



**Australian Government**  
**Anti-Dumping Review Panel**

*Customs Act 1901*

Notice under section 269ZZI

**Food Service and Industrial Pineapple and Consumer Pineapple Exported from the Kingdom of Thailand**

The Anti-Dumping Review Panel received applications from Tipco Foods Public Company Limited and Dole Thailand Limited under the *Customs Act 1901* for a review of a decision by the Minister for Home Affairs to alter a dumping duty notice following a review inquiry in relation to Food Service Industry pineapple exported from the Kingdom of Thailand.

The Minister's decision was published in *Commonwealth of Australia Special Gazettes* No C2013G01155 26/07/2013 accessible at [www.comlaw.gov.au](http://www.comlaw.gov.au).

The goods to which these applications relate are pineapple, prepared or preserved, in containers exceeding one litre (Food Service and Industrial pineapple) FSI Pineapple. The goods are classified to tariff subheading 2008.20.00 in Schedule 3 of the *Customs Tariff Act 1995*.

The Anti-Dumping Review Panel also received an application from Siam Agro-Food Industry Public Company Limited under the *Customs Act 1901* for a review of a decision by the Minister for Home Affairs to alter a dumping duty notice(s) following a review inquiry into Consumer Pineapple.

The Minister's decision was published in *Commonwealth of Australia Special Gazettes* No C2013G01154 26/07/2013 accessible at [www.comlaw.gov.au](http://www.comlaw.gov.au).

The goods to which this application relates are pineapple, prepared or preserved, in containers not exceeding one litre (Consumer Pineapple) . The goods are classified to tariff subheading 2008.20.00 in Schedule 3 of the *Customs Tariff Act 1995*.

The applications in relation to FSI Pineapple set out various grounds for seeking review that included the following:

- The dumping duty notice applicable to exports of FSI pineapple from Thailand, including those by Tipco, refer to all types of FSI pineapple, as do the variable factors applicable to such exports
- The variable factors applicable to Tipco's exports of all types of FSI pineapple exports to Australia have been ascertained by Customs on the basis of just one type of FSI pineapple.
- As a result, there was a highly inflated ascertained export price ("AEP") and thus variable duty was applicable to Tipco's future exports of various types of FSI pineapple.

- This inflated AEP and consequent variable duty is likely to prohibit future FSI pineapple exports to Australia by Tipco, which is contrary to the intention of anti-dumping measures.
- It is inappropriate in determining a single variable duty for all types of FSI pineapple on the basis of the AEP applicable to a single specialty product type
- There were errors in the identification of the exporter and the determination of normal values

In relation to Consumer pineapple the applicant claims;

- The facts established by the review do not provide reasonable grounds for the conclusion that the dumping duty relating to consumer pineapple exported from Thailand by TPC continues to be warranted.
- The normal value applicable to TPC's exports to Australia according to REP 195A is a constructed normal value pursuant to section 269TAC(2)(c) of the Customs Act ("the Act").
- The method used by Customs to calculate the profit amount is contrary to the explicit requirement of Reg 181A(3)(c) of the Customs Regulations 1926 that it be a reasonable method.
- The facts established by review no. 195B demonstrated that a recurrence of dumping is a possibility, but it is not demonstrated that it is a probability.
- It is unreasonable to consider that the profit achieved in domestic sales of FSI pineapple by other Thai producers is representative of the profit that could be achieved in domestic sales of consumer pineapple by TPC.

The Anti-Dumping Review Panel proposes to conduct a review of these decisions. Interested parties may make submissions to the Panel within 30 days after the date of publication of this notice.

Submissions may be emailed to [ADRP\\_support@customs.gov.au](mailto:ADRP_support@customs.gov.au), or sent by facsimile to (02) 6275 6784. Submissions may also be posted to the Anti-Dumping Review Panel, c/o Legal Services Branch, Australian Customs and Border Protection Service, 5 Constitution Avenue Canberra City ACT 2601. Persons wishing to make further inquiries about this review should telephone (02) 6275 5868. The documents on public file are available from [www.adreviewpanel.gov.au](http://www.adreviewpanel.gov.au).

The reports of the original investigation are available on the Anti-Dumping Commission website at [www.adcommission.gov.au](http://www.adcommission.gov.au)

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Anti-Dumping Review Panel