



Application for review of a Ministerial decision

Customs Act 1901 s 269ZZE

This is the approved¹ form for applications made to the Anti-Dumping Review Panel (ADRP) on or after 2 June 2021 for a review of a reviewable decision of the Minister (or his or her Parliamentary Secretary).

Any interested party² may lodge an application to the ADRP for review of a Ministerial decision.

All sections of the application form must be completed unless otherwise expressly stated in this form.

Time

Applications must be made within 30 days after public notice of the reviewable decision is first published.

Conferences

The ADRP may request that you or your representative attend a conference for the purpose of obtaining further information in relation to your application or the review. The conference may be requested any time after the ADRP receives the application for review. Failure to attend this conference without reasonable excuse may lead to your application being rejected. See the ADRP website for more information.

Further application information

You or your representative may be asked by the Member to provide further information in relation to your answers provided to questions 9, 10, 11 and/or 12 of this application form (s 269ZZG(1)). See the ADRP website for more information.

Withdrawal

You may withdraw your application at any time, by completing the withdrawal form on the ADRP website.

Contact

If you have any questions about what is required in an application refer to the ADRP website. You can also call the ADRP Secretariat on (02) 6276 1781 or email adrp@industry.gov.au.

¹ By the Senior Member of the Anti-Dumping Review Panel under section 269ZY *Customs Act 1901*.

² As defined in section 269ZX *Customs Act 1901*.

PART A: APPLICANT INFORMATION

1. Applicant's details

Applicant's name: This application for the review of the Minister for Industry, Science and Technology's decision in respect of Report 573 & 574 is made by:

Golden Circle Limited
260 Earnshaw Road
Northgate Queensland 4013
Tel: (07) 3266 0000.

Type of entity (trade union, corporation, government etc.):

Golden Circle Limited is a company.

2. Contact person for applicant

Full name: Mr Mike Pretty

Position: Non-Executive Chairman, Kraft Heinz Australasia

Email address: Mike.Pretty@KraftHeinz.com

Telephone number: +64 9 308 5130

3. Set out the basis on which the applicant considers it is an interested party:

Section 269ZZC of the Customs Act 1901 ("the Act") prescribes that a person who is an interested party in relation to a reviewable decision may apply for a review of the Minister's decision.

The decision in this instance is a decision of the Minister under section 269ZHG of the Act not to continue anti-dumping measures.

4. Is the applicant represented?

Yes No

If the application is being submitted by someone other than the applicant, please complete the attached representative's authority section at the end of this form.

****It is the applicant's responsibility to notify the ADRP Secretariat if the nominated representative changes or if the applicant become self-represented during a review.****

PART B: REVIEWABLE DECISION TO WHICH THIS APPLICATION RELATES

5. Indicate the section(s) of the *Customs Act 1901* the reviewable decision was made under:

Subsection 269TG(1) or (2) – decision of the Minister to publish a dumping duty notice

Subsection 269TH(1) or (2) – decision of the Minister to publish a third country dumping duty notice

Subsection 269TJ(1) or (2) – decision of the Minister to publish a countervailing duty notice

Subsection 269TK(1) or (2) – decision of the Minister to publish a third country countervailing duty notice

Subsection 269TL(1) – decision of the Minister not to publish duty notice

Subsection 269ZDB(1) – decision of the Minister following a review of anti-dumping measures

Subsection 269ZDBH(1) – decision of the Minister following an anti-circumvention enquiry

Subsection 269ZHG(1) – decision of the Minister in relation to the continuation of anti-dumping measures

Please only select **one** box. If you intend to select more than one box to seek review of more than one reviewable decision(s), **a separate application must be completed.**

6. Provide a full description of the goods which were the subject of the reviewable decision:

The goods the subject of this application are:

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

7. Provide the tariff classifications/statistical codes of the imported goods:

Consumer pineapple (“the goods”) is classified to subheading 2008.20.00 statistical codes 27 and 28 in Schedule 3 to the Customs Tariff Act 1995. The rate of duty for food service and industrial pineapple is “free” for imports from the subject countries.

8. Anti-Dumping Notice details:

The Minister’s decision not to continue the anti-dumping measures on food service and industrial pineapple exported from the Philippines and Thailand was based upon the Commissioner’s recommendations in Report No. 573 and 574.

Anti-Dumping Notice (ADN) number: Anti-Dumping Notice No. 2021/118.

Date ADN was published: 6 October 2021.

****Attach a copy of the notice of the reviewable decision (as published on the Anti-Dumping Commission's website) to the application****

PART C: GROUNDS FOR THE APPLICATION

If this application contains confidential or commercially sensitive information, the applicant must provide a non-confidential version of the application that contains sufficient detail to give other interested parties a clear and reasonable understanding of the information being put forward.

Confidential or commercially sensitive information must be **highlighted in yellow**, and the document marked '**CONFIDENTIAL**' (bold, capitals, red font) at the top of each page. Non-confidential versions should be marked '**NON-CONFIDENTIAL**' (bold, capitals, black font) at the top of each page.

- Personal information contained in a non-confidential application will be published unless otherwise redacted by the applicant/applicant's representative.

For lengthy submissions, responses to this part may be provided in a separate document attached to the application. Please check this box if you have done so:

9. Set out the grounds on which the applicant believes that the reviewable decision is not the correct or preferable decision:

Refer Attachment A. Attachment A is provided in non-confidential form.

10. Identify what, in the applicant's opinion, the correct or preferable decision (or decisions) ought to be, resulting from the grounds raised in response to question 9:

Refer Attachment A.

11. Set out how the grounds raised in question 9 support the making of the proposed correct or preferable decision:

Refer Attachment A.

12. Set out the reasons why the proposed decision provided in response to question 10 is materially different from the reviewable decision:

Do not answer question 11 if this application is in relation to a reviewable decision made under subsection 269TL(1) of the Customs Act 1901.

Refer Attachment A.

13. Please list all attachments provided in support of this application:

Attachment A – Grounds for review (in confidential and non-confidential form).

Attachment 1 – ADN 2021/117.

PART D: DECLARATION

The applicant/the applicant's authorised representative *[delete inapplicable]* declares that:

- The applicant understands that the Panel may hold conferences in relation to this application, either before or during the conduct of a review. The applicant understands that if the Panel decides to hold a conference *before* it gives public notice of its intention to conduct a review, and the applicant (or the applicant's representative) does not attend the conference without reasonable excuse, this application may be rejected; and
- The information and documents provided in this application are true and correct. The applicant understands that providing false or misleading information or documents to the ADRP is an offence under the *Customs Act 1901* and *Criminal Code Act 1995*.

Signature:

Name: Carolyn Fox

Position: Director

Organisation: H.J.Heinz Company Australia Limited

Date: 5 November 2021

PART E: AUTHORISED REPRESENTATIVE

This section must only be completed if you answered yes to question 4.

Provide details of the applicant's authorised representative:

Full name of representative: John O'Connor
Organisation: John O'Connor and Associates Pty Ltd
Address: P.O. Box 329, Coorparoo QLD 4151.
Email address: jmoconnor@optusnet.com.au
Telephone number: (07) 33421921

Representative's authority to act

****A separate letter of authority may be attached in lieu of the applicant signing this section****

The person named above is authorised to act as the applicant's representative in relation to this application and any review that may be conducted as a result of this application.

Signature:

(Applicant's authorised officer)

Name: Carolyn Fox

Position: Director

Organisation: H.J.Heinz Company Australia Limited



ANTI-DUMPING NOTICE NO. 2021/118

Customs Act 1901 – Part XVB

Food service and industrial (FSI) pineapple

Exported to Australia from the Republic of the Philippines and the Kingdom of Thailand

Findings of Continuation Inquiries 573 and 574 into Anti- Dumping Measures

Public Notice under subsection 269ZHG(1) of the Customs Act 1901 (Cth)

The Commissioner of the Anti-Dumping Commission (the Commissioner) has completed inquiries, which commenced on 25 January 2021, into whether the continuation of the anti-dumping measures in the form of a dumping duty notice applying to FSI pineapple exported to Australia from the Republic of the Philippines (Philippines) and the Kingdom of Thailand (Thailand) is justified.¹

Recommendations resulting from these inquiries, reasons for the recommendations, and material findings of fact and law in relation to the inquiries are contained in *Anti-Dumping Commission Report No. 573 and 574* (REP 573 and 574).

I, ANGUS TAYLOR, the Acting Minister for Industry, Science and Technology, have considered REP 573 and 574 and have decided to accept the recommendation and reasons for the recommendation. This includes all the material findings of facts and law.

Pursuant to subsection 269ZHG(1)(a) of the *Customs Act 1901* (the Act), I **declare** that I have decided not to secure the continuation of the anti-dumping measures currently applying to FSI pineapple exported to Australia from Thailand and the Philippines. These measures will expire on 17 October 2021 and 13 November 2021 respectively.

Interested parties may seek a review of this decision by lodging an application with the Anti-Dumping Review Panel (www.adreviewpanel.gov.au), in accordance with the requirements in Division 9 of Part XVB of the Act, within 30 days of the publication of this notice.

¹ Exports from Malee Sampran Public Co Limited, Prime Products Industry Co Ltd and Kuiburi Fruit Canning Co Ltd are not covered by these inquiries, as these entities are exempt from the measures.

REP 573 and 574 has been placed on the public record and is available at www.adcommission.gov.au

Enquiries about this notice may be directed to the Case Director on telephone number +61 3 8539 2477 or email investigations4@adcommission.gov.au.

Dated this 6th day of October 2021.



Angus Taylor
Acting Minister for Industry, Science and Technology

A. Background

On 6 November 2020 the Commissioner published a notice inviting applications from relevant persons for the continuation of anti-dumping measures on consumer and Food Service & Industrial (“FSI”) pineapple fruit exported from the Philippines and Thailand.

The measures on consumer and FSI pineapple fruit exported from Thailand were due to expire on 17 October 2021. The measures on consumer pineapple fruit exported from the Philippines were due to expire on 10 October 2021. The measures on FSI pineapple fruit exported from the Philippines were due to expire on 13 November 2021.

Following an application for the continuation of measures submitted by Golden Circle Limited (“Golden Circle”) in respect of consumer and FSI pineapple exported from the Philippines and Thailand, the Commissioner published on 25 January 2021 ADN No. 2021/004 (consumer pineapple fruit) and 2021/005 (FSI pineapple fruit) commencing investigations into the continuation of the anti-dumping measures.

On 6 October 2021 the Commissioner published Anti-Dumping Notice No. 2021/117 (consumer pineapple fruit) and 2021/118 (FSI pineapple fruit) notifying that the Minister for Industry, Science and Technology (“the Minister”) had accepted the recommendations of the Commissioner as contained in Anti-Dumping Commission Report No. 571 and 572 concerning the continuation of anti-dumping measures applying to consumer pineapple exported to Australia from the Philippines and Thailand (“Report 571 & 572”) and Anti-Dumping Commission Report No. 573 and 574 concerning the continuation of anti-dumping measures applying to FSI pineapple exported to Australia from the Philippines and Thailand (“Report 573 & 574”), respectively, not to secure the continuation of anti-dumping measures that were due to expire on the above specified dates.

By this application Golden Circle seeks a review by the Anti-Dumping Review Panel (“ADRP”) under sections 269ZZA(1)(d) and 269ZZC of the Customs Act 1901 (“the Act”) of the decision of the Minister under section 269ZHG(1) of the Act to allow the anti-dumping measures on FSI pineapple exported to Australia from the Philippines and Thailand to expire. A separate application is made by Golden Circle seeking review of the decision of the Minister to allow the anti-dumping measures on consumer pineapple exported to Australia from the Philippines and Thailand to expire

Set out hereunder are the requirements specified in section 269ZZE(2) of the Act in relation to Golden Circle’s grounds of review of the Minister’s decision.

C. First Ground – Will future exports of food service and industrial pineapple likely cause, or threaten, a recurrence of material injury?

9. Grounds for review

Set out the grounds on which the applicant believes that the reviewable decision is not the correct or preferable decision.

(i) Dumping

Sub-Section 269ZHF(2) of the Act provides that “[t]he Commissioner must not recommend that the Minister take steps to secure the continuation of the anti-dumping measures unless the Commissioner is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping or subsidisation and the material injury that the anti-dumping measure is intended to prevent.”

At section 7.2 of Report 573 & 574 the Commission states as follows:

“the commission notes that its assessment of the likelihood of certain events occurring and their anticipated effect, as is required in a continuation inquiry, necessarily requires an assessment of a hypothetical situation. The Anti-Dumping Review Panel has supported this view, noting that the commission must consider what will happen in the future should a certain event, being the expiry of the measures, occur. However, the Commissioner’s conclusions and recommendations must nevertheless be based on facts.”

At section 7.6.1 of Report 573 & 574 the Commission was satisfied that all exports of food service and industrial pineapple exported to Australia from the Philippines and Thailand were at dumped prices.

The Commission calculated dumping margins for exporters from the Philippines and Thailand as follows¹:

Country	Exporter	Dumping margin
Philippines	Uncooperative and all other exporters	22.9%
Thailand	Siam Food Products Public Co Ltd	14.5%
	Uncooperative and all other exporters	14.8%

Table 9: Summary of dumping margins

It is not in dispute that exporters of food service and industrial pineapple in the Philippines and Thailand exported the subject goods to Australia at dumped prices during the investigation period. The margins of dumping are significant and well in excess of negligible levels (i.e. 2 per cent).

In respect of the likelihood of future exports from the Philippines and Thailand at dumped prices, the commission concluded:²

- *During the inquiry period the goods exported to Australia were at dumped prices.*
- *The commission found that these exporters had dumped during the original investigation, or in subsequent matters where the commission has ascertained variable factors.*
- *The commission has not identified evidence of an incentive for these exporters to adjust their pricing behaviour.*
- *There is no evidence that indicates dumping will not continue.”*

¹ Report 573 & 574, section 7.6.1 at p 44.

² Report 573 & 574, section 7.6.2 at p 44.

The Commission was, therefore, satisfied that future exports of food service and industrial pineapple from the Philippines and Thailand would be at dumped prices.

(ii) Recent trends

Golden Circle Limited (“Golden Circle”) supplies locally produced processed pineapple into the food and industrial segment of the canned pineapple market as part of its strategy to maximise production through its Northgate, Queensland manufacturing facility. During recent times, as a consequence of the prevailing drought conditions where pineapple fruit volumes supplied by growers declined, Golden Circle has imported canned pineapple for supply into the market segment.

The food service and industrial segment of the canned pineapple market is extremely competitive, with returns on a dollar per kilogram basis lower than for consumer pineapple (sold at retail level).

Golden Circle seeks to supply locally produced volumes into the food service and industrial segment of the market; however, in the absence of anti-dumping measures on exporters in the two largest canned pineapple producing countries globally, Golden Circle cannot compete at prices that reflect less than full cost recovery.

The Commission’s analysis confirms that Golden Circle continues to supply the food and industrial segment with locally manufactured canned pineapple.³ The Commission further confirmed that the volume of imports from the Philippines remained low since the continuation of the measures in 2016, with imports from Thailand the subject of measures at approximately 5 per cent of the Australian market.

Golden Circle acknowledges that imports from Thailand not the subject of measures have increased and account for approximately 30 per cent of the Australian market since 2017⁴. Golden Circle itself has imported from Thailand to supplement its sales volumes into the food service and industrial segment (approximately 1 per cent of market volumes as confirmed by the Commission at section 7.5.1), to ensure that it can supply local production as increased pineapple fruit volumes become available.

(iii) Likelihood of future injury

At section 7.7 of Report 573 & 574, the Commission referred to the *Ministerial Direction on Material Injury 2012* providing that:

“injury from dumping need not be the sole cause of injury to the industry, where injury caused by dumping is material in degree. It further provides that the materiality of injury caused by a given degree of dumping can be judged differently, depending on the economic condition of the Australian industry suffering the injury. In considering the circumstances of each case, the commission must consider whether an industry that at one point in time is healthy and could shrug off the effects of the presence of dumped products in the market, could at another time, weakened by other events, suffer material injury from the same amount and degree of dumping.”

The Commission further acknowledged, at section 7.7, Golden Circle’s comments in its application that the import prices of food service and industrial pineapple from the Philippines and Thailand “continue to be at prices that make it difficult for Golden Circle to raise prices to meet increases in production costs and achieve adequate returns for ongoing reinvestment opportunities.”

Golden Circle notes the guidance contained in the Dumping and Subsidy Manual (“the Manual”) (at pp 175-176) to assist in the Commission’s assessment of the likelihood of continuing or recurring injury. Relevant factors include, but are not limited to, the following:

- state of the Australian industry;
- production capacity;

³ See Figure 19 at p 42 of Report 573 & 574.

⁴ Report 573 & 574, section 7.5.1 (p 42).

- other causes of injury;
- market size and share;
- demand for the goods;
- any changes in the structure and operation since the measures were imposed;
- price of exports compared with NIP and USP;
- measures relevance to selling prices;
- the impact of imports of the goods not dumped from other sources;
- changes in technology, product types, consumer preferences, demand and supply.

The Commission undertook an analysis of the price and volume effects of likely injury to the Australian industry should the measures expire.

The Commission concluded that all import prices were at levels below Golden Circle's prices (although it must be acknowledged that Golden Circle's selling prices and the prices for imported pineapple from the Philippines the subject of measures were at similar levels from 2018-2020).⁵ The Commission, however, concluded that *"Golden Circle has been able to achieve consistently higher sales price on its sales of FSI pineapple. The commission considers that if the measures expire, future imports from Thailand and the Philippines will compete at the lower price point, and not impact the prices that Golden Circle is able to achieve."*

As indicated, the selling prices for imported pineapple from the Philippines were at prices consistent with Golden Circle's prices – it is not clear how the Commission considered that selling prices from the Philippines will compete at the lower prices (as supplied by exporters from Thailand).

The Commission has suggested that Golden Circle's selling prices are unaffected by the lower import prices from Thailand. The locally produced and imported food service and industrial pineapple are substitutable for each other and, as indicated, there exists intensive price competition in the food service and industrial segment.

It is not unusual for a local manufacturer to achieve a premium to imported product. Golden Circle is an industry-known supply and is recognised for its quality of pineapple supplied. This does not mean that Golden Circle's prices are not influenced by lower-priced substitutable goods. There exists a cross elasticity of pricing between locally produced and imported selling prices for food service and industrial pineapple as the goods are wholly interchangeable with each other. It cannot be assumed that, because Golden Circle achieves a price premium, it is unaffected (or not influenced) by lower, dumped prices of imported goods.

The Commission stated that Golden Circle had not furnished any supporting information to demonstrate that its selling prices in the food service and industrial segment of the market have been impacted by the dumped imports from the Philippines and Thailand. Golden Circle was unable to obtain any information from its customers in this regard and advised the Commission that *"it was not within the wholesalers' interests to disclose the source of competitive prices"* (at section 7.7.1.3). Golden Circle considers that the available evidence confirming that the selling prices of the imported goods from the Philippines and Thailand have undercut the locally produced pineapple selling prices in this segment (found by the Commission at section 7.7.1.1 of the report) is confirmation that, in the absence of the measures, price-effect injury will continue.

In respect of import volumes, the Commission was unable to confirm (due to a lack of cooperation by exporters in the Philippines and Thailand) that processors of food service and industrial pineapple in the Philippines and Thailand had increased production capacity since the measures were continued in 2016. Golden Circle's application confirmed that Dole Philippines had increased its production capacity in 2016 and this was readily confirmed on the producer's website. Yet the Commission concluded (in a statement devoid of analysis) that *"an increase in production capacity does not necessarily indicate an intention to increase export volumes to Australia, particularly given a pattern of behaviour over an extended period suggesting that the Australian market is not a key focus for exporters in the Philippines"* (at section 7.7.2, p 48). The Commission appears not to have drawn any adverse inference from the fact that *"there were no cooperative exporters from the Philippines"* (at section 7.7.2, p 48).

⁵ Report 573 & 574, section 7.7.1 (p 46).

Golden Circle challenges the Commission's rationale. The Government of the Philippines made representations urging the Commissioner not to continue the measures on canned pineapple exports from the Philippines⁶. Contrary to the Commission's assessment, the representations by the Government of the Philippines would suggest that the Philippine canned pineapple industry was and is interested to increase supply to the Australian market.

Golden Circle also notes that, in Investigation 571 and 572 (consumer pineapple exported from the Philippines and Thailand), the Thai exporter, Siam Foods Public Co., Ltd, cooperated with the Commission's inquiry. The commission established in that inquiry that *cooperative* producers had excess capacity between 13 and 57 per cent. It is not clear by which amount Siam Foods Public Co., Ltd has excess capacity; however, it has been established by the Commission that excess capacity by a Thai exporter is evident.

The Commission has erred in its assessment of the available excess capacity of canned pineapple production relied upon for this investigation and has failed to recognise that, should the measures expire, exporters in the Philippines and Thailand will likely seek to increase export volumes to Australia.

Golden Circle refers to the factors as identified in the Manual for consideration as to the likelihood of a recurrence of material injury. The guidance in the Manual indicates that there are a range of factors for consideration and "[n]o one factor can provide decisive guidance⁷".

Golden Circle notes that it made representations to the Commission that the industry was recovering from prolonged drought conditions, was seeking to rebuild pineapple volumes from suppliers and had in place a strategy that would deliver incremental increases from 2022 to 2027⁸. The industry at the present time is susceptible to injury from dumping as increased volumes of dumped imports would jeopardise the growth strategy that Golden Circle and grower members of Australian Pineapple had embarked on.

Golden Circle demonstrated to the Commission that it was building production volumes again to utilise its under-utilised production capacity.

The available facts confirm that:

- dumping from the Philippines and Thailand will continue;
- the Philippines and Thailand are the two largest exporters of processed pineapple globally;
- the exporters in the Philippines and Thailand have excess capacity with which to supply the Australian market;
- all import prices from the Philippines and Thailand undercut the Australian industry's selling prices;
- the Australian market for food service and industrial pineapple is price sensitive;
- whilst Golden Circle's Australian pineapple sells at a premium to imported pineapple, the two products are substitutable;
- the Australian industry is susceptible to increased imports at dumped prices as it embarks on a recovery from a drought-affected period where volumes were constrained⁹; and
- that, in the absence of measures, it is likely that the exporters in the Philippines and Thailand will increase exports to Australia to retard Golden Circle's ability to re-grow displaced volumes over the period 2022 -2027 as planned.

⁶ EPR Document 009.

⁷ Report 571 & 572, section 7.3 (p 47).

⁸ Golden Circle submission dated 9 August 2021 in response to SEF 573 & 574 (EPR Document No. 013). Noted at [7.7.2] of Report 571 & 572.

⁹ In its SEF response dated 9 August 2021, Golden Circle referred to the 2012 Ministerial Direction concerning material injury where an Australian industry may be vulnerable to the impact of dumping.

These facts establish that the Minister's decision (the reviewable decision) to accept the Commissioner's recommendation to allow the measures to expire on food service and industrial pineapple exported from the Philippines and Thailand was not the correct or preferable decision.

The available evidence confirms that, in the absence of the measures, the Australian industry will **likely** incur material injury from future exports of food service and industrial pineapple from the Philippines and Thailand as the Australian growers of pineapple and Golden Circle embark on an increase in production strategy.

There is a further difficulty with the Commission's analysis: it erred in law in its application of section 269ZHF(2) of the Act. At [7.7.2] (p 49), it said that "'threat of future material injury' is not part of the legislative test for whether measures should continue or expire". That is not correct. The phrase "material injury" when used in section 269ZHF(2) bears the same meaning as it does in Division 1 of Part XVB of the Act (particularly section 269TAE) and those matters set out in section 269TAE(2A) (for the purposes of section 269TAE(1)) at the very least may bear upon the formation by the Commissioner of the state of satisfaction in section 269ZHF(2).¹⁰ Section 269TAE, in turn, relevantly speaks of material injury to an Australian industry being "threatened" (see sub-sections 269TAE(1), (2), (2A) and (2B)).

For all these reasons, the Commissioner should have found that the future exports of food service and industrial pineapple at dumped prices from the Philippines and Thailand to Australia will likely cause, or threaten, a recurrence of material injury to the Australian industry that the anti-dumping measures were intended to prevent.

10. Correct or preferable decision

Identify, what, in the applicants' opinion, the correct or preferable decision (or decisions) ought to be, resulting from the grounds raised in response to question 9.

The correct or preferable decision is for the decision under review to be revoked and, in substitution for that decision a declaration that the Minister has decided to secure the continuation of the anti-dumping measures concerned (section 269ZZM(1)(b), read with section 269ZH(1)(b)).

11. Grounds in support of decision

Set out how the grounds raised in question 9 support the making of the proposed correct or preferable decision.

Golden Circle refers to its arguments set out in response to question 9 above. Those arguments connect the grounds of review to the proposed correct or preferable decision.

12. Material difference between the decisions

Set out the reasons why the proposed decision provided in response to question 10 is materially different from the reviewable decision.

The proposed decision is materially different from the reviewable decision as it would result in the continuation of the anti-dumping measures on food service and industrial pineapple exported from the Philippines and Thailand for a further five-year period.

¹⁰ *Minister of State for Home Affairs v Siam Polyethylene Co Ltd* (2010) 187 FCR 229 at [107], [118], [122] per Graham and Flick JJ.