



AUSTRALIAN CUSTOMS DUMPING NOTICE NO. 2006/51

Pineapple prepared or preserved in containers exceeding one litre exported from the Philippines - finding in relation to a dumping investigation

On 10 October 2006 the Minister for Justice and Customs (Minister) gave public notice of his decisions to declare (under ss.269TG(1) and 269TG(2) of the *Customs Act 1901*) that s.8 of the *Customs Tariff (Anti-Dumping) Act 1975* applies to pineapple prepared or preserved in containers exceeding one litre (food service and industrial (FSI) pineapple) and like goods exported to Australia from the People's Republic of China (China) and the Philippines.

The decisions were based on Trade Measures Report No.112 (the Report) and confidential attachments. Certain details contained in the confidential attachments to the Report, and the instruments signed by the Minister, contained errors in relation to FSI pineapple exported to Australia from the Philippines. There was no error in the body of the Report as published.

Accordingly, the Minister has treated his decision to declare that s.8 of the *Customs Tariff (Anti-Dumping) Act 1975* applies to FSI pineapple and like goods exported to Australia from the Philippines as invalid and of no effect.

The Minister's decisions in relation to:

- FSI pineapple exported from China; and
 - pineapple prepared or preserved in containers not exceeding one litre (consumer pineapple) exported to Australia from the Philippines which was also the subject of the Report
- are not affected by this decision.

In the Report Customs concluded that:

- exports of FSI pineapple from the Philippines were at dumped prices;
- the Australian industry producing like goods had suffered material injury as a result of those dumped goods;
- material injury would continue to be caused to Australian industry if the goods from the Philippines continue to be exported to Australia at dumped prices.

Customs recommended that anti-dumping action be taken against FSI pineapple exported to Australia from the Philippines.

The Minister has now considered the Report and the corrected confidential attachments to the Report. The Minister has accepted Customs recommendations in relation to the FSI pineapple exported to Australia from the Philippines. The notice of the Minister's decision was published in *The Australian* newspaper and *Gazette* on 13 November 2006.

Measures will apply from 11 August 2006, which is the date from which Customs determined that securities would be collected for FSI pineapple entered for home consumption pursuant to Preliminary Affirmative Determination No. 112.

The Report, which contains the reasons for Customs recommendations, has been sent to all interested parties that participated in the investigation. Requests for additional copies of the Report may be directed to the Trade Measures Branch, Canberra on telephone number (02) 6275 6547 or facsimile (02) 6275 6990. Trade Measures Reports are also available on the Customs internet home page at www.customs.gov.au.

Interested parties may request a review of the Minister's decision by lodging an application for review with the Trade Measures Review Office in the approved form and manner within 30 days of 13 November 2006. The legislation relating to the review of ministerial decisions is set out in the Customs Act commencing at s. 269ZZA.

Bona fide importers may obtain details of the measures applicable to FSI pineapple from the Regional Dumping Liaison Officers in their respective capital city.

The s.269TG(1) notice covers goods that were exported to Australia after the CEO made Preliminary Affirmative Determination No. 112 under s.269TD of the *Customs Act 1901*, to the extent permitted by s.s. 269TN of the *Customs Act 1901*. As a result interim dumping duty (IDD) is payable retrospectively on the goods which were exported to Australia from the Philippines from 11 August 2006 to the day before the publication of the relevant s.269TG(1) notice inclusive, i.e. 12 November 2006.

For securities taken between 11 August and 9 October, normal conversion procedures will apply.

For goods imported between 11 October and 12 November 2006, IDD has already been collected. While the Minister's original decision regarding FSI pineapples exported from the Philippines has been deemed invalid, IDD is payable on these goods, as securities would have continued to apply until 12 November 2006. However, the rate of IDD has changed for some exporters. Importers who consider that they may be entitled to a refund of IDD should lodge an amending Full Import Declaration quoting the appropriate Dumping Specification Number which is published in the Dumping Commodities Register. Any questions regarding this process should be directed to the Dumping Hotline on 02 6275 6066.

Other enquiries regarding these changes may be directed to the case manager on telephone number (02) 6275 6637 and facsimile number (02) 6275 6888 or by email to tmops1@customs.gov.au.

ANDREW RICE
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Trade Measures Branch

13 November 2006