
From: Roger Simpson <roger@panpac.biz>
Sent: Wednesday, 29 May 2013 11:56 AM
To: International Trade Remedies Ops 1; GARABED Pamela
Subject: RE: Consumer and FSI pineapple reviews - consideration of new forms of interim dumping duty [DLM=For-Official-Use-Only]

Hi Pamela,

I received your email below too late to incorporate my comments in submissions in response to SEFs 195A and 196 and provide them hereunder.

I consider it appropriate to apply the current form of combination of fixed and variable duty to the revised duty rates in relation to consumer and FSI pineapple.

I am of the view that those exporters who were found to have exported at dumped prices during the review period would have, in this case, achieved unfair market advantage over their competitors by their dumping and should pay a price for this.

Regards,
Roger

From: International Trade Remedies Ops 1 [mailto:itrops1@customs.gov.au]
Sent: Friday, 24 May 2013 10:49 AM
Subject: Consumer and FSI pineapple reviews - consideration of new forms of interim dumping duty [DLM=For-Official-Use-Only]

Good afternoon,

Changes to forms of dumping and / or countervailing duty

We are writing to advise that the current reviews of consumer pineapple and food service and industrial (FSI) pineapple will be impacted by the proclamation of tranche 3 of Streamlining legislation, which amends the *Customs Act 1901* (the Act) and the *Customs Tariff (Anti-Dumping) Act 1975* (the Dumping Duty Act), commencing on 11 June 2013. Customs and Border Protection will now be required to consider which form of interim dumping duty to impose when making its final recommendation to the Minister for Home Affairs (the Minister). The new forms of interim dumping duty that will be available when imposing or altering anti-dumping measures are discussed further below.

The form of interim dumping duty is the method of working out the amount of interim dumping duty payable on goods the subject of notices under subsection 269TG(1) or (2) and subsection 269TH(1) or (2) of the Act (dumping duty notices).

Interim dumping duty is assessed and paid on each entry of goods the subject of a dumping duty notice. Importers may subsequently apply for a dumping duty assessment pursuant to Division 4 of Part XVB of the Act, within six months of the particular importation period. If the final duty assessed is less than the interim dumping duty paid, then a refund is paid. If the final duty assessed is more than the interim dumping duty paid, then the excess is waived. Importantly, if none of the goods are dumped during the relevant assessment period, then all of the interim dumping duty paid will be refunded. This amendment does not alter the methods for determining the final duty, or the assessment and refund process. It only allows more options for the Minister in imposing the interim dumping duty payable.

Currently the Dumping Duty Act only provides for the imposition of a combination form of interim dumping duty that has a fixed component and a variable component. The current combination duty will be removed from the

Dumping Duty Act and will now be, along with different forms of interim dumping duty, prescribed in the new regulations. The Minister will determine which of those prescribed methods will be used for each dumping duty notice by a signed notice, which will be published.

The new forms of duty as prescribed in the new regulations will include:

- combination of fixed and variable duty method;
- floor price duty method;
- fixed duty method (\$X per tonne); or
- ad valorem duty method (i.e. a percentage of the Free-On-Board export price).

Submissions on forms of duty

As indicated in Statement of Essential Facts (SEF) 195A and SEF 196, Customs and Border Protection proposes to recommend to the Minister that the dumping duty notices in respect of consumer and FSI pineapple have effect in relation to exporters generally as if different variable factors had been fixed. The result of the reviews would be that ascertained export prices, normal values and the non-injurious price for all exporters would change and the amount of interim dumping duty imposed would change.

Customs and Border Protection is seeking submissions from interested parties as to your views on the appropriate form of interim dumping duty to apply when altering the anti-dumping measures.

To assist, we attach a draft version of the proposed Guidelines on the Application of Forms of Dumping Duty. This guidance is being developed to help inform interested parties about each form of duty and does not bind Customs and Border Protection to the form of duty it can recommend, or the Minister to the form of duty to be applied. Please note that this document is still in draft form and the final guidance material, to be published on commencement of the legislative changes, may be different to the document attached.

Submissions in relation to this issue should be incorporated into submissions responding to SEF 195A and SEF 196. These submissions are due to Customs and Border Protection by no later than **28 May 2013**.

Please do not hesitate to contact me should you wish to discuss.

Kind regards,

Pamela Garabed

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