



ANTI-DUMPING NOTICE NO 2023/047

Public notice under section 269TC(4) of the *Customs Act 1901*

Food Service and Industrial (FSI) Pineapple Exported from the Republic of Indonesia and the Kingdom of Thailand

Initiation of Investigation No 628 into alleged dumping

Customs Act 1901 – Part XVB¹

I, Dr Bradley Armstrong PSM, the Commissioner of the Anti-Dumping Commission (the Commissioner), have initiated an investigation following an application lodged by Golden Circle Limited (the Applicant), a manufacturer of food service and industrial (FSI) pineapple (the goods) in Australia. The application seeks the publication of a dumping duty notice in respect of FSI pineapple exported to Australia from the Republic of Indonesia and the Kingdom of Thailand.

The application alleges that the goods have been exported to Australia at prices less than their normal value and that the dumping has caused material injury to the Australian industry producing like goods through:

- lost sales volumes
- reduced market share
- price suppression
- loss of profits
- reduced profitability
- reduced revenue
- reduced employment
- reduced capacity utilisation and
- reduced return on investment.

The non-confidential version of the application contains the applicant's claims of alleged dumping causing material injury. The application is available on the commission's electronic public record (EPR) for this case.² Reasons for the decision to initiate this investigation are in *Anti-Dumping Commission Consideration Report No 628*, which is available on the EPR.³

The date of initiation of this investigation is the date of publication of this notice.

¹ All legislative references in this notice are to the *Customs Act 1901* unless otherwise specified.

² EPR 628 – document 1.

³ EPR 628 – document 2.

Particulars of the goods

The goods the subject of the application (the goods) are:

Pineapple, prepared or preserved in containers exceeding one litre (FSI pineapple) in various forms, including (but not limited to) chunks, pieces, pizza cut, sliced, thick sliced, tidbits and crushed pineapple. The goods are packaged with liquid added.

The applicant provided the following further information:

Excluded from this application are glace and/or dehydrated pineapple.

The applicable unit of quantity for Customs duty is litres. However, for the purposes of this application, the applicable unit of quantity is kilograms. Kilograms can be converted to litres by dividing the number of kilograms by 1.043174.

Tariff classification

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

Tariff code	Description												
2008	Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included:												
2008.20.00	Pineapples												
	<table border="1"><thead><tr><th>Statistical code</th><th>Unit</th><th>Description</th><th>Duty rate</th></tr></thead><tbody><tr><td>27</td><td>Litre (L)</td><td>Canned, in containers exceeding 1 L</td><td>5%</td></tr><tr><td>28</td><td>Kilogram (kg)</td><td>Other</td><td>5%</td></tr></tbody></table>	Statistical code	Unit	Description	Duty rate	27	Litre (L)	Canned, in containers exceeding 1 L	5%	28	Kilogram (kg)	Other	5%
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27	Litre (L)	Canned, in containers exceeding 1 L	5%										
28	Kilogram (kg)	Other	5%										

The tariff classification and statistical code may include goods that are both subject and not subject to this investigation. The listing of the tariff classification and statistical code is for convenience or reference only and do not form part of the goods description set out above. Please refer to the goods description for authoritative detail regarding the particulars of the goods the subject of this investigation.

Investigation process

The investigation period is **1 July 2022 to 30 June 2023**. I will examine exports to Australia of the goods during this period to determine whether dumping has occurred. I will examine details of the Australian market from 1 July 2019 for the purposes of injury analysis.

Where the Minister for Industry and Science (the Minister) is satisfied, as to goods of any kind, that:

- (a) the amount of the export price of the goods that have been exported to Australia is less than the normal value of those goods, and the amount of the export price of like goods that may be exported to Australia in the future may be less than the normal value of the goods and
- (b) because of that, material injury to an Australian industry producing like goods has been or is being caused or is threatened, or the establishment of an Australian industry producing like goods has been or may be materially hindered,

the Minister may, by public notice, impose interim dumping duties.⁴

Where there are grounds for the Minister to publish a dumping duty notice in respect of the goods, I will examine whether the trade in the dumped goods give rise to retrospective notices being published pursuant to section 269TN, and make recommendations to the Minister accordingly.⁵

Proposed Model Control Code structure

The Anti-Dumping Commission (commission) undertakes model matching using a Model Control Code (MCC) structure to identify key characteristics that will be used to compare the goods exported to Australia and the like goods sold domestically in the country of export.⁶

The table below outlines the proposed MCC structure for this investigation.

Category	Sub-category	Identifier	Sales data	Cost data
Quality	Prime	P	Mandatory	Mandatory
	Non-prime (e.g. damaged can)	N		
Pineapple cut	Chunks	CH	Mandatory	Mandatory
	Crushed	CR		
	Pieces	PC		
	Pizza cut	PZ		
	Sliced	SL		
	Tidbits	TB		
	Thin sliced	TS		
Container type	Tin can	T	Mandatory	Mandatory
Container size	Provide container size in net weight (grams)	e.g. '1250'	Mandatory	Mandatory
Packing medium	Light syrup	LS	Mandatory	Mandatory
	Heavy syrup	HS		
	Natural juice (sweetened)	NJS		
	Natural juice (unsweetened)	NJU		

For example, using the above table, a FSI pineapples product which is pizza cut in natural juice (unsweetened), in a tin can of 1250 grams, would have the MCC **P-PZ-T-1250g-NJU**.

Proposals to modify the proposed MCC structure should be raised as soon as is practicable, but no later than **10 September 2023**, being the day submissions concerning the publication of the dumping duty notice sought in the application are due.

⁴ In accordance with section 269TG(2).

⁵ In accordance with section 269TG(1).

⁶ Guidance on the commission's approach to model matching is in the *Dumping and Subsidy Manual*, available at www.adcommission.gov.au.

Proposed changes to the MCC structure will be considered by the commission and reported in verification reports or in the statement of essential facts (SEF).

Public record

I must maintain a public record of each investigation. Documents included in the public record are available at www.adcommission.gov.au.

The public record will contain, among other things, a copy of the application, *Anti-Dumping Commission Consideration Report No 628* and copies of all non-confidential submissions from interested parties. Letters and electronic mail are generally regarded as submissions if they contain information relevant to the investigation.

Lodgement of submissions

Interested parties, as defined by section 269T(1), are invited to lodge submissions concerning the publication of the dumping duty notice sought in the application, no later than the close of business on **10 September 2023**, addressed to:

The Director, Investigations Unit 1
GPO Box 2013
Canberra ACT 2601
Australia

or by email to investigations1@adcommission.gov.au

Interested parties wishing to participate in the investigation must ensure that submissions are lodged by the due date. Interested parties should note that I am not obliged to have regard to a submission received after the date above if to do so would, in my opinion, prevent the timely placement of the SEF on the public record.

Interested parties should also note that I am directed to consider the matters set out in the *Customs (Extensions of Time and Non-cooperation) Direction 2015* in certain circumstances.⁷ This is available at www.legislation.gov.au.

Interested parties may reply to matters raised by other parties during the course of the investigation and in response to the SEF.

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

⁷ Certain powers and functions under the *Customs (Extensions of Time and Non-cooperation) Direction 2015* have been delegated to the commission's Deputy Commissioners (Anti-Dumping Notice No 2017/10, available at www.adcommission.gov.au).

Lodgement of Exporter Questionnaires

Exporters of the goods to Australia are invited to participate in this investigation by completing the exporter questionnaire and the associated spreadsheets by **10 September 2023**.

The exporter questionnaire and the associated spreadsheets are available on the EPR for this case (which can be found under 'current cases and their electronic public record' on the commission website, www.adcommission.gov.au). Alternatively, exporters can email investigations1@adcommission.gov.au and the commission will forward the exporter questionnaire and spreadsheets for completion.

Provisional measures

Pursuant to section 269TD, I will make a preliminary affirmative determination (PAD) provided I am satisfied that there appears to be sufficient grounds for the publication of a dumping duty notice or there appears that there will be sufficient grounds for the publication of a dumping duty notice subsequent to the importation of the goods into Australia. This can occur no earlier than day 60 of an investigation.

In accordance with section 269TD, the Commonwealth may apply provisional measures, including the taking of securities under section 42, in respect of interim dumping duty that may become payable on the goods, where:

- a PAD has been made and
- the Commissioner is satisfied that it is necessary to do so to prevent material injury to an Australian industry occurring while the investigation continues.

Where a PAD is not made 60 days after initiation of the investigation, the *Customs (Preliminary Affirmative Determinations) Direction 2015* (the PAD Direction) directs me to publish a status report providing reasons why a PAD was not made. The PAD Direction is available on the Federal Register of Legislation website.⁸

Statement of Essential Facts

The dates specified in this notice for lodging submissions must be observed to enable me to report to the Minister within the legislative timeframe. In accordance with section 269TDAA, a SEF will be placed on the public record by **22 November 2023**, or by such later date as allowed in accordance with section 269ZHI.⁹ The SEF will set out the essential facts on which I propose to base my recommendations to the Minister. Interested parties are invited to lodge submissions in response to the SEF within 20 days of it being placed on the EPR.

Submissions received in response to the SEF within 20 days of that statement being placed on the EPR will be taken into account in completing the report and recommendation to the Minister.

Report to the Minister

A recommendation to the Minister will be made in a report on or before **6 January 2024**¹⁰ (or such later date as allowed under section 269ZHI), on the basis of the examination of

⁸ www.legislation.gov.au.

⁹ On 14 January 2017, certain powers and functions of the Minister under section 269ZHI were delegated to the Commissioner (Anti-Dumping Notice No 2017/10).

¹⁰ This date occurs on a weekend. Therefore, the Report to the Minister will be due on the next business day, being Monday 8 January 2024.

exportations of the goods to Australia during the investigation period, unless I terminate the investigation.

The Minister must make a declaration within 30 days after receiving the report, or such longer period as the Minister considers appropriate.

Anti-Dumping Review Panel

Certain persons will have the right to seek review with the Anti-Dumping Review Panel in accordance with Division 9 of Part XVB in relation to a decision by me to terminate the investigation or a decision of the Minister to publish, or not to publish, a dumping duty notice after considering my report.

Interested party list

Throughout the investigation, the commission will maintain an internal list of interested parties. Updates on the investigation will be sent to parties on this list. If you would like to be added to the interested party list, please email investigations1@adcommission.gov.au.

Commission contact

Enquiries about this notice may be directed to the Case Manager on telephone number +61 3 8539 2471 or investigations1@adcommission.gov.au.

Dr Bradley Armstrong PSM
Commissioner
Anti-Dumping Commission

4 August 2023
