



Australian Government
Anti-Dumping Review Panel

Anti-Dumping Review Panel
C/O Legal, Audit & Assurance
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By EMAIL

Mr D Seymour
Anti-Dumping Commissioner
Anti-Dumping Commission
55 Collins Street
Melbourne VIC 3000

Dear Mr Seymour,

**Food Service and Industrial Pineapple Exported from Thailand – Kuiburi Fruit Canning Co. Ltd
REP.334**

The Anti-Dumping Review Panel is currently conducting a review of the decision of the Minister for Industry, Innovation and Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science to publish a notice under subsection 269ZH(1)(b) of the *Customs Act 1901* (the Act) to secure the continuation of anti-dumping measures currently applying to Food Service and Industrial (FSI) Pineapple exported to Australia from Thailand.

In REP.334 you identified Kuiburi Fruit Canning Co. Ltd (Kuiburi) dumping margin to be 7.9% over the investigation period (1 January 2015 to 31 December 2015).

In your submission to me dated 16 December 2016 (Appendix A), you advised that the weighted average cost to make and sell (WACTMS) should have been calculated using the method provided in Kuiburi's application for review to the ADRP. Accordingly, you provided me with a revised dumping margin and ascertained normal value in relation to Kuiburi which reflects a negative dumping margin over the inquiry period. In my view, this represents a significant variation from the 7.9% margin identified in REP.334.

In its application for review, Kuiburi also sought a review of your recommendation to continue the measures because you could not be satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or recurrence of, the dumping and the material injury that the anti-dumping measures are intended to prevent.

In your submission, you indicated the basis of the recommendation to continue the measures was, in part, due to the continuing presence of dumped exports in substantial volumes since the last continuation enquiry in 2011. Your submission also made reference to your findings on this issue as outlined in REP.334. You stated at page 37 of the report that a review of measures in 2012 identified that FSI from Thailand being dumped at margins ranging between 18% to 25.5%, however Kuiburi who exports from Thailand was found not to have been dumping.

I note the following comment at page 40 of REP.334- *"the Commission concludes that dumped FSI pineapple ... from Thailand that is subject to measures, while not the sole cause of injury, continue to cause material injury to the Australian industry during the inquiry period."*

I accept that the identification of a negative dumping margin for Kuiburi over the investigation period is not determinative and that a recommendation to continue measures needs to be supported by a prospective analysis. I note there are other exporters from Thailand who are not subject to measures and that there are factors other than dumped imports that contribute towards the injury sustained by the local industry.

It is in this context that, pursuant to section 269ZZL of the Act, I request a reinvestigation of the findings in REP.334 as to the reasons why you consider that there is a likelihood that Kuiburi would resume dumping, and thereby contribute to the material injury sustained by the local industry, notwithstanding the establishment of a negative dumping margin over the investigation period.

If you have any issues in relation to the reinvestigation or if you consider that a conference under section 269ZZHA of the Act would assist in obtaining the further information on the subject of the reinvestigation, please contact the Secretariat.

Please report the result of the reinvestigation as soon as practicable and, in any event by **15 February 2017**.

Thank you for your assistance.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Paul O'Connor', written over a horizontal line.

Paul O'Connor
Member
Anti-Dumping Review Panel
9 January 2017