



ANTI-DUMPING NOTICE NO. 2019/16

Investigation number 441

**Alleged Dumping of Certain Steel Pallet Racking
Exported from the People's Republic of China and Malaysia**

**Further extension of time granted to provide
the Final Report to the Minister
and
Additional submission period**

Customs Act 1901 – Part XVB

Background

On 13 November 2017, I, Dale Seymour, the Commissioner of the Anti-Dumping Commission published a notice announcing the initiation of an investigation into the alleged dumping of certain steel pallet racking (the goods) exported to Australia from the People's Republic of China (China) and Malaysia.

A full description of the goods is available in Anti-Dumping Notice (ADN) No. 2017/161 (initiation notice) available on the Anti-Dumping Commission (Commission) website at www.adcommission.gov.au.

The initiation notice advised that a recommendation to the Minister would be made in a final report on or before 17 April 2018.

The Commission has since published four notices confirming extensions of time to publish the Statement of Essential Facts (SEF) and to provide the final report to the Minister (ADN Numbers 2018/34, 2018/79, 2018/134, and 2018/162 refer). Following the publication of the SEF on 5 November 2018, I granted two further extensions of time to provide the final report to the Minister (ADN 2018/189 and ADN 2019/14 refer) ,¹ with the final report being due to the Minister on or before 4 February 2019.

¹ [ADN 2018/189](http://www.adcommission.gov.au) and [ADN 2019/14](http://www.adcommission.gov.au)

Additional submission period

The Commission has received a large number of submissions in response to SEF 441. Due to the complex nature of some of the issues raised, I have decided to afford interested parties the opportunity to provide further submissions on two key aspects of the case: the goods and the like goods; and the level of interim dumping duty (IDD).

The goods and like goods

An issues paper outlining the Commission's current assessment of the goods and like goods is at **Attachment A** (and is also available on the Commission's website).

Following the completion of this investigation, the Minister may impose IDD and dumping duty (collectively described as 'duty') on goods exported to Australia that are like to the goods subject to this investigation.

Under subsection 8(7) of the *Customs Tariff (Anti-Dumping) Act 1975* (Dumping Duty Act), the Minister may exempt certain goods from duty where satisfied that 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.'

If an interested party believes that certain goods should be exempt from duty, they may make a submission to the Commission providing a detailed description of the goods, reasons why the conditions to grant an exemption exist, and evidence to support their claims.

Level of interim dumping duty

Where the Minister is required to determine IDD, and the non-injurious price (NIP) of the goods is less than the normal value of the goods, the Minister must have regard to the 'lesser duty rule' in accordance with subsection 8(5B) of the Dumping Duty Act. However, the Minister is not required to have regard to the lesser duty rule if satisfied that either or both of the following apply in relation to the goods:

- the normal value of the goods was not able to be ascertained under subsection 269TAC(1) of the *Customs Act 1901* (the Act) because of the operation of subsection 269TAC(2)(a)(ii) of the Act ('particular market situation')
- there is an Australian industry consisting of like goods that consists of at least 2 small-medium enterprises², whether or not that industry consists of other enterprises.³

Chapter 24 of the Dumping and Subsidy Manual provides further information on the lesser duty rule.⁴

In SEF 441 I determined that, for all exporters from China, the NIP was less than the normal value. However, due to the existence of a particular market situation, I noted that the Minister was not required to consider the desirability of fixing a lesser rate of duty for Chinese exporters, and I proposed to recommend to the Minister that the measures be imposed at the full margin of dumping.

² Small-medium enterprise is defined under the *Customs (Definition of "small-medium enterprise") Determination 2013*.

³ *Customs Tariff (Anti-Dumping) Act 1975* (Cth) ss 8(5BAA)(a)-(b).

⁴ Available at www.adcommission.gov.au.

Process for making submissions

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, or by mail to:

The Director, Investigations 4
Anti-Dumping Commission
GPO 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. Documents included on the public record may be examined at www.adcommission.gov.au. A guide for making submissions is available on the Commission website.⁵

I will have regard to all submissions which are received by the Commission no later than **25 February 2019**. I may not have regard to submissions received after this date as it would prevent the timely preparation of the report to the Minister, pursuant to subsection 269TEA(4).

Extension of time

To address the issues described above through further submissions, I have, under subsection 269ZHI(3) of the Act,⁶ further extended the deadline to provide my final report and recommendation to the Minister. A recommendation to the Minister will now be made in a report due on or before 5 April 2019 if the case is not terminated before this date.

Anti-Dumping Commission contact

Enquiries about this notice may be directed to the case manager on telephone number +61 2 6276 1462, fax number +61 3 8539 2499 or email at investigations4@adcommission.gov.au.

Dale Seymour
Commissioner
Anti-Dumping Commission

4 February 2019

⁵ www.adcommission.gov.au

⁶ On 19 January 2017, the then Parliamentary Secretary to the Minister for Industry, Innovation and Science delegated the powers and functions of the Minister under section 269ZHI of the Act to the Commissioner. See [ADN 2017/10](https://www.adcommission.gov.au/ADN201710) for further information.

ISSUES PAPER

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, or by mail to:

The Director, Investigations 4
Anti-Dumping Commission
GPO 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.⁷

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.

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:

⁷ www.adcommission.gov.au

“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)⁸ 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.
- 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.

⁸ Copy available at www.adcommisison.gov.au

4. 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 ⁹	58	Tonnes	<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. <u>Statistical code</u> : Other – Racking and shelving

4.1 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 rack protectors, among other components, and, as such, all components of the steel pallet racking should be included in the description of the goods;¹⁰
- 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:¹¹

⁹ Effective from 1 January 2015

¹⁰ [EPR 041](#), [EPR 050](#) and [EPR 077](#)

¹¹ [EPR 056](#), [EPR 081](#) and [EPR 085](#)

- 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' beams¹² 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 Storage¹³, BHD Storage Solutions¹⁴, Instant Racking¹⁵, Jracking Group¹⁶ and One Stop¹⁷ 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;¹⁸. 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 investigation¹⁹. 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 pallet racking', and thus not subject to Australian Standard AS4084-2012, should be exempt from the investigation and any resulting dumping duties.

4.2 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 Commissions assessment of the submissions received in relation to the scope of the goods description is discussed below.

¹² Step or shelf beam contains a step into which a shelf can lock in position.

¹³ [EPR 070](#), [EPR 071](#), [EPR 072](#), [EPR 078](#) and [EPR 088](#)

¹⁴ [EPR 092](#)

¹⁵ [EPR 096](#)

¹⁶ [EPR 094](#)

¹⁷ [EPR 095](#)

¹⁸ [EPR 070](#), [EPR 071](#), [EPR 072](#) and [EPR 078](#)

¹⁹ [EPR 079](#)

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.²⁰ 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.²¹ 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.²² 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.²³ 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 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.²⁴ 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.²⁵

²⁰ Schafer's general catalogue and Dematic's catalogue refers.

²¹ 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.

²² [EPR 081](#)

²³ *Re Tridon Pty Ltd and Collector of Customs* [1982] AATA 119, 15(i),(iv),(vii).

²⁴ Subsection 269TC(4)(a), see ADN 2017/161 for the description.

²⁵ *GM Holden Limited v Commissioner of the Anti-Dumping Commission* [2014] FCA 708 [124].

The Commission notes that Bunnings is an end user of steel pallet racking.²⁶ 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.²⁷ 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.²⁸

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.²⁹ 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.

Adjusted as required

Abbott Storage's submissions³⁰ 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, Global³¹, Industor Pty Ltd trading as Industor Industrial Solutions³², Instant Racking, The Trustee for SNC Family Trust trading as Modular Storage Systems³³, Tong Li Logistic Equipments Co., Ltd.³⁴, 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.

²⁶ See also [EPR 085](#) – Jonathan Xie also confirms that pallet can be stored in HDSS solutions.

²⁷ Bunnings submission, [EPR 081](#), p. 6.

²⁸ [EPR 089](#)

²⁹ [EPR 064](#)

³⁰ [EPR 070](#), [EPR 071](#), [EPR 072](#), [EPR 078](#) and [EPR 088](#)

³¹ [EPR 098](#)

³² [EPR 100](#)

³³ [EPR 099](#)

³⁴ [EPR 101](#)

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.³⁵ 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.³⁶

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.

5. 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, 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.

³⁵ 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>

³⁶ [EPR 079](#)

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.

5.1 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:³⁷
 - 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;

³⁷ [EPR 077](#)

- Commercial likeness – Colby³⁸ 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.³⁹ 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:⁴⁰
 - 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.

5.2 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

³⁸ ‘Colby’ is the brand name of the steel pallet racking manufactured by Dematic

³⁹ [EPR 054](#), [EPR 056](#), [EPR 081](#) and [EPR 085](#)

⁴⁰ [EPR 081](#) and [EPR 085](#)

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.⁴¹

5.3 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.

6. 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.

⁴¹ Subsection 269T(1)