



Customs Act 1901 – Part XVB

Anti-Dumping Notice No. 2016/99

Food Service and Industrial Pineapple

Exported from the Kingdom of Thailand

**Initiation of a Review of Anti-Dumping Measures
relating to Natural Fruit Co., Ltd**

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

I, Dale Seymour, the Commissioner of the Anti-Dumping Commission have initiated a review of the anti-dumping measures, in the form of a dumping duty notice, applying to food service and industrial (FSI) pineapple (the goods) exported to Australia from the Kingdom of Thailand (Thailand). The review will be limited to examining whether the variable factors relevant to the taking of the anti-dumping measures as they affect the applicant, Natural Fruit Co., Ltd (Natural Fruit), should be varied.

The goods

The goods subject to measures are:

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

The goods are generally classified to the following tariff classifications in Schedule 3 to the *Customs Tariff Act 1995*:

2008.20.00	<i>Pineapples</i>
2008.20.00/27	<i>Canned, in containers exceeding one litre</i>
2008.20.00/28	<i>Other</i>

This subheading and statistical codes may include goods that are both subject and not-subject to this investigation. The listing of the subheading and statistical codes is for convenience or reference only. Please refer to the goods description for authoritative detail regarding goods the subject of this investigation.

FSI pineapple imported from Thailand is not subject to Customs Duty.

Background to the measures

On 8 January 2001, Golden Circle Limited (Golden Circle) lodged an application requesting, among other things, that the then Minister for Justice and Customs publish a dumping duty notice in respect of FSI pineapple exported to Australia from Thailand. The then Minister accepted the recommendations in *Trade Measures Report No. 41* and published a dumping duty notice for FSI pineapple exported to Australia from Thailand with the exception of FSI pineapple exported by Malee Sampran Public Co (MSP).

On 26 February 2006, following consideration of applications by Golden Circle, a continuation inquiry and review of measures were initiated in relation to the anti-dumping measures imposed on FSI pineapple exported to Australia from Thailand.

On 28 September 2006, the then Minister for Justice and Customs accepted the recommendations contained in *Trade Measures Branch Report Nos 110 and 111* to continue the anti-dumping measures applying to FSI pineapple for a further five years and fix different variable factors in relation to the anti-dumping measures.

On 15 April 2011, following consideration of an application for the continuation of measures by Golden Circle, a continuation inquiry and review of measures were initiated in relation to the anti-dumping measures imposed on FSI pineapple from Thailand. The then Minister for Home Affairs, accepted the recommendations contained in *Trade Measures Branch Report Nos 171c and 172c (REP 171c) and (REP 172c)*, to continue the anti-dumping measures for a further five years from 18 October 2011 and fix different variable factors relevant to the determination of duty.

On 10 December 2012, a review of measures was initiated for FSI pineapple from Thailand following an application by Tipco Foods Public Company Limited. The review of measures was extended to all exporters from Thailand. The then Minister for Home Affairs, accepted the recommendations contained in *International Trade Remedies Branch Report No. 196* and fixed different variable factors relevant to the determination of duty.

On 11 August 2016, following an application by Golden Circle for a continuation of the measures and subsequent continuation inquiry conducted by the Commission, the Commissioner recommended that the Assistant Minister for Industry, Innovation and Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science (Parliamentary Secretary) take steps, in accordance with subsection 269ZHG(1)(b), to secure the continuation of the anti-dumping measures relating to FSI pineapple exported to Australia from Thailand from the expiry date of the measures.

On 12 September 2016, the Parliamentary Secretary accepted the recommendations contained in *Anti-Dumping Commission Report No. 334* and fixed different variable factors relevant to the determination of duty. As a result, the anti-dumping measures for FSI pineapple from Thailand (except from MSP) will be continued for a further 5 years from 17 October 2016.

The current review

An application was lodged by Natural Fruit under subsection 269ZA(1) of the *Customs Act 1901* (the Act) for review of the anti-dumping measures in relation to the goods exported to Australia from Natural Fruit.

Particulars of the reasons for the decision to undertake the review of measures are shown in *Anti-Dumping Commission Consideration Report No. 373*, which has been placed on the public record.

The review period is 1 July 2015 to 30 June 2016. The review will examine whether the variable factors relevant to the taking of the anti-dumping measures, with respect to Natural Fruit, have changed.

At the conclusion of the review, I will recommend to the Parliamentary Secretary that the dumping duty notice:

- i. remain unaltered; or
- ii. have effect as if different variable factors had been ascertained.

If an affected party considers that it can provide evidence that may satisfy me that there are reasonable grounds for determining that anti-dumping measures are no longer warranted, that party may lodge an application¹ no later than **26 October 2016** to request that I consider that evidence to extend a review of anti-dumping measures to include revocation.

Future Reviews

Under subsection 269ZA(2), an application for a review must not be made earlier than 12 months after the publication of the dumping duty notice or the notice declaring the outcome of the last review of the dumping duty notice. Once a notice declaring the outcome of a review is published (regardless of the outcome), an application for a review of measures in relation to the dumping duty notice that is the subject of this review cannot be made for a period of 12 months.

Public Record

A public record must be maintained for reviews. 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 the Commission's office by contacting the case manager on the details provided below. Alternatively, the public record is available at www.adcommission.gov.au

¹ In accordance with section 269ZCB of the Act.

Lodgment of submissions

Interested parties, as defined by subsection 269T(1) of the Act, are invited to lodge written submissions concerning this review, no later than the close of business on **26 October 2016**, addressed to:

The Director
Operations 3
GPO Box 1632
Melbourne VIC 3001

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

Interested parties wishing to participate in this review must ensure that submissions are lodged promptly. Interested parties should note that I am not obliged to have regard to a submission received by the Commission after the date mentioned 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
- (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 making submissions must also provide a non-confidential version for public record (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 within the legislative timeframe. A SEF will be placed on the public record by **7 January 2017**², or by such later date as the Parliamentary Secretary may allow in accordance with section 269ZHI of the Act. The SEF will set out the essential facts on which I propose to base my recommendation to the Parliamentary Secretary in relation to this review. Interested parties are invited to lodge submissions in response to the SEF within 20 days of the SEF being placed on the public record

² As this is a Saturday, the effective due date for the SEF will be the following business day, 9 January 2017

Report to the Parliamentary Secretary

Submissions received in response to the SEF will be taken into account in preparing the report and recommendations in relation to this review to the Parliamentary Secretary. A recommendation to the Parliamentary Secretary will be made in a report on or before **21 February 2017** (or such later date as the Parliamentary Secretary may allow).

Anti-Dumping Commission contact

Enquiries about this notice may be directed to the Case Manager on telephone number +61 3 8539 2415 or email to operations3@adcommission.gov.au.



Dale Seymour
Commissioner
Anti-Dumping Commission

19 September 2016