

MinterEllison

23 August 2021

BY EMAIL

The Director
Investigations 4 - investigations4@adcommission.gov.au
GPO Box 2013
Canberra ACT 2601

Dear Director

Continuation Inquiry - SEF 571– Consumer Pineapple exported to Australia from the Philippines

We act for Dole Philippines Inc (**DPI**) in relation to the above matter. We refer to the Verification File Note relating to our client at item 21 of the electronic public record. On two grounds our client disputes the Commission's calculation of the dumping margin claimed in that note.

Firstly, the calculation does not provide any due allowance deduction from normal value for SG&A expenses. We contend that there is no basis in Part XVB of the *Customs Act 1901(Act)* or the Anti-Dumping Agreement for excluding such an adjustment. As recognised by the Commission in its calculation of costs for a variety of purposes under the Act, SG&A costs are an essential element of a fully absorbed cost to make and sell and we submit that differences between domestic and export SG&A costs are differences in the circumstances of the sales and, to ensure a fair comparison of export price and normal value, the costs associated with those differences must form part of adjustments to normal value.

Secondly, the calculation of the adjustment for distinctions in specifications is based on the differences between the sum of the fully absorbed cost to make and sell the domestic and export models plus an amount derived from the average profit achieved on domestic sales of like goods. We submit that there is no legal basis for the inclusion of a profit margin in the calculation of the value of a specification difference.

Yours faithfully

MinterEllison



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OUR REF: MRB/JPC 1122743

