (Paris: OECD Publishing, March 2015), p. 31.

<sup>237</sup> Duke Centre, op cit, p25.

<sup>238</sup> Concerning hot rolled plate steel exported from China, the Republic of Indonesia, Japan, the Republic of Korea and Taiwan; pp. 41-43.

is paid on consumption of goods, including the inputs used in the production of steel. For goods produced and sold within China, the tax is ultimately paid by the final consumers of the particular good. Because it is difficult for exporters to pass these taxes on, some steel exporters have traditionally been compensated for VAT paid during the production process through VAT rebates.

Through altering the VAT rebates and taxes applied to steel exports, the GOC is able to alter the relative profitability of different types of steel exports and of exports compared to domestic sales. For example, by either reducing VAT rebates or increasing export taxes on steel exports, the GOC is able to reduce the relative profitability of exports to domestic sales and hence provide significant incentives for traditional exporters to redirect their product into the domestic Chinese market. By using these mechanisms to alter the relative supply of particular steel products in the domestic market, the GOC is also able to influence the domestic price for those products.

The Commission sought information from the GOC on the existence and levels of import and export tariffs and quotas and VAT rebates applying to the following items related or potentially related to the production of steel pallet racking: iron ore; coking coal; coke; HRC; scrap metal; and steel pallet racking itself. The GOC did not respond to the Commission's questions.

In its response to the Commission in relation to another ongoing investigation<sup>239</sup>, the GOC advised that:

- the export tariff on coke (formerly 40 per cent) has been removed;
- an export quota on coke has been removed.

The GOC also advised that in 2017:

- there was an export tariff on iron ore of 10 per cent;
- there were import and export tariffs on coking coal of 3 per cent;
- there was an export tariff on scrap steel of 40 per cent.

The Commission considers that these GOC measures are likely to have contributed to distortions in the steel market in China. Due to the lack of a response from the GOC in this case, the Commission is unaware of the taxation arrangements for HRC and steel pallet racking and, in the absence of such information, assumes that such arrangements may have further distorted the Chinese steel market, and the Chinese market for steel pallet racking, in the investigation period.

## **6. Findings – A particular market situation**

The Commissioner has determined that the GOC has exerted influence on the Chinese steel industry, which has substantially distorted competitive market conditions in the steel industry in China. The GOC was able to exert this influence through its directives and oversight, subsidy programs, taxation arrangements and the significant number of SOEs.

The Commission's assessment and analysis of the available information indicates that the GOC materially influenced conditions within the Chinese HRC markets 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.

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<sup>239</sup> Case 466 – railway wheels from China and France

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The Commissioner considers that 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).

## NON-CONFIDENTIAL APPENDIX 4 – BENCHMARK FOR HRC COSTS – CHINA

### 1. Introduction

Having preliminarily determined that a particular market situation exists in the steel pallet racking market in China, such that sales of steel pallet racking in that market are unsuitable for normal value, the Commissioner considered whether it was appropriate and possible to construct normal values for certain Chinese exporters in accordance with subsection 269TAC(2)(c).

Section 43 of the Regulation requires that where an exporter keeps records in accordance with GAAP and those records reasonably reflect competitive market costs associated with the production or manufacture of like goods then the cost of production must be worked out using the exporter's records.

As discussed in the assessment of particular market situation, the Commissioner has determined that the HRC prices are influenced by the GOC involvement in the steel market. Based on the assessment of a particular market situation, the Commissioner also considers that HRC prices are significantly affected by GOC influences such that they do not reasonably reflect competitive market costs.

The Commissioner has therefore considered options for establishing competitive market costs of HRC in China for the purposes of constructing normal value under subsection 269TAC(2)(c).

### 2. Establishing a benchmark for HRC costs

The construction of normal value under s269TAC(2)(c) has been undertaken in accordance with the conditions of sections 43, 44 and 45 of the Regulation.

Section 43 requires that if an exporter keeps records in accordance with GAAP and those records reasonably reflect competitive market costs associated with the production of like goods then the cost of production must be worked out using the exporter's records.

Based on the assessment of a particular market situation, the Commission considers that HRC prices are significantly affected by GOC influences such that they do not reasonably reflect competitive market costs.

The three options for determining a benchmark, in order of preference based on World Trade Organisation (WTO) Appellate Body findings are:

- (i) private domestic prices;
- (ii) import prices; and
- (iii) external benchmarks.

#### (i) Private domestic prices

In a recent investigation, the European Commission (EC)<sup>240</sup> found that prices of hot rolled steel (HRS) and cold rolled steel (CRS)<sup>241</sup> in China are distorted. The EC also found that the prices of HRS and CRS of private sectors are aligned with the prices of

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<sup>240</sup> Refer section 4 'EC findings' of the Assessment of Market Situation Report.

<sup>241</sup> For the purpose of this report, abbreviations (i) HRS and HRC mean the same and are used interchangeably and (ii) CRS and CRC mean the same and are used interchangeably.

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SIEs. Taking this into account the EC concluded that there are no reliable market prices in China for HRS and CRS.

The Commission's assessment of data submitted by cooperating exporters in the galvanised steel and aluminium zinc coated steel investigations shows that there is no significant difference between HRC prices from SIE and private suppliers. In REP 177 the Commission also found that private prices of HRC were affected by government influence and therefore were not suitable.

Based on the above information, the Commission determined that private domestic prices of HRC in China are not suitable for determining a competitive market cost for HRC.

### (ii) Import prices

As discussed in Non-Confidential Appendix 3, the GOC did not provide a response to the government questionnaire and has not cooperated in this investigation. Therefore, the Commission does not have information to analyse HRC import volumes and values in relation to this investigation.

In its recent investigation, the EC stated that since the whole of the Chinese market is distorted (Proposal 2013/0052 refers) it is considered impractical to adjust cost and prices in China in any meaningful way and import prices would appear to be similarly distorted by the predominance of SOEs.

In REP 177 the Commission found that import prices were not suitable as a benchmark due to the lack of import penetration of HRC and the likelihood that import prices were equally affected by government influences on domestic prices.

Based on the above, the Commissioner considers that import prices are not suitable for determining a competitive market cost for HRC.

### (iii) External benchmarks

The Commissioner has, therefore, determined that an appropriate benchmark for HRC costs in China is the weighted average domestic HRC prices paid by cooperating exporters from Korea and Taiwan in Reviews 456 and 457, at comparable delivery terms to those observed in China.

As explained in Reviews 456 and 457, these markets are characterised by a number of producers, buyers and sellers of HRC in an environment which appears to be free from distortions caused by government or other interference.

#### *Cost of production in China*

To ensure that the costs used to establish the normal value is an amount that represents the costs of production in China, the Commission considered whether it is appropriate to adjust the HRC input costs for Korea and Taiwan to take into account any comparative differences between the positions of the producers in China, Korea and Taiwan.

The Commission is of the view that an adjustment for any comparative advantage or disadvantage in production costs would not be possible, particularly given the significant involvement of the GOC in relevant markets. The Commission also observes that no information or evidence on the subject was provided during the investigation. To calculate any differences, including those due to any comparative advantages or disadvantages, with any degree of accuracy would require the Commission to isolate and subtract the effect of the GOC's significant involvement in the Chinese steel market. The Commission considers that it would not be possible to isolate and quantify the effect of GOC

involvement in the relevant markets and to determine comparative advantages or disadvantages.

In *Dalian Steelforce Hi-Tech Co Ltd v Minister for Home Affairs [2015] FCA 885*, Nicholas J considered the treatment of a more general adjustment to benchmark prices, namely for a claimed Chinese comparative advantage in production of HRC. Nicholas J accepted the view of the Australian Customs and Border Protection Service's that such an adjustment was not practical, reasonable or warranted in that case and that the more reasonable approach was to use a benchmark that reflected an average price of HRC that did not include any adjustment for comparative advantage.

In the recent *Steelforce Trading Pty Ltd v Parliamentary Secretary to the Minister for Industry, Innovation and Science [2018] FCAFC20*, the Full Federal Court also found that the legislation did not include a mandatory requirement to adjust foreign pricing information for comparative advantages and disadvantages.

In relation to other differences that may exist in the comparative steel input costs, the Commission notes that Chinese steel pallet racking exporters purchased HRC from unrelated suppliers. Therefore, the Commission calculated a basis for the HRC benchmark cost using data from Reviews 456 and 457 only for HRC purchases from unrelated suppliers.

### **3. Adjustments to the HRC benchmark**

To ensure that the HRC costs used in establishing normal value were based on amounts that represent the cost of production in China during the investigation period, the Commissioner considers that it is appropriate to adjust the Korean and Taiwanese HRC costs to take into account the comparative differences between the producers of HRC in China, Korea and Taiwan. The Commissioner considers that it would not be possible to isolate and quantify the effect of GOC involvement in the relevant markets and to determine any comparative advantages and disadvantages.

The Commissioner sought to identify any differences in price that can be observed when comparing the prices paid for HRC by Chinese exporters examined in Reviews 456 and 457 and prices paid for HRC by Chinese exporters examined in this investigation. The Commission found that, in the investigation period, Chinese exporters of steel pallet racking paid significantly more for HRC than the Chinese exporters examined in Reviews 456 and 457.<sup>242</sup> The Commission considers this difference is likely to reflect a number of different pricing considerations relevant to HRC purchases in China, including:

- different grades and thicknesses of HRC;
- any slitting costs incurred before purchase;
- intermediary margins; and
- volume based price variations.

The Commission has therefore adjusted the HRC benchmark price determined in reviews 456 and 457 as discussed in section 6.6.2 of this report.

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<sup>242</sup> Calculated as a weighted average for the investigation period.