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12 January 2015

Ms Lisa Hind  
National Manager Operations  
Anti-Dumping Commission  
Ground Floor Customs House Docklands  
1010 La Trobe Street  
Docklands VIC 3008

**Application for an accelerated review in respect of FSI canned  
pineapple exported by Prime Products Industry Co., Ltd**

Dear Ms Hind

I act on behalf of Prime Products Industry Co., Ltd (Prime Products), a producer and exporter of prepared or preserved pineapple in containers exceeding one litre (FSI pineapple) from the Thailand.

Please find attached an application for an accelerated review of the variable factors applying to exports of FSI pineapple by Prime Products.

If you have any questions concerning the application, please do not hesitate to contact me directly.

Yours sincerely

John Bracic

**APPLICATION FOR ACCELERATED REVIEW**

**PRIME PRODUCTS INDUSTRY CO., LTD**

**1. Description of the goods to which the notice relates.**

The Anti-Dumping Commission's (the Commission) Report No. 196, which outlines the findings of the most recent review and is the basis for the current anti-dumping measures, describes the goods as follows:

*Pineapple prepared or preserved in containers exceeding one litre (food service and industrial pineapple)*

**2. Grounds for review**

Exports prior to the Statement of Essential Facts

A new exporter may request an accelerated review of a dumping duty notice, in so far as that notice affects that exporter.

New exporter is defined under s.269T of the *Customs Act 1901* as:

*an exporter who did not export such goods to Australia at any time during the period:*

- (a) Starting at the start of the investigation period in relation to the application;*
- and*
- (b) Ending immediately before the day the Commissioner places on the public record the statement of essential facts in relation to the investigation of the application.*

Prime Products Industry Co., Ltd (Prime Products) did not export FSI pineapple to Australia during the period 1 January 2005 to 28 July 2006.

Related to investigated exporters

The Commissioner may reject the application if satisfied in accordance with s.269ZE(2)(b) that:

*the exporter is related to an exporter whose exports were examined in relation to the application for publication of that notice; [emphasis added]*

Prime Products is a private company that was founded in 2004 and can confirm that it is not related to any 'exporter whose exports were examined in relation to the application for publication of the notice'.

Grounds for review

As outlined in the Commission's Dumping and Subsidy Manual, it is not required for a new exporter to have already exported a minimum quantity of the subject goods to Australia. This is supported by the findings of the WTO Panel and upheld

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by the Appellate Body which examined whether Article 9.5 of the Anti-Dumping Agreement subjected the right to an expedited new shipper review to a showing of a "representative" volume of export sales. The Panel found that:

*Article 9.5 of the AD Agreement provides that the authorities shall promptly carry out a review, provided that the exporters or producers who have not exported the product subject to a duty during the period of investigation can show that they are not related to any of the exporters or producers in the exporting country who are subject to the anti-dumping duties on the product. In sum, in case a producer or exporter which (i) has not exported the product to the country concerned during the period of investigation and (ii) is not related to an exporter or producer already subject to the duty requests a new shipper review, the authority is required to promptly carry out such a review.*

As outlined above, Prime Products complies with the two necessary requirements for an accelerated review.

Prime Products seeks an accelerated review of the current notice as it is currently subject to the country-wide rate of 25% as noted in the attached dumping commodity register (**Attachment 1**). This rate reflects the dumping margins determined for non-cooperating exporters during the previous review of measures (Case 196) which was based on the lowest verified weighted average export price over the review period and the highest verified weighted average normal value over the review period.

It is noted that in the final report (REP 196) from the previous review, that normal values amongst cooperating exporters were based on a mixture of domestic sales and constructed domestic prices. REP 196 provides no insight into whether the normal value for non-cooperating exporters was based on actual domestic sales or constructed prices. As a result, Prime Products has no understanding of the basis on which its ascertained normal values were established.

In order to demonstrate then that the current notice is inappropriate as it relates to Prime Products, publicly available information<sup>1</sup> previously relied on by the Commission has been updated to show the change in fresh pineapple prices between the previous review period (1 October 2011 and 30 September 2012) and the expected review period for an accelerated review (1 October 2013 to 30 September 2014).

The TROPFIN Report September 2014 (**Attachment 2**) highlights the increase in farm-gate prices for fresh pineapples in Thailand. The Report also shows the movement in fresh pineapple prices in Thailand from September 2011 through to

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<sup>1</sup> TROPFIN Report June 2012; REP195B Revocation review consumer pineapple exported by TPC; page 16

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September 2014. The graph clearly indicates that fresh pineapple prices have almost doubled between the start of the review period from Case 196 and current prices.

Prime Products notes that the Commission found in REP 195B<sup>2</sup> that:

*'the cost to make and sell consumer pineapple is impacted by a number of factors, including the cost of raw material inputs (being pineapple and tinplate), exchange rate fluctuations and demand. Customs and Border considers that the most significant impact of these is the fluctuation in raw pineapple price.'*

Given this finding and the Commission's previous reliance on the TROPFIN Report to show the impact of fresh pineapple prices on production costs and normal values in Thailand, Prime Products considers that the updated TROPFIN Report demonstrates that the currently applicable ascertained normal value is inappropriate.

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<sup>2</sup> Ibid.

# DUMPING COMMODITY REGISTER

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## **PINEAPPLE FRUIT - PREPARED OR PRESERVED IN CONTAINERS EXPORTED FROM THAILAND AND THE REPUBLIC OF THE PHILIPPINES**

### Measures

⇒Anti-dumping measures in the form Interim Dumping Duty (IDD) have been imposed on:

- pineapple fruit prepared or preserved in containers not exceeding 1 litre (consumer pineapple) exported from Thailand (except Thai Pineapple Canning Industry Corp Ltd (TPC)) and The Republic of the Philippines (the Philippines); and
- pineapple fruit prepared or preserved in containers exceeding 1 litre (food service and industrial (FSI pineapple)) exported from Thailand (except Malee Sampran Public Co. Limited (Malee Sampran)) and the Philippines.

### Description of the goods

The consumer pineapple covered by the measures is supplied in cans or other containers (e.g. plastic cups) not exceeding 1 litre.

The FSI pineapple covered by the measures is supplied in cans or other containers (e.g. 10 kg aseptic bags) exceeding 1 litre.

Pineapple subject to measures should be classified using the tariff sub-headings and associated statistical codes contained in Table 1.

**Table 1 - Tariff subheadings and statistical codes subject to measures**

Tariff subheading	Type of pineapple	Statistical codes
2008.20.00	Consumer	26
2008.20.00	FSI	27
2008.20.00	Consumer and FSI	28

### Identifying the goods subject to measures

Canned FSI pineapple should not be incorrectly classified to 2008.92.00/40. Glace and/or dehydrated pineapple is not covered by the measures.

A reference to 'net weight' means a reference to the total weight of the total contents of the can/container.

⇒For pineapple entered under statistical codes 26 and 27, the applicable unit of quantity for Customs duty is litres. However for dumping duty purposes the applicable unit of quantity is kilograms. **Kilograms should be converted to litres by dividing the number of kilograms by 1.043174.**

### Dates of Effect

Important dates relevant to the anti-dumping measures on consumer and FSI pineapple exported Thailand and the Philippines are summarised in Table 2 below.

⇒**Table 2 – Important dates**

Commodity	Country	Measures imposed	Measures revised	Measures revoked	Remarks
Consumer	Thailand (except TPC)	18 October 2001	10 October 2006 14 October 2011 26 July 2013		
	Thailand (TPC only)	14 October 2011	26 July 2013	14 January 2014	Anti-Dumping Notice (ADN) 2014/07 dated 22 January 2014 refers
	Philippines	11 October 2006	30 August 2011		
FSI	Thailand (Except Malee Sampran)	18 October 2001	19 April 2008 14 October 2011 26 July 2013		
	Philippines	14 November 2006	30 August 2011		

⇒Change 28/01/2014

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### **PINEAPPLE FRUIT - PREPARED OR PRESERVED IN CONTAINERS EXPORTED FROM THAILAND AND THE REPUBLIC OF THE PHILIPPINES**

#### Exempt exporters

⇒TPC is exempt from the measures on consumer pineapple. Exemption type 'SUPPLIER' should only be used for consumer pineapple manufactured and exported directly by TPC. Consumer pineapple manufactured by TPC and supplied through associated traders is to be entered using a DXP and the relevant dumping specification number (DSN) shown in Table 3 – a zero IDD liability will be calculated.

⇒ Malee Sampran is exempt from the measures on FSI pineapple. Exemption type 'SUPPLIER' should only be used for FSI pineapple manufactured and exported directly by Malee Sampran.

All other exporters and suppliers of consumer and FSI pineapple are subject to the measures as advised in Table 3 below.

#### Direction for collection of interim dumping duty

Goods subject to the measures must be entered using the relevant dumping specification number (DSN) for the nominated exporter/supplier from each country as shown in Tables 3 and 4. Details relating to the IDD rates and the ascertained export price (AEP) for each DSN are shown in Table 5.

⇒**PLEASE NOTE:** *The All Other Exporter rate of IDD will apply unless an importer/broker can provide proof that the goods are being supplied either directly by a named exporter or through a linked supplier shown in Tables 3 and 4.*

⇒The IDD for all exporter/suppliers (except TPC and Malee Sampran) is in the form of a **fixed + variable** measure. The IDD liability is calculated as follows:

- the amount equal to the IDD rate per kilogram; **Plus**
- the amount, if any, by which the DXP is lower than the AEP.

#### Release of details of measures

⇒Unless otherwise advised, the IDD rates and the AEP for each DSN in Table 5 are considered Confidential and will not be published.

Bona fide importers of the goods may be provided with the confidential information relevant to a nominated exporter/supplier or country in the case country wide measures.

The onus is on the importer to prove their bona fides by providing evidence of the following to [clientsupport@adcommission.gov.au](mailto:clientsupport@adcommission.gov.au) :

- a previous trading history with a nominated exporter/supplier of the goods from a country subject to the dumping measures. Evidence of a trading history would take the form of at least commercial invoice, packing list and bill of lading from previous shipments. Additional documentation as proof of bona fides may also be requested.

or

- in the absence of a trading history, an offer or a quotation from an exporter/supplier of goods subject to the dumping measures. The offer or quotation must be on the exporter/supplier's company letterhead – emails will not generally be accepted.

Importers should note that only as much of the confidential information as is necessary to enter the goods will be provided. Australian Customs Dumping Notice (ACDN) 2012/61 provides further information to assist importers and Customs brokers.

⇒The Australian Customs and Border Protection Service (ACBPS) will conduct monitoring of imports subject to anti-dumping measures consistent with its published policy.

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### PINEAPPLE FRUIT - PREPARED OR PRESERVED IN CONTAINERS EXPORTED FROM THAILAND AND THE REPUBLIC OF THE PHILIPPINES

⇒Duty Assessment

⇒Where anti-dumping measures have been imposed on goods exported to Australia, the importer is liable to pay IDD at the time of importation. The rates of IDD are based on prices verified during the original dumping investigation or subsequent review of the duty and are in place for a period of five years unless revoked earlier.

⇒To ensure that the amount of IDD collected by ACBPS does not exceed the actual dumping margin for each consignment over the five-year period, provision exists for assessment of the final duty liability under the *Customs Tariff (Anti-Dumping) Act 1975*. This system allows for any excess interim duty to be refunded where it is found that prices have changed since the original investigation or subsequent review.

⇒There are a series of time frames fixed by legislation that govern the duty assessment system. An application for duty assessment must cover all shipments entered for home consumption by an importer in a specific six-month importation period. The six-month period is determined by the date of publication of the initial notice imposing the dumping duty. Where securities have been taken pending the Minister's decision, the importation period may be less than six months. An application for a duty assessment cannot be lodged prior to the end of the particular importation period to which it relates, but must be lodged with the Anti-Dumping Commission within six months from the end of that importation period. Tables 6 to 10 provide detail of the relevant importation periods and application periods for consumer and FSI pineapple exported from Thailand and the Philippines.

⇒Additional information is available at <http://www.adcommission.gov.au/system/csi/WhatisDA.asp>

⇒**Table 3 – Consumer Pineapple - Exporters/Suppliers and DSN**

Exporter/Supplier	CCID	Description	Measure	DSN
<b>Thailand - Exporters covered by interim dumping duties</b>				
<u>Kuiburi Fruit Canning Co Ltd</u> supplied directly or through <u>RD2 International Limited</u>	CCC9649733J CCF4343 CCN9777779E CCC6677437W CCJ3663337M	Consumer	IDD	164
<u>Siam Agro-Food Industry Public Co., Ltd</u> supplied directly or through <u>Woolworths (HK) Sales Ltd</u>	CX9746679C CEF647 CCK7493394M	Consumer	IDD	165
⇒ <u>Thai Pineapple Canning Industry Corp Ltd</u> supplied directly	CCF4936799M CCF4667764N CCF446 CCC7447934A CCH6693679W	Consumer	Exempt	
⇒ <u>Thai Pineapple Canning Industry Corp Ltd</u> supplied through <u>Woolworths (HK) Sales Ltd</u>	CCK7493394M	Consumer	IDD	176
<u>Tipco Foods Public Company Limited</u>	CCK4634396X CCR4673666N	Consumer	IDD	167
⇒ <u>All other exporters</u>		Consumer	IDD	168
<b>The Philippines - Exporters covered by interim dumping duties</b>				
<u>Dole Philippines Incorporated</u> supplied directly or through <u>Dole Packaged Foods Asia</u> or <u>Dole Asia Holdings PTE LTD</u> or <u>Pave Consumer Brands Ltd</u>	CCF7637649P CCF3797 CCM6397763R CEM7396677C CCP6336939K	Consumer	IDD	148
<u>All other exporters</u>		Consumer	IDD	150

⇒Change 28/01/2014

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### PINEAPPLE FRUIT - PREPARED OR PRESERVED IN CONTAINERS EXPORTED FROM THAILAND AND THE REPUBLIC OF THE PHILIPPINES

⇒Table 4 – FSI Pineapple - Exporters/Suppliers and DSN

Exporter/Supplier	CCID	Description	Measure	DSN
<b>Thailand - Exporters covered by interim dumping duties</b>				
<u>Dole Thailand</u> supplied directly or through <u>Dole Packaged Foods Asia</u> or <u>Dole Asia Holdings PTE LTD</u>	CCL7337636J CCR7493937W CEG3933379K CCM6397763R CEM7396677C	FSI	IDD	169
<u>Kuiburi Fruit Canning Co Ltd</u> supplied directly or through <u>RD2 International Limited</u>	CCC9649733J CCF4343664X CCN9777779E CCC6677437W CCJ3663337M	FSI	IDD	170
Malee Sampran Public Co., Limited	CCH7397646L CCF3733497X	FSI	Exempt	
<u>Natural Food Co., Ltd</u> supplied through <u>OPCO Food</u>	CEM9999446K CCE3949697C CEH9646447K	FSI	IDD	171
<u>Siam Agro-Food Industry Public Co., Ltd</u>	CCX9746679C CEF6473979R	FSI	IDD	172
<u>Thai Pineapple Canning Industry Corp Ltd</u>	CCF4936799M CCF4667764N CCF4463437E CCC7447934A CCH6693679W	FSI	IDD	173
Tipco Foods Public Company Limited	CCK4634396X CCR4673666N	FSI	IDD	174
<u>All other exporters</u>		FSI	IDD	175
<b>The Philippines - Exporters covered by interim dumping duties</b>				
<u>Dole Philippines Incorporated</u> supplied directly or through <u>Dole Packaged Foods Asia</u> or <u>Dole Asia Holdings PTE LTD</u>	CCF7637649P CCF3797436X CCM6397763R CEM7396677C	FSI	IDD	145
<u>All other exporters</u>		FSI	IDD	149



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## **PINEAPPLE FRUIT - PREPARED OR PRESERVED IN CONTAINERS EXPORTED FROM THAILAND AND THE REPUBLIC OF THE PHILIPPINES**

**⇒Table 5 – Ascertained Export Price  
Pineapple fruit**

DSN	IDD Amount US\$/kg	AEP Amount Per kg	AEP Currency	AEP terms	Effective rate of duty	Remarks
145	Confidential	Confidential	USD	FOB, packed, cash	18.03%	
148	Confidential	Confidential	USD	FOB, packed, cash	2.91%	
149	Confidential	Confidential	USD	FOB, packed, cash	57.38%	
150	Confidential	Confidential	USD	FOB, packed, cash	14.56%	
164	Confidential	Confidential	AUD	FOB, packed, cash	0.00%	
165	Confidential	Confidential	AUD	FOB, packed, cash	0.00%	
167	Confidential	Confidential	AUD	FOB, packed, cash	0.00%	
168	Confidential	Confidential	AUD	FOB, packed, cash	9.57%	
169	Confidential	Confidential	AUD	FOB, packed, cash	18.06%	
170	Confidential	Confidential	AUD	FOB, packed, cash	0.00%	
171	Confidential	Confidential	AUD	FOB, packed, cash	0.00%	
172	Confidential	Confidential	AUD	FOB, packed, cash	0.00%	
173	Confidential	Confidential	AUD	FOB, packed, cash	0.00%	
174	Confidential	Confidential	AUD	FOB, packed, cash	0.00%	
175	Confidential	Confidential	AUD	FOB, packed, cash	25.00%	
176	N/A	N/A	AUD	FOB, packed, cash	N/A	Goods entered after 14 January 2014

**⇒Table 6 – Consumer Pineapple – Thailand (except TPC)  
Duty Assessment Importation & Application Periods**

Importation Period	Application Period
18 April 2013 – 17 October 2013	18 October 2013 to 17 April 2014
18 October 2013 to 17 April 2014	18 April 2014 – 17 October 2014
18 April 2014 – 17 October 2014	18 October 2014 to 17 April 2015
18 October 2014 to 17 April 2015	18 April 2015 – 17 October 2015
18 April 2015 – 17 October 2015	18 October 2015 to 17 April 2016
18 October 2015 to 17 April 2016	18 April 2016 to 17 October 2016
18 April 2016 to 17 October 2016	18 October 2016 to 17 April 2017

**⇒Table 7 – Consumer Pineapple – Thailand (TPC)  
Duty Assessment Importation & Application Periods**

Importation Period	Application Period
14 October 2011 – 13 April 2013	14 April 2013 to 13 October 2013
14 April 2013 – 13 October 2013	14 October 2013 to 13 April 2014
14 October 2013 to 14 January 2014	15 January 2014 – 14 July 2014

**⇒Table 8 – Consumer Pineapple – the Philippines  
Duty Assessment Importation & Application Periods**

Importation Period	Application Period
11 April 2013 – 10 October 2013	11 October 2013 to 10 April 2014
11 October 2013 to 10 April 2014	11 April 2014 – 10 October 2014
11 April 2014 – 10 October 2014	11 October 2014 to 10 April 2015
11 October 2014 to 10 April 2015	11 April 2015 – 10 October 2015
11 April 2015 – 10 October 2015	11 October 2015 to 10 April 2016
11 October 2015 – 10 April 2016	11 April 2016 – 10 October 2016
11 April 2016 – 10 October 2016	11 October 2016 to 10 April 2017

**⇒Table 9 – FSI Pineapple – Thailand  
Duty Assessment Importation & Application Periods**

Importation Period	Application Period
18 April 2013 – 17 October 2013	18 October 2013 to 17 April 2014
18 October 2013 to 17 April 2014	18 April 2014 – 17 October 2014
18 April 2014 – 17 October 2014	18 October 2014 to 17 April 2015
18 October 2014 to 17 April 2015	18 April 2015 – 17 October 2015
18 April 2015 – 17 October 2015	18 October 2015 to 17 April 2016
18 October 2015 to 17 April 2016	18 April 2016 to 17 October 2016
18 April 2016 to 17 October 2016	18 October 2016 to 17 April 2017

⇒Change 28/01/2014

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**PINEAPPLE FRUIT - PREPARED OR PRESERVED IN CONTAINERS  
EXPORTED FROM THAILAND AND THE REPUBLIC OF THE PHILIPPINES**

**⇒Table 10 – FSI Pineapple – the Philippines  
Duty Assessment Importation & Application Periods**

<b>Importation Period</b>	<b>Application Period</b>
14 May 2013 – 13 November 2013	14 November 2013 – 13 May 2014
14 November 2013 – 13 May 2014	14 May 2014 – 13 November 2014
14 May 2014 – 13 November 2014	14 November 2014 – 13 May 2015
14 November 2014 – 13 May 2015	14 May 2015 – 13 November 2015
14 May 2015 – 13 November 2015	14 November 2015 – 13 May 2016
14 November 2015 – 13 May 2016	14 May 2016 – 13 November 2016
14 May 2016 – 13 November 2016	14 November 2016 – 13 May 2017

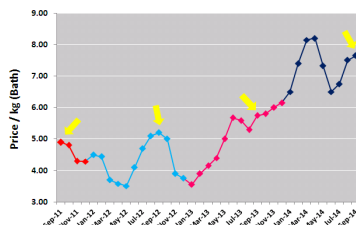
## Pineapple - Thailand

### September, 2014

#### Fruit intake and raw material price

By early September, most pineapple factories in the East of Thailand had opened after the low season closure, while by the end of September several factories in the South were still closed. Incoming volume of raw material in this early period of winter crop was rather low, 1,000 - 1,500 MT/day total in Thailand, while in normal season it is more than 5,000 MT/day. Raw material price started at high level of THB 7.0-7.5/kg and rose to more than THB 8.0/kg with more factories opening their doors. Price might continue to rise during October as fight for raw material will intensify.

**Pineapple, Thailand, Raw mat price: 2011 - 2014**

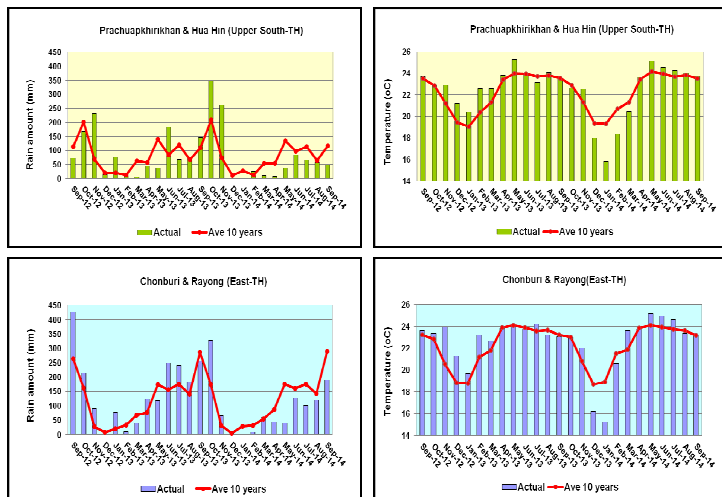


Data source: Office of Agricultural Economics (OAE)

#### Weather, b/a, nitrate

Rainfall during September in both South and East of Thailand was rather low compared to the same period last year and well under the 10 years average. Temperatures in both areas were slightly lower than the previous month but stay in the level of average 10 years. The lack of rainfall in the past 6 months could affect to the pineapple plantations in this winter crop and also next summer crop. The PJC produced during early winter crop was low in b/a (under 18). Nitrate levels remained under 25 ppm but are expected to rise during winter time.

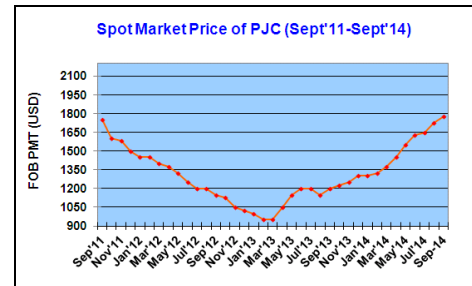
**Rain amount and temperature during September'12 – September'14 in major pineapple growing areas**



Data source: Thai Meteorological Department (TMD)

#### PJC Bx60 prices

Spot market price for Pineapple Juice Concentrate (PJC) Bx60 is moving up to USD 1,700 - 1,850 pmt FOB Thailand for PJC stocks (produced during summer crop) which are only available in limited quantity (both Aseptic and Frozen). PJC spot price remained firm and not likely to come down quickly unless the winter crop will be abundant with a lack luster demand. Factories are careful to offer as they are not sure about winter crop price and volume and still have pending orders to deliver.



The DDU (duty unpaid) prices in Europe for PJC Bx60 as standard blend in tank wagon or a grade A product in drums directly from origin, moved in the range of USD 1,600 – 1,750 pmt. Prices are gradually being adjusted to the reality in Thailand though, especially since Costa Rica is not able to offer for deliveries during coming months.

#### Thai PJC exports in MT to Europe

	Jan-Dec			Jan-Aug	
	2011	2012	2013	2013	2014
Netherlands	53,697	50,522	50,031	36,133	29,128
Italy	15,795	12,241	7,302	4,423	4,209
Spain	4,273	4,463	3,813	2,966	2,456
U.K.	1,665	2,659	2,782	2,274	1,492
France	1,815	1,108	1,270	1,039	1,444
Germany	2,123	242	322	195	21
Russia	669	1,232	1,897	1,872	333
Belgium		471	501	264	651

During January to August PJC shipments from Thailand worldwide were at 82,390 MT more than 15% down compared to the same period last year. Shipments to Japan, Nigeria, UAE and Canada were still up. Shipments to most other volume buying countries outside Europe (USA, Australia, Iran, Saudi Arabia & Israel) were clearly down. Thai factories switch their focus to other markets where demand is growing and better prices can be obtained.