



ANTI-DUMPING NOTICE NO. 2021/004

Customs Act 1901 – Part XVB

Pineapple Fruit – Consumer

**Exported from the Republic of the Philippines and the
Kingdom of Thailand**

Initiation of Continuation Inquiries Nos 571 and 572 into Anti-Dumping Measures

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

I, Dale Seymour, the Commissioner of the Anti-Dumping Commission (Commissioner), have initiated inquiries 571 and 572 into whether the continuation of anti-dumping measures, in the form of dumping duty notices in respect of pineapple fruit – consumer (consumer pineapple) exported to Australia from the Republic of the Philippines (the Philippines) (inquiry No. 571) and the Kingdom of Thailand (Thailand)¹ (inquiry No. 572), is justified. I will conduct these two inquiries concurrently.

1. Expiry of the current anti-dumping measures

The anti-dumping measures applying to exports of consumer pineapple from the Philippines are due to expire on 10 October 2021. On and from 11 October 2021, if not continued, the anti-dumping measures would no longer apply to exports of consumer pineapple from the Philippines.

The anti-dumping measures applying to exports of consumer pineapple from Thailand are due to expire on 17 October 2021. On and from 18 October 2021, if not continued, the anti-dumping measures would no longer apply to exports of consumer pineapple from Thailand.

¹ Consumer pineapple exported to Australia from Thailand by Thai Pineapple Canning Industry Corp Ltd. (TPC) supplied directly or through Siam Agro-Food Industry Public Co. Ltd, is exempt from anti-dumping measures.

2. The goods

The goods subject to the anti-dumping measures and these inquiries are pineapple prepared or preserved in containers not exceeding one litre (consumer pineapple).

The goods are generally, but not exclusively, classified to the following tariff subheadings of Schedule 3 to the *Customs Tariff Act 1995*:²

Tariff Subheading	Statistical Code	Description
2008.20.00	26	Canned pineapples in containers not exceeding one Litre
2008.20.00	28	Pineapples other than canned

The goods subject to the anti-dumping measures do not include glacé and dehydrated pineapple.

3. Background to the anti-dumping measures

Consumer pineapple from Thailand

Following an application lodged by Golden Circle Limited, anti-dumping measures were initially imposed on consumer pineapple exported to Australia from Thailand in 2001 by the then Minister for Justice and Customs following consideration of *Trade Measures Report No. 41*.

On 28 September 2006, the then Minister for Justice and Customs accepted the recommendations contained in the combined *Trade Measures Branch Report Nos. 110 and 111* to continue the anti-dumping measures applying to consumer 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). Exports from TPC have been exempt from anti-dumping measures since that date.

On 14 October 2011, the then Minister for Home Affairs accepted the recommendations contained in *Trade Measures Branch Report No. 171d* to continue the anti-dumping measures for a further five years from 18 October 2011.

On 12 September 2016 the then Assistant Minister for Industry, Innovation and Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science accepted the recommendations in *Anti-Dumping Commission Report No. 333* to continue the anti-dumping measures applying to consumer pineapple exported from Thailand for a further five years from 17 October 2016.³

² These tariff classifications and statistical codes may include goods that are both subject and not subject to the anti-dumping measures. The listing of these tariff classifications and statistical codes are for convenience or reference only and do not form part of the goods description. Please refer to the goods description for authoritative detail regarding goods subject to the anti-dumping measures.

³ Anti-Dumping Notice (ADN) No. 2016/82 refers.

Consumer pineapple from the Philippines

Following an application by Golden Circle Limited, anti-dumping measures were initially imposed on consumer 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*.

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

On 12 September 2016 the then Assistant Minister for Industry, Innovation and Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science accepted the recommendations in *Anti-Dumping Commission Report No. 333* to continue the anti-dumping measures applying to consumer pineapple exported from the Philippines for a further five years from 10 October 2016.⁴

Further details on the goods and existing measures is available on the Dumping Commodity Register on the Anti-Dumping Commission's (Commission) website (www.adcommission.gov.au).

4. Concurrent Inquiries

I have separately initiated continuation inquiries nos. 573 and 574 in relation to pineapple fruit – food service and industrial (FSI pineapple) from Thailand and the Philippines.⁵ I will conduct the inquiries described in this notice concurrently with inquiries nos. 573 and 574.

5. Application for continuation of the anti-dumping measures

Division 6A of Part XVB sets out, among other things, the procedures to be followed in dealing with an application for the continuation of anti-dumping measures.

In accordance with section 269ZHB(1), I published a notice⁶ on the Commission's website on 6 November 2020. The notice invited the following persons to apply for the continuation of the anti-dumping measures:

- the person whose application under section 269TB resulted in the anti-dumping measures (section 269ZHB(1)(b)(i)); or
- persons representing the whole or a portion of the Australian industry producing like goods to the goods covered by the anti-dumping measures (section 269ZHB(1)(b)(ii)).

On 4 January 2020, an application for the continuation of the anti-dumping measures was received from Golden Circle Limited. A non-confidential version of the application is available on the Commission's public record.

Having regard to the application and the original investigation, I am satisfied that Golden Circle Limited is the person under section 269ZHB(1)(b)(i) because

⁴ ADN No. 2016/81 refers.

⁵ ADN No. 2021/005 refers.

⁶ ADN No. 2020/125 refers.

Golden Circle Limited's applications under section 269TB resulted in the existing anti-dumping measures.

6. Consideration of application under section 269ZHD(1)

Pursuant to section 269ZHD(1), I must reject an application for the continuation of anti-dumping measures if I am not satisfied of one or more of the matters referred to in section 269ZHD(2). These are:

- the application complies with section 269ZHC (section 269ZHD(2)(a)); and
- there appear to be reasonable grounds for asserting that the expiration of the anti-dumping measures to which the application relates might lead, or might be likely to lead, to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent (section 269ZHD(2)(b)).

7. Assessment under section 269ZHD(2)(a) - compliance with section 269ZHC

I consider that the application complies with the requirements of section 269ZHC because it is in writing, in a form approved by me for the purposes of this section, contains the information that the form requires, is signed in the manner indicated by the form, and was lodged in a manner approved under section 269SMS, being by email to the Commission's email address provided in the instrument under section 269SMS.⁷

8. Assessment under section 269ZHD(2)(b) – reasonable grounds

Applicant's claims

In its application, Golden Circle Limited claims, among other things, that:

- exports of consumer pineapple from Thailand and the Philippines have continued to enter Australia following the continuation of measures in October 2016;
- exporters of consumer pineapple in Thailand and the Philippines have maintained distribution links in Australia;
- imports of consumer pineapple from Thailand and the Philippines continue to be priced at levels that make it difficult for Golden Circle Limited to raise prices in response to increases in production costs and to achieve adequate returns for ongoing reinvestment opportunities;
- producers in Thailand and the Philippines retain excess capacity that could be directed towards Australia should the measures be removed;
- future exports of consumer pineapple from the Philippines and Thailand will be at dumped prices; and
- the expiry of the measures would likely result in a substantial loss of sales volume and market share for the Australian industry, culminating in the likely closure of the Golden Circle Northgate processing facility which is integral for the processing of locally grown pineapples, sourced from farms in Queensland and northern New South Wales.

⁷ A copy of the instrument can be found on the Commission's website at www.adcommission.gov.au.

Golden Circle Limited contends that the expiration of the anti-dumping measures would lead to a continuation and recurrence of the material injury that the measures are intended to prevent.

Golden Circle Limited provided import data sourced from Australian Bureau of Statistics (ABS) for the goods to demonstrate that manufacturers from Thailand and the Philippines continue to export the goods to Australia.

In support of its claims relating to price suppression, Golden Circle Limited provided examples of negotiations with customers where Golden Circle Limited's attempts to raise prices to recover increases in costs had been rejected.

Golden Circle Limited provided trade data demonstrating that Thailand and the Philippines are the world's first and second largest exporter of canned pineapple respectively.

Golden Circle Limited calculated dumping margins based on ABS import data and domestic selling prices of canned pineapple from Thailand and the Philippines respectively in support of its claim that future exports of consumer pineapple from the Philippines and Thailand will be at dumped prices.

The Commission's consideration

The Commission has examined information it obtained from the Australian Border Force import database and has found that exporters from Thailand and the Philippines have continued to export the goods to Australia since the anti-dumping measures were last continued in 2016.

This finding confirms that exports of consumer pineapple from Thailand and the Philippines have continued to enter Australia following the continuation of measures in October 2016 and that manufacturers in Thailand and the Philippines have maintained distribution links into the Australian market.

The Commission also found that Golden Circle Limited's estimated export prices reconciled to the data contained in the Australian Border Force import database. The Commission has reviewed Golden Circle Limited's dumping margin calculations and considers that there appears to be reasonable grounds for asserting that the goods exported from Thailand and the Philippines in calendar year 2020 were dumped.

In addition the Commission has examined global trade data from the ITC Market Access Map database⁸ which outlined the proportions of Thailand's and the Philippines' relative global market shares of prepared and preserved pineapple. The data accessed by the Commission indicates that producers from these two countries are significant exporters of the goods globally. During the course of these inquiries the Commission will consider whether the expiry of the measures may lead to an increase in exports of the goods to Australia.

The Commission has also reviewed Golden Circle Limited's claims in regards to price suppression, loss of sales volume and loss of market share. The Commission considered data from the Australian Border Force import database and reviewed Golden Circle Limited's financial information. The Commission identified that Golden Circle Limited's sales volume and market share has

⁸ Refer to ITC Trade Map at www.trademap.org

declined in recent years. Further, while Golden Circle Limited's costs to make and sell have increased, they have not been able to achieve comparable price increases. During the course of these inquiries the Commission will consider Golden Circle Limited's claims and the effect the expiry of the measures may have.

I am therefore satisfied that, in accordance with section 269ZHD(2)(b), there appear to be reasonable grounds for asserting that the expiration of the anti-dumping measures might lead, or might be likely to lead, to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent. I have come to this view having regard to Golden Circle Limited's claims summarised above, the Commission's finding that exports of consumer pineapple from Thailand and the Philippines have continued after the continuation of measures in 2016 and the Commission's finding that there are reasonable grounds for asserting that the goods exported in 2020 were dumped.

9. Conclusion

Having regard to the application, Golden Circle Limited's claims and other relevant information set out in this notice, I am satisfied that there appear to be reasonable grounds for asserting that the expiration of the anti-dumping measures might lead, or might be likely to lead, to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent.

Based on the above findings, I have therefore decided to not reject the application.

10. These continuation inquiries

For the purpose of these inquiries, I will examine the period from 1 January 2020 to 31 December 2020 (the inquiry period) to determine whether dumping has occurred and whether the variable factors relevant to the determination of duty have changed.

Following my inquiries, I will recommend to the Minister whether the notices:

- (i) remain unaltered; or
- (ii) cease to apply to a particular exporter or to a particular kind of goods; or
- (iii) have effect in relation to a particular exporter or to exporters generally, as if different variable factors had been ascertained; or
- (iv) expire on the specified expiry day.

11. Proposed model control code structure

The 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.⁹

The table below outlines the Commission's proposed MCC structure for these inquiries.

⁹ Guidance on the Commission's approach to model matching is in the Dumping and Subsidy Manual, available at www.adcommission.gov.au.

Category	Sub-category		Sales data	Cost data
Pineapple cut	CH	Chunks	Mandatory	Mandatory
	CR	Crushed		
	PC	Pieces		
	PZ	Pizza cut		
	SL	Sliced		
	TD	Tidbits		
	TH	Thin sliced		
Container type	TC	Tin can	Mandatory	Mandatory
	PC	Plastic cup		
Container size ¹⁰	Please provide container size in net weight (e.g., '850 g').		Mandatory	Mandatory
Packing medium	L	Light syrup	Mandatory	Mandatory
	H	Heavy syrup		
	S	Natural juice (sweetened)		
	U	Natural juice (unsweetened)		

Proposals to modify the proposed MCC structure should be raised as soon as is practicable, but no later than 3 March 2021.

Interested parties are encouraged to make a submission on whether any proposed modifications to the MCC structure should be accepted by the Commission. Any changes to the MCC structure by exporters will be considered by the Commission and reported in verification reports or in the statement of essential facts (SEF).

12. Public record

I must maintain a public record for these inquiries. The Electronic Public Record (EPR) hosted on the Commission's website (www.adcommission.gov.au) contains, among other things, a copy of all non-confidential submissions from interested parties. Documents hosted on the EPR can be provided upon request to interested parties.

I will maintain a single EPR for inquiries nos. 571 and 572 since these two inquiries relate to the same product (consumer pineapple) and are for the same inquiry period.

13. Submissions

Interested parties, as defined in section 269T(1), are invited to lodge written submissions concerning the continuation of the measures, no later than the

¹⁰ Based on previous cases relating to consumer pineapples, the Commission considers there may potentially be many different container sizes used for the goods. As part of the process of seeking data from interested parties, the Commission will request specific data relating to container sizes. This information will be described in stakeholder verification reports, which will be published on the relevant Electronic Public Record for cases 571 and 572.

close of business on 3 March 2021, being 37 days after publication of this notice. The Commission's preference is to receive submissions by email to investigations4@adcommission.gov.au.

Submissions may also be addressed to:

The Director, Investigations 4
Anti-Dumping Commission
GPO Box 2013
Canberra ACT 2601

or faxed to +61 3 8539 2499.

Interested parties wishing to participate in one or both of the inquiries 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 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 "**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**").

14. Statement of essential facts

The dates specified in this notice for lodging submissions must be observed to enable me to report to the Minister for Industry, Science and Technology (the Minister) within the legislative timeframe. I will place the SEF on the public record on or before 17 May 2021, that is, within 110 days after the publication of this notice, or by such later date as I may allow in accordance with section 269ZHI(3). The SEF will set out the essential facts on which I propose to base a recommendation to the Minister concerning the continuation of the anti-dumping measures.

Interested parties are invited to lodge submissions in response to the SEF within 20 days of the SEF being placed on the public record. Submissions received in response to the SEF within 20 days of the SEF being placed on the public record will be taken into account in completing my report and recommendation to the Minister.

15. Report to the Minister

I will make a recommendation to the Minister in a report on or before 29 June 2021, that is, within 155 days after the date of publication of this notice, or such later date as I may allow in accordance with section 269ZHI(3).

The Minister must make a declaration within 30 days after receiving the report, or if the Minister considers there are special circumstances, such longer period, ending before the specified expiry day, as the Minister considers appropriate. If the Minister receives the report less than 30 days before the specified expiry day, the Minister must make the declaration before that day.

16. The Commission Contact

Enquiries about this notice may be directed to the Case Manager on telephone number +61 3 8539 2478 or investigations4@adcommission.gov.au.

Dale Seymour
Commissioner
Anti-Dumping Commission
25 January 2021