



Australian Government
Department of Industry,
Innovation and Science

Anti-Dumping
Commission

ANTI-DUMPING NOTICE NO. 2016/21

Customs Act 1901 – Part XVB

**Pineapple fruit - Consumer and
Pineapple fruit - Food Service and Industrial
Exported from the Republic of the Philippines and
the Kingdom of Thailand**

**Initiation of a Continuation Inquiry into
Anti-Dumping Measures**

Notice under subsection 269ZHD(4) of the Customs Act 1901

I, Dale Seymour, the Commissioner of the Anti-Dumping Commission, have initiated an inquiry into whether the continuation of anti-dumping measures in respect of certain pineapple fruit – consumer (consumer pineapple) and pineapple fruit – food service and industrial (FSI pineapple) (collectively referred to as consumer and FSI pineapple) exported from the Republic of the Philippines (the Philippines) and the Kingdom of Thailand (Thailand) is justified.

The Goods

The goods currently subject to a dumping duty notice are certain consumer and FSI pineapple (“the goods”) are:

- Pineapple prepared or preserved in containers not exceeding one litre (consumer pineapple); and
- Pineapple prepared or preserved in containers exceeding one litre (food service and industrial i.e. FSI)

The goods are currently classified to the following tariff subheadings of Schedule 3 to the *Customs Tariff Act 1995*:

- 2008.20.00 (statistical code 26)
- 2008.20.00 (statistical code 27)
- 2008.20.00 (statistical code 28)

The goods subject to the measures do not include glace and dehydrated pineapple.

These goods are not subject to Customs duty.

Background to the measures

Consumer and FSI pineapple from Thailand

The anti-dumping measures were initially imposed on consumer and FSI pineapple exported to Australia from Thailand (except by Malee Sampran Public Co (MSP)) in 2001 by the then Minister for Justice and Customs following consideration of *Trade Measures Report No. 041* (REP41).

On 28 September 2006, the then Minister for Justice and Customs accepted the recommendations contained in *Trade Measures Branch report Nos 110 and 111* (REP 110 and REP 111) to continue the anti-dumping measures applying to both consumer and FSI pineapple exported to Australia from Thailand for a further five years.

On 4 April 2008, the Federal Court set aside the then Minister for Justice and Customs' decision to continue measures in relation to exports of consumer pineapple from Thai Pineapple Canning Industry Corp Ltd (TPC).¹

On 14 October 2011 the then Minister for Home Affairs accepted the recommendations contained in *Trade Measures Branch Report Nos 171c and 171d* (REP 171c and REP 171d) to continue the anti-dumping measures for a further five years from 18 Oct 2011.

The anti-dumping measures, which currently apply to consumer pineapple exported to Australia from Thailand (except by TPC) and FSI pineapple exported to Australia from Thailand (except by MSP), are due to expire on 17 October 2016.

Consumer and FSI pineapple from the Philippines

The anti-dumping measures were initially imposed on consumer and FSI pineapple exported to Australia from the Philippines on 10 October 2006 by the then Minister for Justice and Customs following consideration of *Trade Measures Report No. 112* (REP 112).

On 30 August 2011 the then Minister for Home Affairs accepted the recommendations contained in *Trade Measures Branch Report No 171a* (REP 171a) to continue the anti-dumping measures applying to FSI pineapple exported to Australia from the Philippines for a further five years from 14 November 2011.

The anti-dumping measures, which currently apply to FSI pineapple exported to Australia from the Philippines, are due to expire on 13 November 2016.

On 30 August 2011 the then Minister for Home Affairs accepted the recommendations contained in *Trade Measures Branch Report No 171b* (REP 171b) to secure the continuation of anti-dumping measures applying to consumer pineapple for a further five years from 11 October 2011.

The anti-dumping measures, which currently apply to consumer pineapple exported to Australia from the Philippines, are due to expire on 10 October 2016.

¹ *Thai Pineapple Canning Industry Corp Ltd v Minister for Justice & Customs* [2008] FCA 443.

PUBLIC RECORD

The current continuation inquiry

On 2 December 2015, I published a notice on the Anti-Dumping Commission's (Commission) website (www.adcommission.gov.au) inviting certain persons to apply to me for the continuation of anti-dumping measures on the goods exported to Australia from the Philippines and Thailand, in accordance with section 269ZHB of the *Customs Act 1901* (the Act).

Following receipt of an application made in accordance with subsection 269ZHB(1)(b) of the Act by Golden Circle Limited representing the Australian industry, I initiated this inquiry into whether the continuation of measures for another five years is justified. Particulars of the reasons for my decision to initiate this inquiry are shown in *Anti-Dumping Commission Consideration Report No. 333 and 334*, which has been placed on the public record.

Public Record

I must maintain a public record of this inquiry. The public record must contain, among other things, a copy of all submissions from interested parties.

Documents included in the public record may be examined at www.adcommission.gov.au or at the Commission's office by contacting the case manager on the details provided below.

Lodgment of submissions

Interested parties, as defined in subsection 269T(1) of the Act, are invited to lodge written submissions concerning this inquiry, no later than the close of business on 15 April 2016 addressed to:

The Director
Operations 3
Anti-Dumping Commission
Level 35
55 Collins Street
Melbourne VIC 3000

or by email to operations3@adcommission.gov.au, or fax to +61 3 8539 2499.

Interested parties wishing to participate in the inquiry must ensure that submissions are lodged promptly. Interested parties should note that I am not obliged to have regard to a submission received after the date indicated above if to do so would, in my opinion, prevent the timely placement of the statement of essential facts (SEF) on the public record.

Interested parties claiming that information contained in their submission is confidential, or that the publication of the information would adversely affect their business or commercial interests, must:

- (i) provide a summary containing sufficient detail to allow a reasonable understanding of the substance of the information that does not breach that confidentiality or adversely affect those interests, or

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- (ii) satisfy me that there is no way such a summary can be given to allow a reasonable understanding of the substance of the information.

Submissions containing confidential information must be clearly marked "FOR OFFICIAL USE ONLY".

Interested parties must lodge a non-confidential version or a summary of their submission in accordance with the requirement above (clearly marked "PUBLIC RECORD").

Statement of Essential Facts

The dates specified in this notice for lodging submissions must be observed to enable me to report to the Parliamentary Secretary to the Minister for Industry, Innovation and Science (Parliamentary Secretary)² within the legislative timeframe. The SEF will be placed on the public record by 27 June 2016, or by such later date as the Parliamentary Secretary may allow in accordance with subsection 269ZH(3) of the Act. The SEF will set out the essential facts on which I propose to base a recommendation to the Parliamentary Secretary concerning the continuation of the measures. Interested parties are invited to respond to the issues raised within 20 days of the statement being placed on the public record.

Submissions received in response to the SEF within 20 days of that statement being placed on the public record will be taken into account in completing my report and recommendation to the Parliamentary Secretary.

Report to the Parliamentary Secretary

A recommendation to the Parliamentary Secretary will be made in a report on or before 11 August 2016 (or such later date as the Parliamentary Secretary may allow in accordance with subsection 269HI(3) of the Act).

The Parliamentary Secretary must make a declaration within 30 days after receiving the report, or due to special circumstances, such longer period, ending before the day the dumping duty notice is due to expire, as the Parliamentary Secretary considers appropriate.

The Commission contact

Enquiries about this notice may be directed to the Case Manager on telephone number +61 (03) 8539 2415 or email at operations3@adcommission.gov.au.

Dale Seymour
Commissioner
Anti-Dumping Commission

9 March 2016

² On 20 September 2015, the Prime Minister appointed the Parliamentary Secretary to the Minister for Industry, Innovation and Science as the Assistant Minister for Science.