



Australian Government
**Department of Industry, Science,
Energy and Resources**

**Anti-Dumping
Commission**

CUSTOMS ACT 1901 - PART XV B

STATEMENT OF ESSENTIAL FACTS

573 & 574

**INQUIRY INTO THE CONTINUATION OF
ANTI-DUMPING MEASURES APPLYING TO
FOOD SERVICE AND INDUSTRIAL (FSI) PINEAPPLE
EXPORTED TO AUSTRALIA FROM THE REPUBLIC OF THE
PHILIPPINES AND THE KINGDOM OF THAILAND**

19 July 2021

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ABBREVIATIONS

ABF	Australian Border Force
the Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
the applicant or Golden Circle	Golden Circle Limited
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
CTMS	Cost to make and sell
the Direction	<i>Customs (Extensions of Time and Non-cooperation) Direction 2015</i>
Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975 (Cth)</i>
EPR	Electronic public record
FOB	Free on board
FSI	Food Service and Industrial
the goods	the goods the subject of the application (also referred to as the goods under consideration or GUC)
the Manual	<i>Dumping and Subsidy Manual</i>
NIP	Non-Injurious Price
the Parliamentary Secretary	the Assistant Minister for Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science
Pave	Pave Brands Limited
the Philippines	the Republic of the Philippines
Prime Products	Prime Products Industry Co. Ltd
the Regulation	<i>Customs (International Obligations) Regulation 2015 (Cth)</i>
REP 41	<i>Trade Measures Report No. 41</i>
REP 110	<i>Trade Measures Report No. 110</i>
REP 111	<i>Trade Measures Report No. 111</i>
REP 112	<i>Trade Measures Report No. 112</i>
REP 171b	<i>Trade Measures Branch Report No. 171b</i>
REP 171d	<i>Trade Measures Branch Report No. 171d</i>
REP 172b	<i>Trade Measures Branch Report No. 172b</i>
REP 172d	<i>Trade Measures Branch Report No. 172d</i>
SEF	Statement of Essential Facts
SG&A	Selling, general and administrative
Siam Food	Siam Food Products Public Co Ltd
Thailand	the Kingdom of Thailand
USP	Unsuppressed selling price

1 SUMMARY AND RECOMMENDATIONS

1.1 Introduction

The anti-dumping measures currently applicable to exports of food service and industrial (FSI) pineapple (the goods) to Australia from Thailand and the Philippines are due to expire on 17 October 2021 and 13 November 2021 respectively.¹

The present inquiry was initiated on 25 January 2021, following the Commissioner's consideration of the application lodged by Golden Circle Limited seeking the continuation of the anti-dumping measures.² The Commissioner established an inquiry period of 1 January 2020 to 31 December 2020 (the inquiry period) for this continuation inquiry.

This Statement of Essential Facts (SEF) sets out the facts on which the Commissioner proposes to base his recommendations to the Minister, subject to any submissions received in response to this SEF.

1.2 Legislative framework

Division 6A of Part XVB, *Customs Act 1901* (Cth) (the Act) sets out, among other things, the procedures to be followed by the Commissioner when considering an application for the continuation of anti-dumping measures.³

Section 269ZHE(1) requires that the Commissioner publish a SEF on which he proposes to base his recommendations to the Minister concerning the continuation of the anti-dumping measures. Section 269ZHE(2) requires that in doing so, the Commissioner must have regard to the application, any submissions received within 37 days of the initiation of the inquiry and may have regard to any other matters that he considers relevant.

Under section 269ZHE(3), the Commissioner is not obliged to have regard to any submissions relating generally to the inquiry that are received by the Commissioner after the end of the 37 day period referred to in section 269ZHE(2)(a)(ii) if to do so would, in the Commissioner's opinion, prevent the timely placement of this SEF on the public record. Section 269ZHF(1)(a) requires the Commissioner, after conducting an inquiry, to give the Minister a report which recommends:

- that the notice remain unaltered;⁴ or
- that the notice cease to apply to a particular exporter or to a particular kind of goods;⁵ or
- that the notice have effect in relation to a particular exporter or to exporters generally, as if different variable factors had been ascertained;⁶ or
- that the notice expire on the specified expiry day.⁷

¹ Under section 269TM, dumping duty notices expire five years after the date on which they were published, unless they are revoked earlier.

² Refer to Golden Circle Limited's application for the continuation of the measures on the electronic public record (EPR) for inquiries 573 and 574, document no. 1 refers.

³ All legislative references in this report are to the *Customs Act 1901* (Cth) unless otherwise stated.

⁴ Section 269ZHF(1)(a)(i).

⁵ Section 269ZHF(1)(a)(ii).

⁶ Section 269ZHF(1)(a)(iii).

⁷ Section 269ZHF(1)(a)(iv).

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Pursuant to section 269ZHF(2), the Commissioner must not recommend that the Minister take steps to secure the continuation of the anti-dumping measures unless the Commissioner is satisfied that the expiration of the anti-dumping measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping or subsidisation and the material injury that the anti-dumping measure is intended to prevent.

1.3 Preliminary findings and proposed recommendation

For the reasons set out in this SEF, the Commissioner is not satisfied that the expiration of the anti-dumping measures in respect of exports of FSI pineapple from the Philippines and Thailand will lead, or would be likely to lead, to a continuation of, or a recurrence of, dumping and the material injury that the anti-dumping measures are intended to prevent.

Specifically, the Commissioner has found that:

- Golden Circle has been able to achieve a consistently higher sales price on its FSI pineapple, despite its prices being undercut by imports from the subject countries and other countries. No evidence has been provided indicating that the prices Golden Circle achieve are impacted by imports from the subject countries (refer to section 7.7.1 of this report);
- Since measures were last continued in 2016, the Australian market has shifted with imports from Thailand (from exporters not subject to the measures) and imports from other countries (also not subject to the measures) now holding the vast majority of the Australian market share. These imports appear to compete at a price point much lower than Golden Circle's product. If the measures are allowed to expire it appears future imports from Thailand and the Philippines will compete on price at this lower level, with no evidence to support that Golden Circle's prices are impacted (refer to section 7.7.1 of the report for further details);
- The Commission is of the view that due to limited supply of raw pineapple in Australia, Golden Circle has focussed on the consumer pineapple market rather than the FSI pineapple market. This would explain its declining sales volume for FSI pineapple. The availability of raw pineapple in Australia is not impacted by imports from the subject countries. Further, no evidence was identified indicating that Golden Circle had lost sales volumes due to imports from the subject countries. Golden Circle instead advised that it is operating at full capacity in terms of pineapple processing. This is explained at section 7.7.2 of the report.

Based on the above preliminary findings, the Commissioner proposes to recommend to the Minister that the notices in respect of the goods exported to Australia from the Philippines and Thailand not be continued.

1.4 Responding to this SEF

This SEF represents an important stage in the inquiry. It informs interested parties of the facts established by the Commissioner and allows them to make submissions in response to the SEF.

It is therefore important to note that the SEF may not represent the final views of the Commissioner.

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Interested parties are invited to make submissions to the Commissioner in response to the SEF within 20 days of the SEF being placed on the public record. The due date to lodge written submissions in response to this SEF is **9 August 2021**.⁸

The Commissioner is not obliged to have regard to any submission made in response to the SEF received after this date if to do so would, in the opinion of the Commissioner, prevent the timely preparation of the report to the Minister.⁹

Submissions may be provided by email to investigations4@adcommission.gov.au.

Alternatively, interested parties may post submissions to:

Director, Investigations Unit 4
Anti-Dumping Commission
GPO Box 2013
CANBERRA ACT 2601
AUSTRALIA

Confidential submissions must be clearly marked accordingly and a non-confidential version of any submission is required for inclusion on the Public Record. Information in relation to making submissions is available on the Commission's website www.adcommission.gov.au.

The public record contains non-confidential submissions by interested parties, the non-confidential versions of the Commission's visit reports and other publicly available documents. The EPR is available via the Commission's website. Interested parties should read this SEF in conjunction with other documents on the public record.

1.5 Final report

The Commissioner's final report and recommendations must be provided to the Minister within 155 days after the publication of a notice under section 269ZHD(4) or such longer period as is allowed.¹⁰

The final report will include recommendations, including whether the relevant notice ought to:

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

Extensions of time for the provision of the Commissioner's final report and recommendations to the Minister have been granted under section 269ZHI(3).¹¹ The current due date for the final report is **6 September 2021**.

⁸ The due date for submissions falls on a weekend (8 August 2021). The effective due date for submissions moves to the next business day, being 9 August 2021.

⁹ Section 269ZHF(4).

¹⁰ Section 269ZHF(1). On 14 January 2017 the powers and functions of the Minister under section 269ZHI were delegated to the Commissioner, see Anti-Dumping Notice No. 2017/10.

¹¹ EPR 573 & 574, document nos. 3 and 7 refer.

2 BACKGROUND

2.1 Application and initiation

In accordance with section 269ZHB(1), the Commissioner published a notice on 6 November 2020 on the Commission's website inviting 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)).¹²

On 4 January 2021, 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 EPR.¹³

As set out in Anti-Dumping Notice (ADN) No. 2021/005, the Commissioner was satisfied that the application complied with section 269ZHC and, in accordance with section 269ZHD(2)(b), there appeared 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.

The Commissioner therefore decided not to reject the application and initiated the present inquiry on 25 January 2021.

2.2 History of the anti-dumping measures

2.2.1 FSI pineapple from Thailand

Following an application lodged by Golden Circle Limited, anti-dumping measures were initially imposed on FSI pineapple exported to Australia from Thailand (except by Malee Sampran Public Co) 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 FSI pineapple exported to Australia from Thailand for a further five years.

On 14 October 2011, the then Minister for Home Affairs accepted the recommendations contained in *Trade Measures Branch Report No. 171c* 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. 334 (REP 334)*

¹² [ADN No. 2020/125](#) refers.

¹³ EPR 573 & 574, [document no. 01](#) refers.

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to continue the anti-dumping measures applying to FSI pineapple exported from Thailand for a further five years from 17 October 2016.¹⁴

Following REP 334 Kuiburi Fruit Canning Co., Ltd (Kuiburi Fruit Canning) applied to the Anti-Dumping Review Panel (ADRP) for a review of the decision to continue the measures as far as it applied to Kuiburi Fruit Canning's exports. On 24 April 2017 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 Review Panel Report No. 50* and revoked the measures for FSI pineapple as they applied to Kuiburi Fruit Canning with effect from 13 September 2016.¹⁵

On 20 February 2019 the then Minister for Industry, Science and Technology accepted the recommendations contained in *Anti-Dumping Commission Report No. 477* (REP 477) and declared that the dumping duty notice applying to FSI pineapple exported to Australia from Thailand be revoked in relation to Prime Products Industry Co Ltd (Prime Products).¹⁶

2.2.2 FSI pineapple from the Philippines

Following an application by Golden Circle Limited, anti-dumping measures were initially imposed on FSI pineapple exported to Australia from the Philippines on 13 November 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. 171a* to secure the continuation of anti-dumping measures applying to FSI pineapple for a further five years from 14 November 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 REP 334 to continue the anti-dumping measures applying to FSI pineapple exported from the Philippines for a further five years from 13 November 2016.¹⁷

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).

¹⁴ Anti-Dumping Notice (ADN) No. 2016/84 refers.

¹⁵ ADRP Public Notice No. 2016/50 refers.

¹⁶ ADN No. 2019/08 refers.

¹⁷ ADN No. 2016/83 refers.

2.3 Current measures

Table 1 sets out the current measures applying to exports of the goods to Australia from Thailand and the Philippines:

Country	Exporter	Dumping margin	Type of measures
Thailand	Siam Agro-Food Industry Public Co. Ltd	22.0%	combination of fixed and variable duty method
	Dole Thailand	13.8%	combination of fixed and variable duty method
	Natural Fruit Co Ltd	9.6%	combination of fixed and variable duty method
	All other exporters	28.6%	combination of fixed and variable duty method
Philippines	All other exporters	18.7%	combination of fixed and variable duty method

Table 1: Current measures applying to exports of the goods

The Commission notes that the following exporters from Thailand are exempt from the measures:

- Malee Sampran Public Co Limited;¹⁸
- Kuiburi Fruit Canning Co Ltd;¹⁹ and
- Prime Products Industry Co Ltd.²⁰

2.4 Conduct of the inquiry

2.4.1 Australian industry

The Commissioner is satisfied that the Australian industry for the continuation of the measures, Golden Circle Limited, is the person specified under section 269ZHB(1)(b)(i), being that it lodged the application under section 269TB that resulted in the current measures.

The Commission conducted verification of the information and data provided by Golden Circle Limited. The report made in relation to the verification process will be available on the EPR for these inquiries.

2.4.2 Importers

The Commission identified several importers in the ABF import database that imported the goods from the Philippines and Thailand during the inquiry period. The Commission forwarded importer questionnaires to major importers of the goods from the subject countries and placed a copy of the importer questionnaire on the Commission's website for completion by other importers who were not contacted directly.

The Commission received one questionnaire response from Juremont Pty Ltd (Juremont), an agent selling FSI pineapple exported from Thailand and the Philippines. In addition, Golden Circle, through its parent entity Heinz/Kraft is a large importer of the goods from Thailand. These imports were verified during the Australian industry verification.

¹⁸ Following Trade Measures Report No. 41.

¹⁹ Following an ADRP review of the findings in continuation inquiry 334.

²⁰ Following the findings in Review 477 (a single exporter review).

2.4.3 Traders and wholesalers

To gain additional understanding of the market the Commission also identified key wholesalers and importers of FSI pineapple and invited these entities to respond to a questionnaire. The Commission received a response to this questionnaire from Juremont. A non-confidential summary will be available on the public record.

2.4.4 Exporters

The Commission forwarded questionnaires to all known exporters of the goods from the subject countries and placed a copy of the exporter questionnaire on the Commission's website for completion by other exporters who were not contacted directly.

The Commission received a complete response from Siam Food Products Public Co Ltd (Siam Food), an exporter of the goods from Thailand.

No response was received from any exporter of the goods in the Philippines.

2.4.5 Uncooperative exporters

Uncooperative exporter is relevantly defined under section 269T(1) as an exporter of goods subject of an inquiry, or an exporter of like goods where the Commissioner was satisfied that the exporter did not give the Commissioner information the Commissioner considered relevant to the continuation inquiry within the period the Commissioner considered to be reasonable.

The Commissioner is satisfied that all exporters that did not provide a response to the exporter questionnaire are considered to be uncooperative exporters in accordance with this definition.

2.5 Concurrent Inquiries

The Commission is also undertaking inquiries into whether the anti-dumping measures applying to consumer pineapple imported from the Philippines and Thailand should be continued. Further information in relation to these inquiries is available on the electronic public record for inquiries 571 and 572.

2.6 Submissions received from interested parties

The following submissions have been received from interested parties:

Interested Party	Date Published on EPR	Document Number
Golden Circle Limited	11 June 2021	5
Australian Pineapple Growers	21 June 2021	6

Table 2: Submissions received

The points raised in these submissions have been addressed in this SEF.

3 THE GOODS, LIKE GOODS AND THE AUSTRALIAN INDUSTRY

3.1 Preliminary finding

The Commissioner is satisfied that the locally manufactured FSI pineapple are like goods to the goods subject to the anti-dumping measures. The Commissioner considers that there is an Australian industry, consisting of Golden Circle Limited, producing like goods, and that the like goods are wholly produced in Australia.

3.2 Legislative framework

In order to be satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or recurrence of, dumping or subsidisation, the Commissioner firstly determines whether the goods produced by the Australian industry are 'like' to the imported goods. Section 269T(1) defines like goods as:

goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration.

The definition of like goods is relevant in the context of this inquiry in determining the Australian industry and whether the expiration of the measures would lead to a continuation of, or a recurrence of, the dumping and material injury that the measures are intended to prevent. The Commission's framework for assessing like goods is outlined in Chapter 2 of the *Dumping and Subsidy Manual* (the Manual).²¹

Where the locally produced goods and the imported goods are not alike in all respects, the Commissioner assesses whether they have characteristics closely resembling each other against the following considerations:

- i. physical likeness;
- ii. commercial likeness;
- iii. functional likeness; and
- iv. production likeness.

The Commissioner must also consider whether the 'like' goods are in fact produced in Australia. Section 269T(2) specifies that for goods to be regarded as being produced in Australia, they must be either wholly or partly manufactured in Australia. Under section 269T(3), in order for the goods to be considered as partly manufactured in Australia, at least one substantial process in the manufacture of the goods must be carried out in Australia. The following therefore establishes the scope of the Commission's inquiry.

3.3 The goods subject to the measures

The goods that are the subject of the application are:

Pineapple prepared or preserved in containers exceeding one litre (food service and industrial pineapple).

²¹ Available on the Commission's [website](#).

3.3.1 Tariff classification

The goods are generally, but not exclusively, classified according to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995* (Cth):

Tariff code	Statistical code	Description
2008.20.00	27	Canned pineapples in containers exceeding one litre
2008.20.00	28	Pineapples other than canned

Table 3: Tariff classifications of the goods

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

3.4 Model control code

On 9 August 2018, the Commission announced that a model control code (MCC) structure would be implemented in new investigations, reviews of exporters generally or continuations for cases initiated after this date (see ADN No. 2018/128).²²

The proposed MCC structure described in ADN No. 2021/005 is displayed in

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)		

Table.

²² Full guidance regarding the Commission's application of an MCC structure is provided in ADN No. 2018/128 on the Commission website at: <https://www.adcommission.gov.au>.

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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)		

Table 4: MCC Structure

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No submissions were received about this structure from interested parties. The MCC structure outlined in

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)		

Table was therefore applied in this inquiry.

3.5 Like goods

This section sets out the Commission's assessment of whether the locally produced goods are identical to, or closely resemble, the goods under consideration and are therefore 'like goods'.

The findings below have had regard to the Commission's:

- Australian industry verification;
- verification of data provided by the cooperative exporter from Thailand; and
- findings in previous cases that locally produced goods are like goods to the goods exported from both the Philippines and Thailand.

The Commission is satisfied that the locally produced goods closely resemble or are identical to the goods subject to these inquiries and are like goods. This is as the:

- primary physical characteristics of the locally produced goods closely resemble the imported goods;
- imported and locally produced goods are commercially alike as they are sold to the same customers and/or compete in the same markets;
- imported and locally produced goods are functionally alike as they have the same end uses and/or are substitutable; and
- imported and locally produced goods are manufactured in a similar manner.

3.5.1 Conclusion – Like goods

The Commissioner is satisfied that the domestically produced goods are ‘like goods’ as defined in section 269T(1) to the goods under consideration.

3.6 Australian industry

Golden Circle Limited is the sole manufacturer of FSI pineapple in Australia. No other interested party has claimed during these inquiries to be an Australian producer of FSI pineapple.

3.6.1 Production process

The production processes relevant to FSI pineapple were previously observed by the Commission as part of inquiry 334.²³ The Commission is satisfied that there have been no substantive changes to Golden Circle Limited’s manufacturing processes in the period between the Australian industry verification in respect of REP 334 and this inquiry.

3.6.2 Conclusion – Australian industry

Based on the information obtained from previous verification visits and the information provided during the course of this inquiry, the Commissioner is satisfied that:

- the like goods were wholly manufactured in Australia;²⁴ and
- there is an Australian industry which produces like goods in Australia.²⁵

²³ EPR 334, [document 30](#).

²⁴ Section 269T(2) refers.

²⁵ Section 269T(4) refers.

4 AUSTRALIAN MARKET

4.1 Preliminary finding

The Commission has found that, during the inquiry period, the Australian market for the goods was supplied mainly by imports from Thai exporters that are exempt from the measures and imports from Indonesia and Vietnam.

The Commission estimates that the Australian market for FSI pineapple has progressively decreased in size during each year since the anti-dumping measures were continued in 2016.

4.2 Approach to analysis

The analysis detailed in this chapter is based on verified financial information submitted by Golden Circle Limited, import data from the ABF import database, verified importer and exporter information and information obtained during previous cases conducted by the Commission regarding FSI pineapple.

The Commission's analysis is contained in **Confidential Attachment 1**.

4.3 Market size

In its application, Golden Circle Limited estimated the size of the Australian market using Australian Bureau of Statistics import data, data from an independent recognised international supplier of trade statistics, and its own sales data broken down in self-manufactured and imported goods.

Based on the verified sales data of Golden Circle Limited, export data obtained from the ABF import database and data from the cooperating exporter, the size of the market for FSI pineapple is shown in Figure 1.

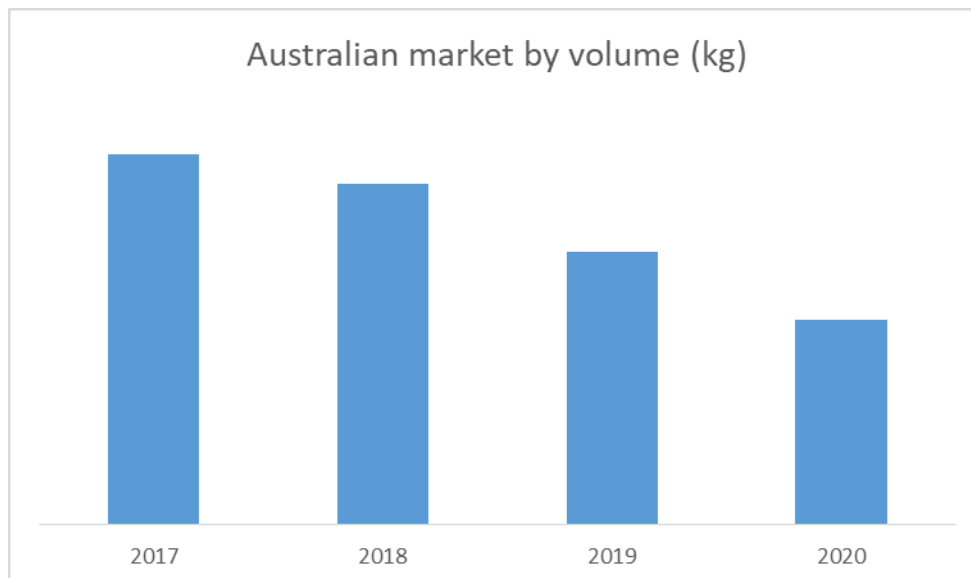


Figure 1: Australian market size

Figure 1 shows that the size of the market has progressively decreased since 2017.

4.4 Market share

The Australian market is predominantly supplied by imports from Thailand, Indonesia and Vietnam. The Commission notes that 90% of the Thai imports were supplied by exporters that are exempt from the measures. Imports of FSI pineapple from the Philippines made up 0.5 % of the market during the inquiry period. Australian made goods by Golden Circle made up 3% of the market in 2020.

As outlined in Figure 2 below Golden Circle’s self-manufactured goods make up a small proportion of the market. The proportion of Golden Circle’s sales of FSI pineapple that is self-manufactured has progressively decreased across the injury period.

Figure 2 also demonstrates that there has been a significant shift in the market share of manufacturers supplying the market since the exports from two of the main Thai exporters were exempted from the measures in 2017 and 2018.

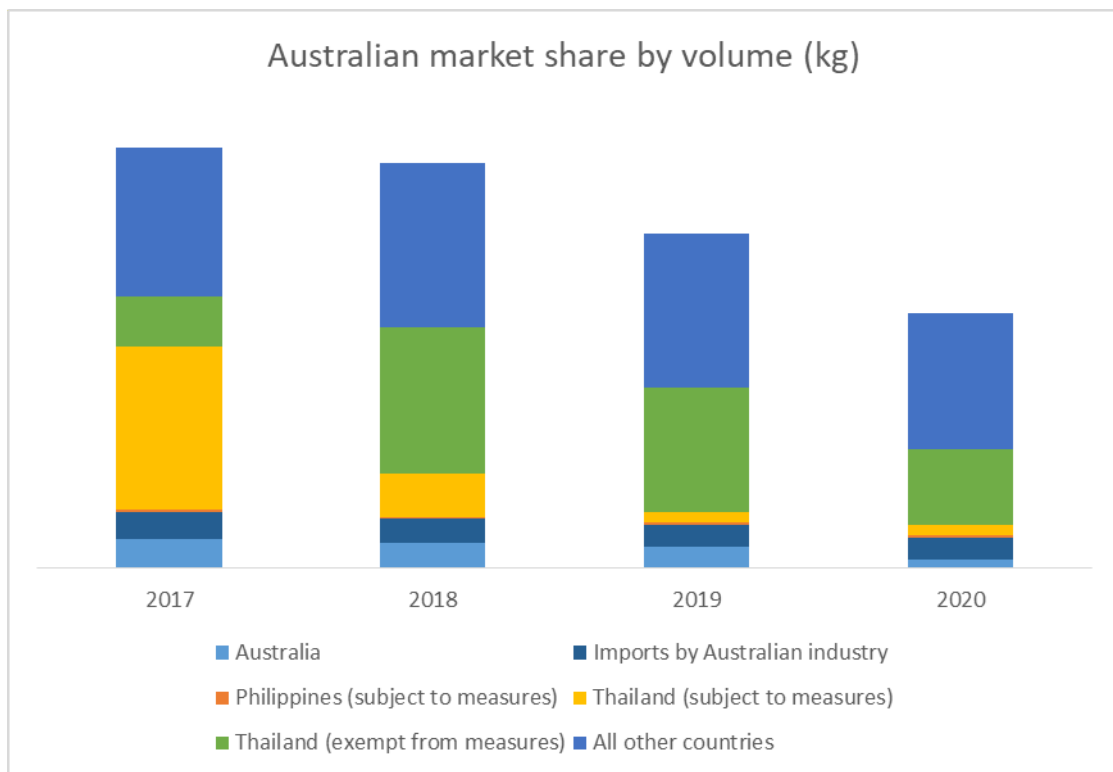


Figure 2: Australian market by size and share

4.5 Global supply

The Commission has analysed ITC Trade data relating to preserved and prepared pineapple that is traded globally under the relevant tariff code (208000). The data below relates to all goods that are traded globally under this tariff code and therefore includes consumer pineapple, FSI pineapple, puree, glazed and dehydrated pineapple products. The Commission notes that some of these products are not subject to the anti-dumping measures in Australia.

The Commission has analysed this data to identify high level trade trends in the global market and to identify the general capacity of exporters from Thailand and the Philippines to increase their exports to Australia in the absence of the measures.

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The global market for preserved and prepared pineapple is dominated by the major export countries of the goods - Thailand, the Philippines and Indonesia:

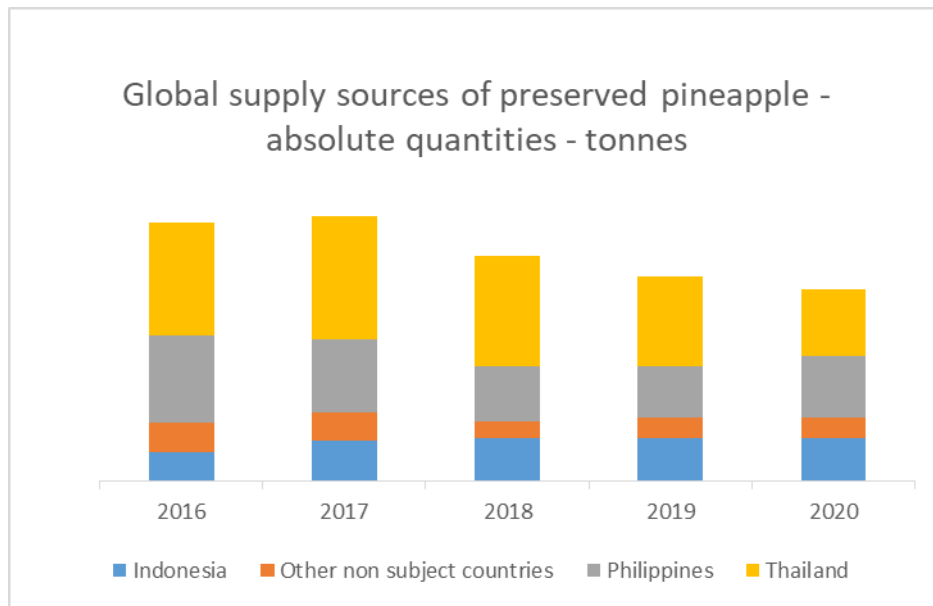


Figure 3: Global supply sources of preserved pineapple – absolute

Figure 3 indicates that the global supply underwent a gradual decrease in quantity from 2018 onwards.

To gain a more granular understanding about trends of the exporters the Commission analysed the same source data as the market share as a proportion of total global exports in the figure below.

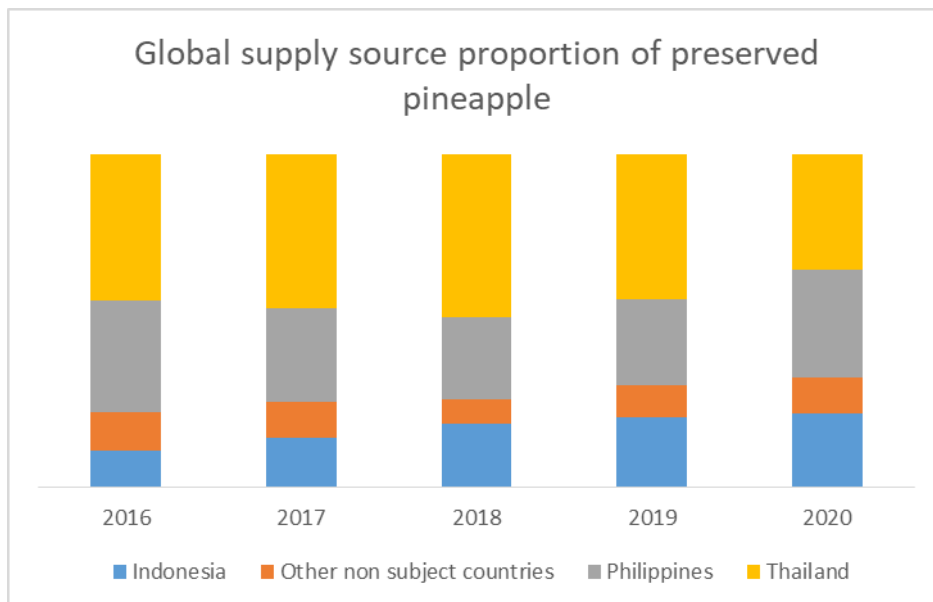


Figure 4: Global supply sources by country – by market share %

Figure 4 charts how Indonesia has gained market share on a year by year basis while Thai exporters have reduced their market share in 2019 and 2020.

Reference is made to the Commission’s analysis in **Confidential Attachment 2**.

4.6 Global demand

The Commission has analysed ITC Trade data relating to preserved and prepared pineapple that is traded globally under the 6 digit tariff code 208000. The data below relates to the import destinations of all goods that is traded globally under this tariff code and therefore include consumer pineapple, FSI pineapple, puree, glazed and dehydrated pineapple products. The data therefore also contains quantities of glazed and dehydrated pineapple that is not subject to the anti-dumping measures.

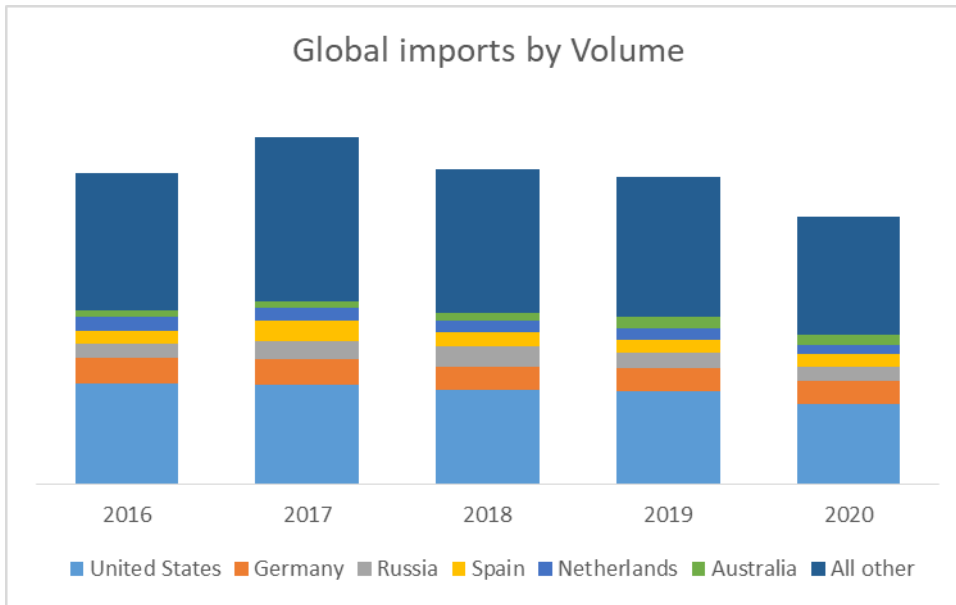


Figure 5: Global imports by volume

Figure 5 identifies import volumes entered into Australia in comparison with the largest 5 import countries since 2016 as well as an aggregate of all other countries. The chart demonstrates that the United States is by far the largest importer of preserved pineapple products. The chart also shows that imports to Australia increased in 2019 and 2020. This is consistent with claims made by Golden Circle.

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The Commission in addition charted the same source data as a proportion of total global exports in Figure 6 below.

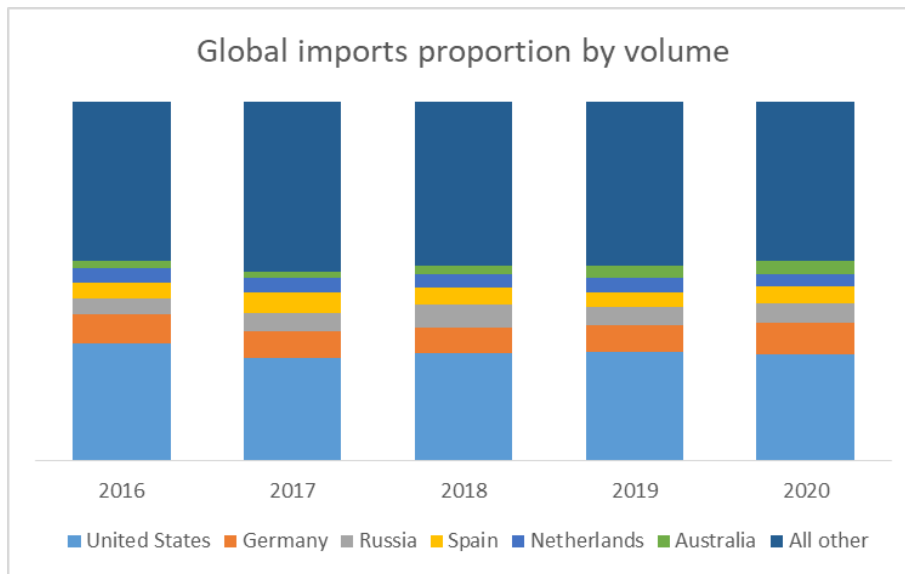


Figure 6: Global imports by proportion

Figure 6 above shows in greater detail that Australia's proportion of total world imports have doubled from 2018 to 2020. However Australia's total share of world imports is still well below 5%.

Reference is made to the Commission's analysis in **Confidential Attachment 3**.

4.7 Market structure

4.7.1 Australian market

Golden Circle is the sole Australian processor of FSI pineapple.

The Australian market for FSI pineapple consists of fast food outlets, cafes, bakeries and the broader food manufacturing industry. Typically customers issue request for tenders and select a supplier based on a number of factors, including price, quality and ability to supply. Based on discussions with the Australian industry and importers it is the Commission's understanding that FSI pineapple is a commodity, and that price is the main factor for purchasing decisions. Since the customers buying the end-product do not know the source of the pineapple, there is no premium attached to branding or Australian-made status.

The market is supplied by wholesalers and importers. Golden Circle advised the Commission that they no longer participate in the tender process and instead sell directly to wholesalers.

4.7.2 Factors affecting supply and demand

The main production input in the processing of FSI pineapple is raw pineapple supplied by growers. Australian industry and various exporters have all stated that they place a great importance on their relationship with the growers and incentivise them to grow the type of pineapple suitable for canning. They also commit to buy certain quantities in order

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to secure supply as the full growth cycle of a pineapple takes 18 months from planting to harvest of the fruit. It is also important to note that once the pineapple is picked it has to be processed within 3 days. Processors do not have the option to stockpile raw material when there is surplus supply.

The Commission understands that pineapple production is susceptible to various weather and market forces that can change the supply and demand balance quickly. Weather impacts can cause global shortages from key pineapple producing countries, leading to higher global prices.

When fresh pineapple supply is reduced, the price of fresh pineapple increases. The availability of pineapple to processors is further restricted as pineapple growers who might have otherwise have sold to processors sell into the fresh pineapple markets.

4.7.3 Conditions in Australia

Australian pineapples are mostly grown in Queensland, with the major growing regions being south-east Queensland (particularly the Sunshine Coast hinterland, Maryborough and Wide Bay areas), the Yeppoon area and North Queensland, including Mareeba and Mossman.²⁶

Golden Circle stated that the quantities they could produce in the years 2017 to 2020 were reduced due to drought affecting the Australian growers, resulting in insufficient supply of raw material. Verified data from Golden Circle indicated that raw pineapple prices have increased by approximately 30% since 2016.

Golden Circle also stated that they are in the process of implementing various measures of cooperation with pineapple growers and aim to incentivise future increase of production. They state that the impact of these incentives will not be delivered short-term due to the lead time in growing pineapple.

²⁶ <https://australianpineapples.com.au/growing/>

5 ECONOMIC CONDITION OF THE INDUSTRY

5.1 Approach to analysis

The Commission has considered the economic performance of the Australian industry, as represented by Golden Circle Limited, to assist with the consideration of whether the expiration of the measures would lead, or would be likely to lead, to the continuation or recurrence of material injury (chapter 7 refers).

The existence of injury during this period may be an indicator of whether injury could continue in the future.

The data and analysis on which the Commission has relied to assess the economic condition of the Australian industry is at **Confidential Attachment 4**.

5.2 Volume effects

5.2.1 Sales Volume

Figure 7 charts the Australian industry's sales volume.

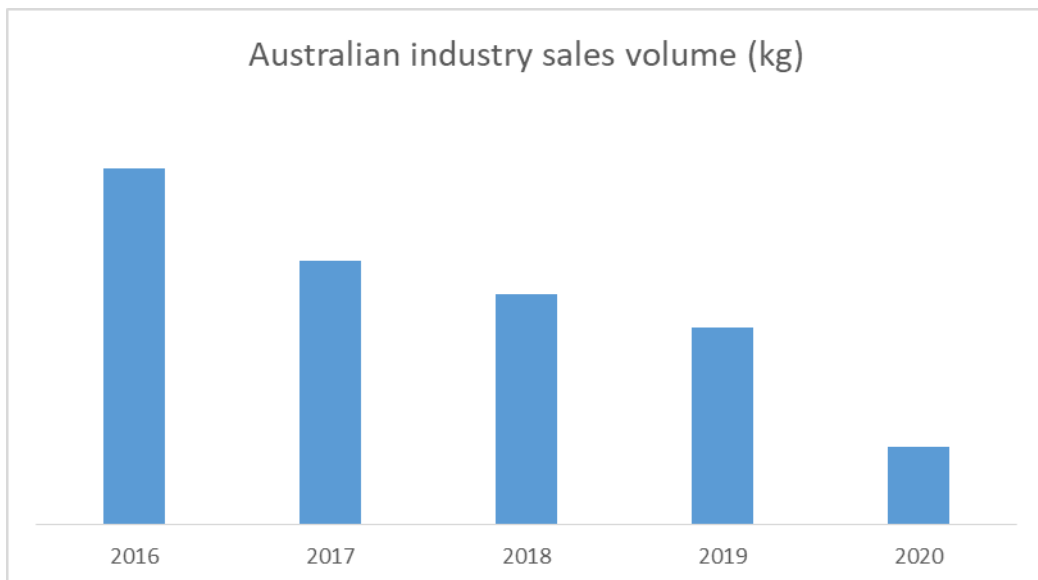


Figure 7: Sales volume

The chart indicates that Golden Circle Limited's sales in Australia have decreased significantly since 2016, with 2020 volumes amounting to approximately 22 percent of those in 2016.

5.2.2 Market share

Figure 8 charts, for the period since 2017, the proportion of the Australian market supplied by:

- the Australian industry;
- exports from the Philippines and Thailand; and
- exports from countries not subject to measures.

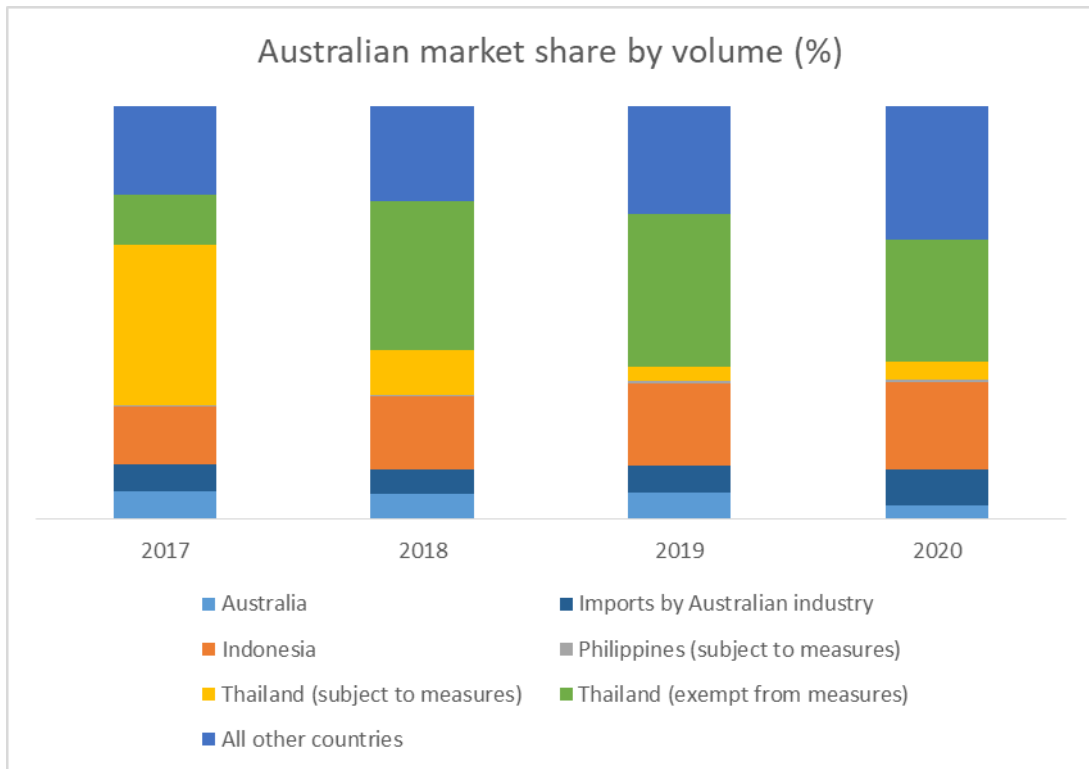


Figure 8: Market share as a proportion of total annual sales volume

The chart indicates that:

- Australian industry has comprised a minority of the market since 2017, with its share reducing year-on-year;
- Since 2018, the majority of goods imported from Thailand have been supplied by exempt exporters;
- Since 2017, goods imported from the Philippines have comprised a negligible proportion of the Australian market; and
- Since 2017, an increasing proportion of goods have been imported from countries not subject to measures, primarily Indonesia.

5.3 Price effects

5.3.1 Price depression

Price depression occurs when a company, for some reason, lowers its prices. Figure 9 charts Golden Circle Limited's per unit selling price across the period of analysis.

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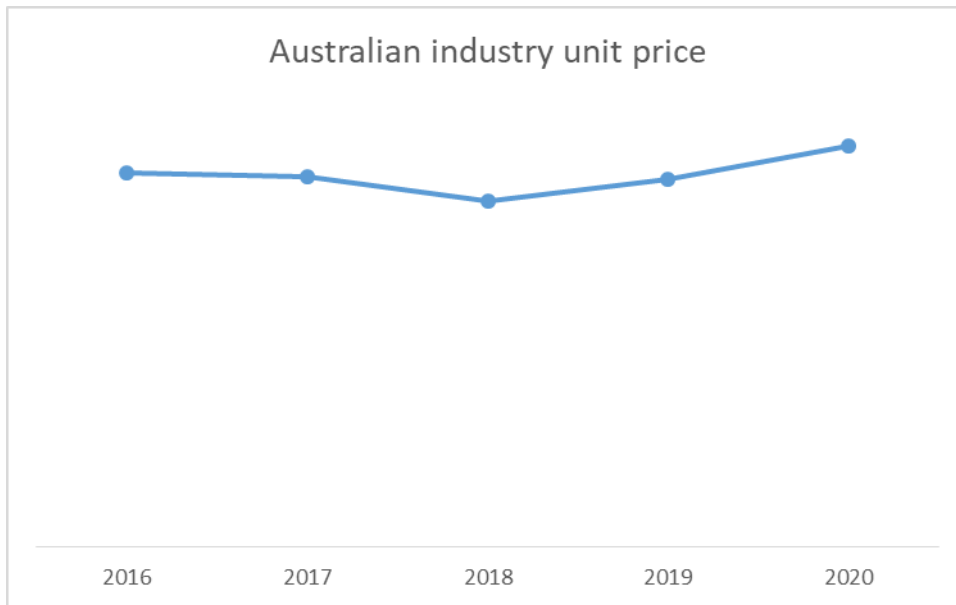


Figure 9: Unit selling price

The chart indicates that Golden Circle Limited’s unit selling price has remained relatively stable since 2016, with a slight price increase in 2020 compared to previous years overall.

5.3.2 Price suppression

Price suppression occurs when price increases, which otherwise would have occurred, have been prevented. An indicator of price suppression may be the margin between prices and costs.

The Commission has compared Golden Circle Limited’s per unit selling prices and cost to make and sell (CTMS). This relationship is presented in Figure 10.

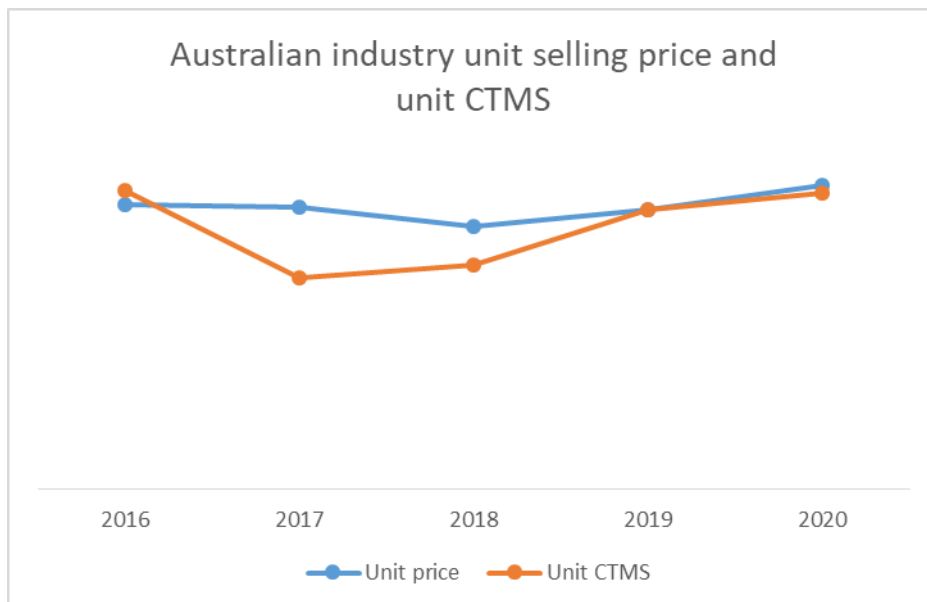


Figure 10: Unit price and CTMS

Having regard to the relationship between the trends in the above chart, the Commission makes the following observations:

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- Unit CTMS was higher than the unit price in 2016, with the unit CTMS being at or below the unit price in subsequent years;
- Unit CTMS dropped significantly in 2017, with CTMS then increasing between 2018 and 2020;
- The margin between unit CTMS and unit price increased significantly between 2016 and 2017, with the margin narrowing so that unit pricing was close to the same as unit CTMS in 2019 and 2020; and
- Both the unit CTMS and unit pricing increased in 2019 and 2020.

In summary, the Commission observes that, after 2017, Golden Circle Limited has been able to increase unit selling prices to correspond with increases in unit CTMS, although the margin between unit CTMS and unit pricing was very narrow in 2019 and 2020. Based on these observations, the Commission has concluded that, since 2017, price suppression is evident.

5.4 Profit and profitability

5.4.1 Profit and profitability

Figure 11 charts Golden Circle Limited's profit and profitability across the period of analysis.

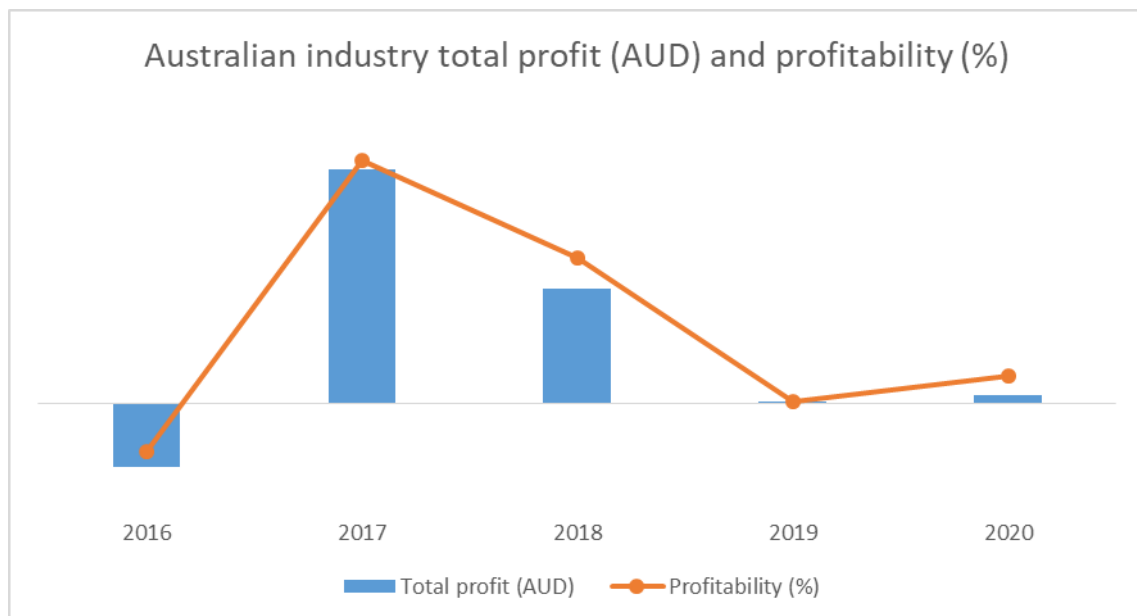


Figure 11: Profit and profitability

The chart indicates that:

- Golden Circle Limited was unprofitable in 2016 and profitable in all subsequent years;
- Golden Circle Limited experienced fluctuating profit and profitability between 2016 and 2020, with low overall profit and profitability in 2019 and 2020.

5.5 Other economic factors

Golden Circle Limited provided data relating to the period of analysis for a range of other economic factors.

5.5.1 Assets

Figure 12 charts Golden Circle Limited's assets across the period of analysis.

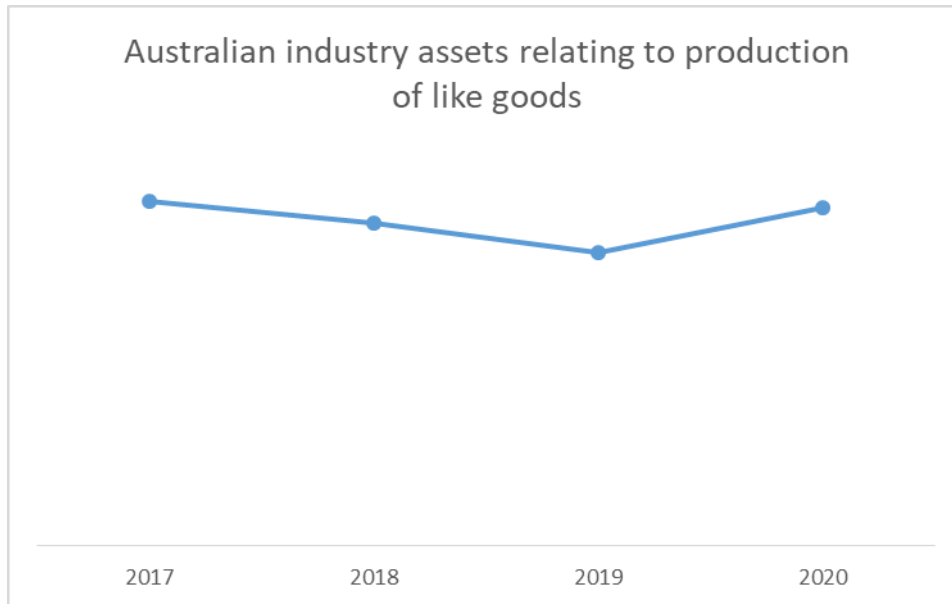


Figure 12: Assets

The chart indicates that the value of assets relating to the production of like goods dropped between 2017 and 2019, with the value of assets returning to levels slightly lower than 2017 levels in 2020.

5.5.2 Research and development expenses

Figure 13 charts Golden Circle Limited's research and development (R&D) expenses relating to like goods across the period of analysis.

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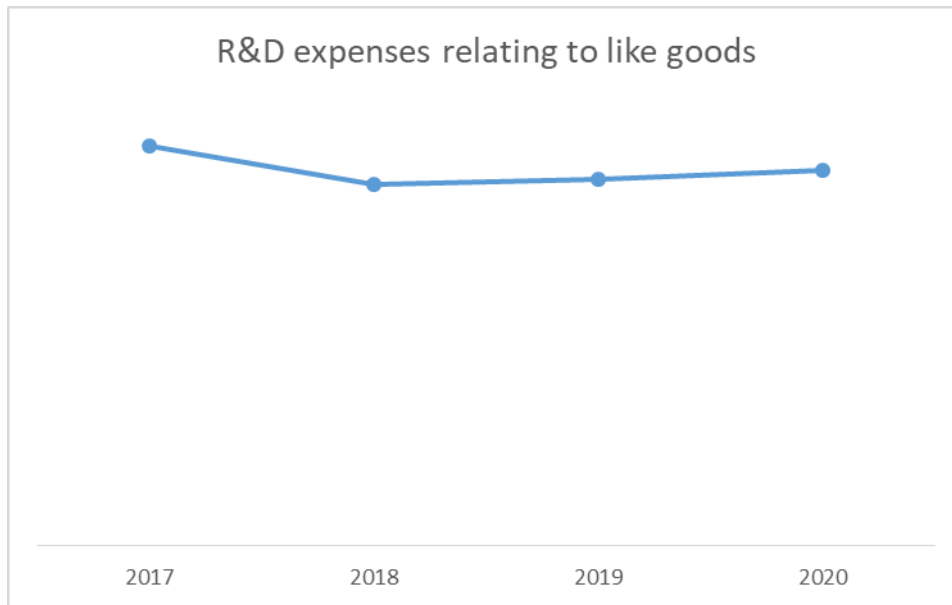


Figure 13: Research and development expenditure

The chart indicates that R&D expenditure has reduced slightly following 2017, although generally R&D expenditure has remained stable.

5.5.3 Revenue

Figure 14 charts Golden Circle Limited's revenue in respect of FSI pineapple across the period of analysis.

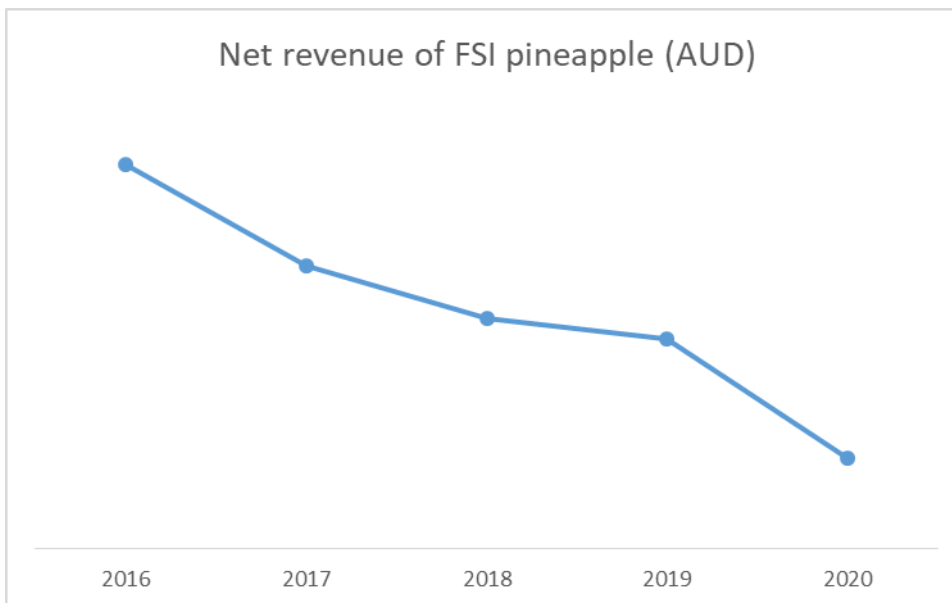


Figure 14: Revenue

The chart indicates that net revenue has reduced significantly year-on-year since 2016.

5.5.4 Capacity utilisation

Figure 15 charts Golden Circle Limited's capacity utilisation across the period of analysis as relates to the production of like goods.

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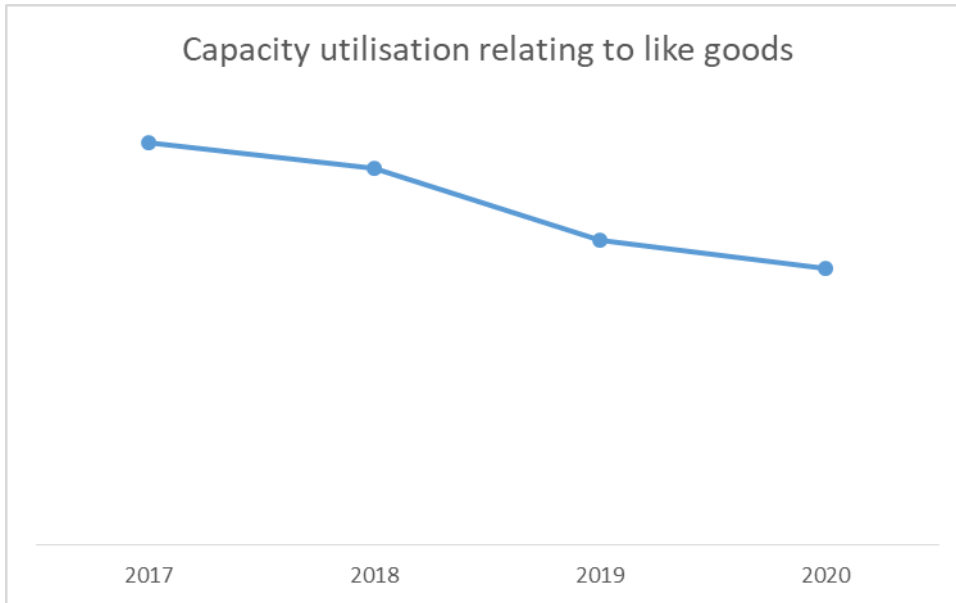


Figure 15: Capacity utilisation

The chart indicates that capacity utilisation has steadily decreased between 2017 and 2020, based on Golden Circle Limited’s claimed actual production divided by its production capacity for like goods. However, Golden Circle Limited stated to the Commission that their real capacity is determined by supply of raw pineapple from the growers. Golden Circle Limited stated that they process all raw pineapple they can access, and that they sell all canned pineapple that they manufacture. The Commission therefore considers that Golden Circle Limited is operating at 100% of their real capacity.

5.5.5 Employment

Figure 16 charts Golden Circle Limited’s employment numbers across the period of analysis as relates to the production of like goods.

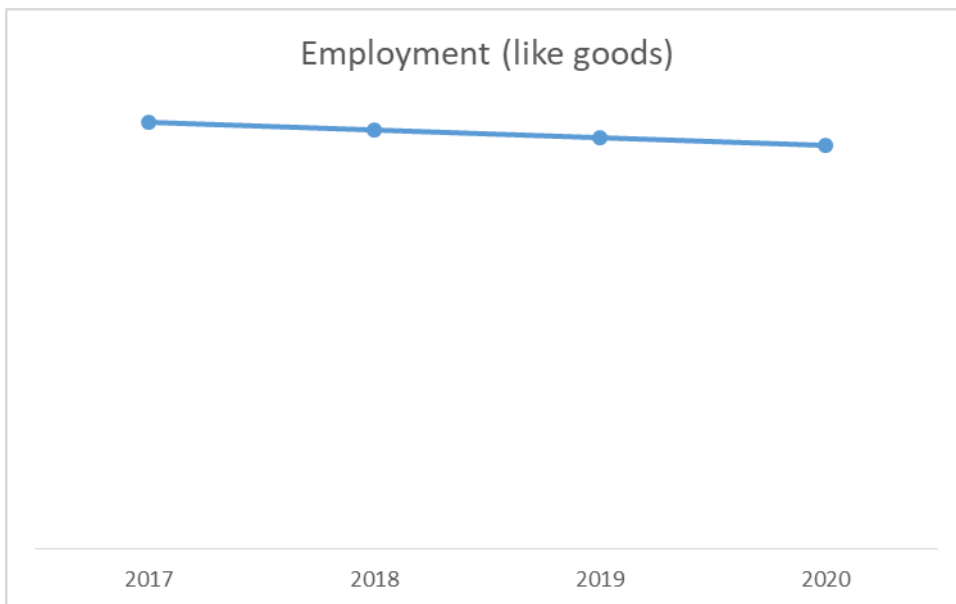


Figure 16: Employment

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The chart indicates that employment numbers in relation to the production of like goods have remained largely steady between 2017 and 2020, although there has been a slight decrease in employee numbers year-on-year.

5.5.6 Inventory

Figure 17 charts Golden Circle Limited's closing stocks across the period of analysis.

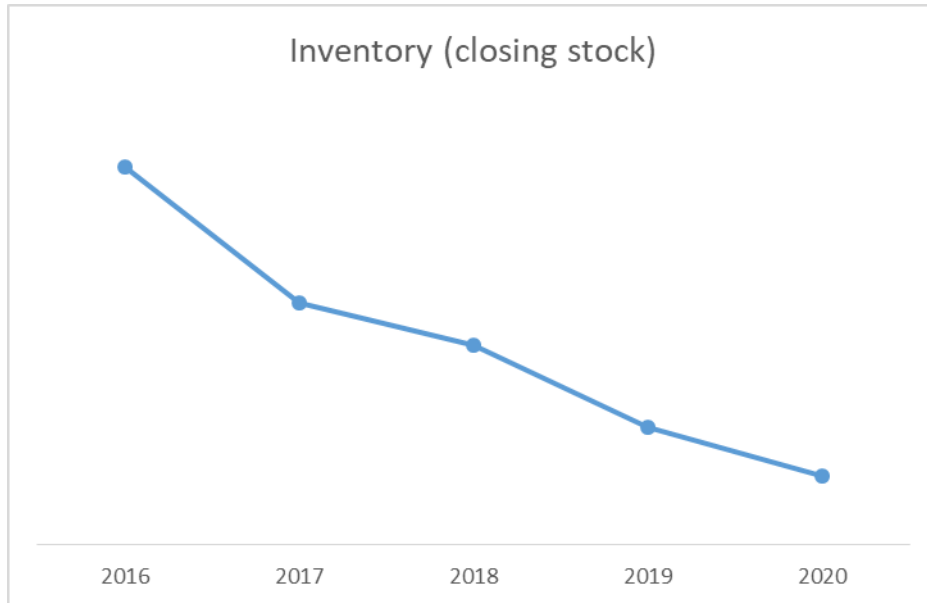


Figure 17: Closing inventory

The chart indicates that Australian industry has had significant reductions in closing stock year-on-year, with a fairly consistent rate of reduction in closing stock in each year from 2016 to 2020.

6 VARIABLE FACTORS – DUMPING DUTY NOTICE

6.1 Preliminary finding

For the purpose of assessing whether the expiration of the measures would lead, or be likely to lead, to the recurrence of dumping, the Commission has ascertained all variable factors relevant to taking the measures during the inquiry period.

The Commissioner has found that the variable factors in relation to all exporters have changed. The Commissioner has ascertained dumping margins as summarised in Table 5.

Country	Exporter	Dumping margin
Philippines	Uncooperative and all other exporters	29.7%
Thailand	Siam Food	20.8%
	Uncooperative and all other exporters	21.1%

Table 5: Summary of dumping margins

6.2 Legislative framework

In accordance with section 269ZHF(2), the Commissioner must not recommend that the Minister take steps to secure the continuation of anti-dumping measures unless the Commissioner is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of dumping. The existence of dumping during the inquiry period may be an indicator of whether dumping may occur in the future.

Dumping occurs when a product from one country is exported to another country at a price less than its normal value. The export price and normal value of the goods are determined under sections 269TAB and 269TAC respectively.

Section 269TACB is used to work out whether dumping has occurred and the levels of dumping by comparing the export price and normal value of the goods.

Further details of the export price and normal value calculations for each exporter are set out below.

6.2.1 Cooperative exporters

As discussed in chapter 2, Siam Food provided a detailed REQ, including data relating to Australian sales (where applicable), domestic sales, and details of the CTMS.

The Commission undertook desktop verification of the data provided by this exporter

6.2.2 Uncooperative and all other exporters

Section 269T(1) provides that an exporter is an ‘uncooperative exporter’, where the Commissioner is satisfied that an exporter did not give the Commissioner information that the Commissioner considered to be relevant to the inquiry, within a period the Commissioner considered to be reasonable or where the Commissioner is satisfied that an exporter significantly impeded the inquiry.

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The *Customs (Extensions of Time and Non-cooperation) Direction 2015* (the Direction) states at section 8 that the Commissioner must determine an exporter to be an uncooperative exporter, on the basis that no relevant information was provided in a reasonable period, if that exporter fails to provide a response or fails to request a longer period to do so within the legislated period.

After having regard to the Direction, the Commissioner determined that all exporters that did not provide a response to the exporter questionnaire or a completed preliminary information request, or which did not request a longer period to provide a response within the legislated period (being 37 days, concluding on 20 January 2021), are uncooperative exporters for the purposes of this inquiry. As no exporter in the Philippines provided a response to the exporter questionnaire, all exporters in the Philippines are considered to be uncooperative.

As provided for in section 269TACAB(1), for uncooperative exporters, export price and normal value are worked out in accordance with section 269TAB(3) and section 269TAC(6) respectively by having regard to all relevant information (refer chapter 6.6).

6.3 Verification of selected exporters

The suitability of the data in the REQ of Siam Food was established by ascertaining the variable factors relating to Siam Food's exports of the goods to Australia and benchmarking these factors, and the relevant data underlying these factors to the following:

- the sales and cost data and the variable factors ascertained for the exporter in previous verification visits;
- relevant information from previous investigations which involved the exporter; and
- the data submitted with the exporter's REQ.

Where the examination of the data in the REQ produced results that were inconsistent with those observed in relation to other relevant information, the Commission has undertaken further analysis and where necessary reported the outcome of this analysis accordingly.

6.4 Calculation of dumping margins

For dumping margins calculated for the purposes of this inquiry, the Commission compared the weighted average export prices over the whole of the inquiry period with the weighted average corresponding normal values over the whole of that period.

Sections 269TACAB(1)(c), (d) and (e) provides for the export price and normal value for uncooperative exporters to be worked out in accordance with section 269TAB(3) and section 269TAC(6), respectively, having regard to all relevant information.

6.5 Variable factors – Siam Food

6.5.1 Verification

The Commission undertook verification of the information Siam Food provided in its REQ.

The Commission is satisfied that the information provided is accurate and reliable for the purpose of determining whether its exports during the inquiry period were dumped.

6.5.2 Export price

In relation to the Australian sales of the goods exported by Siam Food, the Commission considers that the customers listed for each shipment were the beneficial owners of the goods at the time of importation, and therefore were the importers of the goods.

The Commission considers Siam Food to be the exporter of the goods as Siam Food:

- is the manufacturer of the goods;
- is named on the commercial invoice as the supplier;
- arranges and pays for the inland transport to the port of export; and
- arranges and pays for the port handling charges at the port of export.

The Commission found that all Siam Food's Australian exports of the goods were to unrelated parties.

In respect of Siam Food's Australian sales of the goods during the period, the Commission found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than price; or
- the price appeared to be influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller; or
- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.

The Commission therefore considers that all export sales made by Siam Food to its Australian customers, all of whom were unrelated, during the period were 'arms length' transactions.

In respect of Australian sales of the goods by Siam Food, the Commission has determined an export price under section 269TAB(1)(a), as the price paid by the importer to the exporter less transport and other costs arising after exportation.

The export price calculations are at **Confidential Appendix 1**.

6.5.3 Normal value

The Commission found that while Siam Food did have domestic sales of like goods during the inquiry period, none of these sales were found to be in the ordinary course of trade, for the purpose of ascertaining the normal value under section 269TAC(1).

Section 269TAC(2) provides alternative methods for calculating the normal value of goods exported to Australia where there is an absence, or low volume, of relevant sales of like goods in the market of the country of export.

The normal value has been ascertained under section 269TAC(2)(c), using the sum of:

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- the cost to make of the exported goods based on the company's records in accordance with section 43(2) of the Regulation;
- an amount for SG&A in accordance with section 44(2) of the Regulation, having regard to the SG&A amount incurred by Siam Food for domestic sales of like goods; and
- an amount for profit based on the weighted average of the amounts realised by other exporters or producers from the sale of the same general category of goods, in accordance with section 45(3)(c) of the Regulation.

The normal value calculations are at **Confidential Appendix 2**.

6.5.4 Adjustments

The Commission is satisfied there is sufficient information to justify the following adjustments in accordance with section 269TAC(9). These adjustments to be necessary to ensure a fair comparison of normal value and export prices:

Adjustment Type	Deduction/addition
Export packaging costs	Add an amount for export packaging costs
Export inland freight	Add an amount for export inland freight
Export port handling charges	Add an amount for export port handling charges
Export credit	Add an amount for export credit

Table 6 – Summary of adjustments – Siam Food

6.5.5 Dumping margin

The preliminary dumping margin in respect of the goods exported to Australia by Siam Food for the inquiry period is **20.8 per cent**.

The preliminary dumping margin calculation is at **Confidential Appendix 3**.

6.6 Uncooperative and all other exporters

As detailed in chapter 6.2.2, the Commission considers all exporters of FSI pineapple from the Philippines and Thailand that did not provide a response to the exporter questionnaire, or which did not request a longer period to provide a response within the legislated period, are uncooperative exporters for the purposes of this inquiry.

Section 269TACAB(1) sets out the provisions for calculating export prices and normal values for uncooperative exporters.

6.6.1 Thailand

Export prices

Pursuant to section 269TACAB(1), the Commission has determined an export price pursuant to section 269TAB(3), having regard to all relevant information. Specifically, the Commission has used the weighted average FOB export price for FSI pineapple from the cooperative exporter in the inquiry period.

Normal value

Pursuant to section 269TACAB(1), the Commission has determined the normal value for the uncooperative exporters pursuant to section 269TAC(6) after having regard to all relevant information. Specifically, the Commission has used the weighted average normal value for FSI pineapple from the cooperative exporter in the inquiry period.

Dumping Margin

The dumping margin for uncooperative and all other exporters of FSI pineapple from Thailand is **21.1 per cent**.

The Commission's calculations are included at **Confidential Appendix 4**.

6.6.2 Philippines

The Commission did not receive a response to the exporter questionnaire from any exporters of the goods in the Philippines. All exporters from the Philippines are therefore considered to be uncooperative exporters.

Export prices

The Act specifies that for uncooperative exporters, export prices are to be calculated under section 269TAB(3).²⁷ The Commission has therefore established an export price pursuant to section 269TAB(3), having regard to all relevant information.

The Commission considered the information in the ABF import database for imports of the goods from the Philippines. The FOB export prices for these imports were significantly higher than other imports (from both subject countries and countries not subject to the measures), and significantly higher than the import prices from the subject countries in the previous continuation inquiry. The Commission is unable to verify the precise nature of these goods and what has contributed to this price. As the Commission is unable to verify these details, the Commission considers these prices to be unreliable.

In the absence of available information, the Commission proposes to determine the export price for all other exporters as the export price determined for uncooperative and all other exporters in continuation inquiry 334.

Normal values

The Act specifies that for uncooperative exporters, normal values are to be calculated under section 269TAC(6).²⁸ The Commission has therefore established the normal value under section 269TAC(6), having regard to all relevant information.

Given the absence of information regarding domestic sales of the goods, the Commission has taken the weighted average normal value determined for exporters of the goods in Thailand during the inquiry period.²⁹

²⁷ Section 269TACAB(1)(d).

²⁸ Section 269TACAB(1)(e).

²⁹ Consistent with chapter 13.3 of the Dumping and Subsidy Manual, which permits the use of information gathered from other countries subject of the same investigation in establishing normal values under section 269TAC(6).

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Dumping margin

The dumping margin for uncooperative and all other exporters of FSI pineapple from the Philippines is **29.7 per cent**.

The Commission's calculations are included at **Confidential Appendix 5**.

6.7 Summary of dumping margins

Country	Exporter	Dumping Margin
Thailand	Siam Food	20.8%
	Uncooperative and all other exporters	21.1%
Philippines	Uncooperative and all other exporters	29.7%

Table 7: Dumping margin summary

7 LIKELIHOOD THAT DUMPING AND MATERIAL INJURY WILL CONTINUE OR RECUR

7.1 Preliminary finding

On the basis of the evidence available, the Commissioner is not satisfied that the expiration of the current measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and material injury that the current measures are intended to prevent.

7.2 Legislative framework

Section 269ZHF(2) provides that the Commissioner must not recommend that the Minister take steps to secure the continuation of measures unless the Commissioner is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the anti-dumping measure is intended to prevent.

The Commission notes that its assessment of the likelihood of certain events occurring and their anticipated effect, as is required in a continuation inquiry, necessarily requires an assessment of a hypothetical situation. This view has been supported by the Anti-Dumping Review Panel, which noted that the Commission must consider what will happen in the future should a certain event, being the expiry of the measures, occur. However, the Commissioner's conclusions and recommendation must nevertheless be based on facts.³⁰

The Commission also notes the *Ministerial Direction on Material Injury 2012* and its application to the Commission's consideration of claims of material injury in this inquiry.³¹

7.3 The Commission's approach

In assessing the likelihood of whether dumping and material injury will continue or recur, a number of factors are relevant as outlined in the Manual.³² The Commission's view is that the relevance of each factor varies depending on the nature of the goods being examined and the market into which the goods are being sold. No one factor can necessarily provide decisive guidance. The following analysis therefore examines a range of factors that the Commission considers relevant to this inquiry.

7.4 Australian industry's claims

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

- Exporters of FSI pineapple in the Philippines and Thailand have maintained distribution links and active supply into the Australian market, and possess production capacity to supply the whole of the Australian market;
- Exports of FSI pineapple from the Philippines and Thailand were at dumped prices during the inquiry period;

³⁰ [ADRP Report No. 44](#) (Clear Float Glass) refers.

³¹ ADN No. 2021/024 refers

³² The Manual, pages 175 to 176.

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- Processors of FSI pineapple in the Philippines have significantly increased production capacity, demonstrating long term intentions to export these goods; and
- The Australian industry manufacturing like goods would be exposed to a recurrence of the material injury through price undercutting, loss of sales volume and market share, and reduced profits and profitability if the measures were allowed to expire.

7.4.1 Submission received

The Commission also received a submission from Australian Pineapples, a member of Queensland Fruit and Vegetables Ltd. This submissions raised the following points:

- It is the stability and certainty with guaranteed supply – volume and price – that enables pineapples growers to commit to long-term supply;
- Golden Circle has strategies in place to secure increased volumes of pineapple fruit across the period from 2022 to 2027;
- It is critical that Golden Circle is not faced with unfair prices from the two largest pineapple supply sources globally (i.e. the Philippines and Thailand); and
- Australian Pineapple support the request for the continuation of anti-dumping measures applying to FSI pineapple.

7.5 Are exports likely to continue or recur?

To determine whether exports of FSI pineapple are likely to continue or recur should the measures be allowed to expire, the Commission has had regard to the following factors.

7.5.1 Import volumes

The following table highlights the indexed volumes of imports of FSI pineapple since 1 January 2016:

	2016	2017	2018	2019	2020
Thailand – subject to measures	100	76	20	5	5
Thailand – not subject to measures	100	237	682	576	348
Philippines	100	16	10	18	12
All other countries	100	170	175	164	155

Table 8: Index of changes in imports from 1 January 2016³³

The Commission notes that the indexed values may be misleading, as the volumes from certain countries are immaterial. For this reason, the Commission has reproduced the charts detailing the Australian market size and market share, first included at section 5.2.2 above.

³³ The Commission has filtered the data from the ABF import database to ensure that only those consignments that meet the goods description are captured in this analysis.

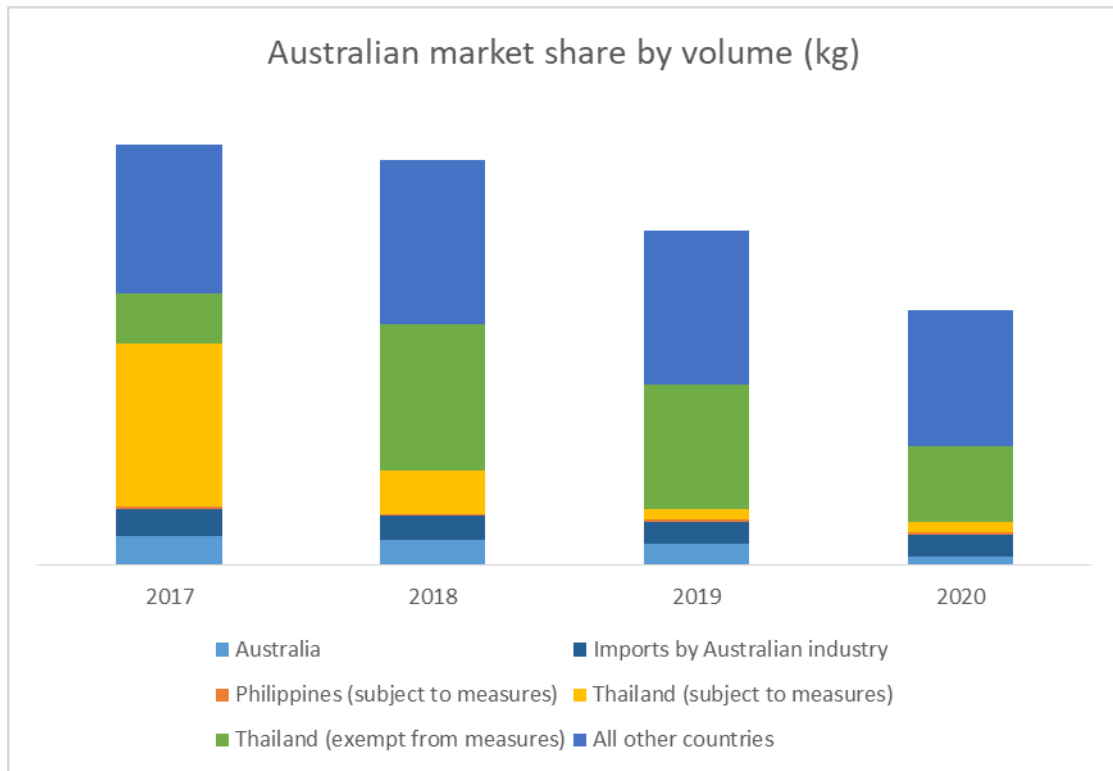


Figure 18: Australian market size and market share in absolute terms

Figure 18 above demonstrates how the Australian market in totality has gradually decreased during the injury period.

Figure 19 below charts the market share of each source country expressed as a proportion. It is notable that exempt Thai exporters and exporters from countries not subject to the measures have increased market share at the expense of exporters subject to the measures, and to some extent Australian industry.

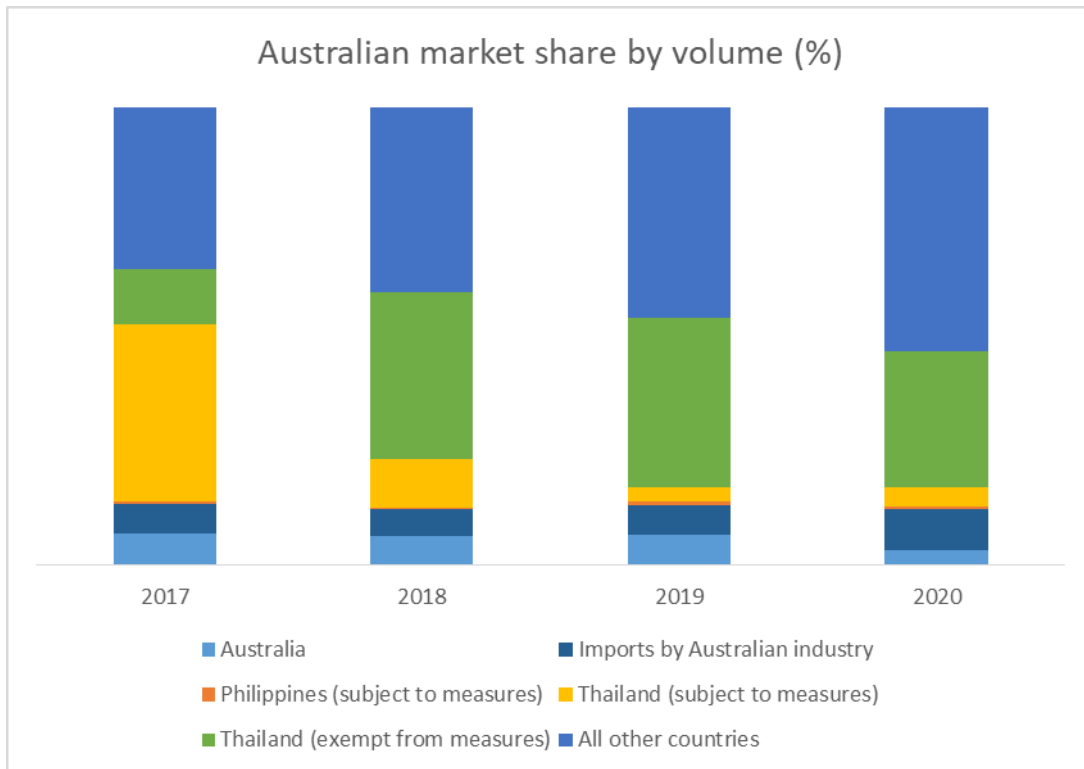


Figure 19: Market share (expressed in per cent)

In summary; Table 8 and Figures 18 and 19 indicate that, following the continuation of the measures applying to FSI pineapple in 2016, the volume of imports from:

- The Philippines has remained immaterial, representing less than 1 per cent of the Australian market in each year since 2016;
- Exporters in Thailand that are subject to the measures have significantly reduced, and during the inquiry period represented approximately 5 per cent of the Australian market;
- Exporters in Thailand that are not subject to the measures have significantly increased, and have accounted for almost 30 per cent of the Australian market since 2017; and
- all other countries has steadily increased.

The Commission notes that of the imports from Thailand which are subject to measures, the parent company of the Australian industry is one of the key customers. When this volume is removed from the imports from Thai exporters subject to the measures, the remaining volume represents less than 4 per cent of the Australian market during the inquiry period.

7.5.2 Maintenance of distribution links to the Australian market

The Australian industry claims exporters from the Philippines and Thailand have maintained active supply into the Australian market.

The Commission has considered information provided by the cooperating exporter from Thailand as well as information from the ABF import database.

Philippines

Imports of the goods from the Philippines has represented approximately 0.5% of the Australian market in each year during the injury analysis period. During the inquiry period, these imports were imported by Juremont Pty Ltd.

Thailand

As noted above, the vast majority of imports from Thailand are from exporters who are not subject to the measures. The Commission observes in the ABF import database that there are 7 exporters in Thailand who exported the goods to Australia during the inquiry period and who are subject to the measures.

On this basis, the Commission considers that exporters from each of the subject countries have maintained distribution links into the Australian market, albeit in minor volumes in the case of Thailand, and immaterial volumes in the case of Philippines.

7.5.3 Excess production capacity of exporters in subject countries

The Australian industry claims exporters from the Philippines and Thailand have sufficient production capacity to supply the entire Australian market.

The Commission has analysed the excess capacity available for the cooperating exporter from Thailand. This is identified at **Confidential Attachment 5**. Based on this analysis there is sufficient production capacity available in Thailand to increase the volume of exports to Australia.

The Commission is unable to confirm the production capacity available for exporters in the Philippines as no exporters in the Philippines cooperated with this inquiry.

7.5.4 Conclusion

The Commission has established the following:

- Imports have been identified from both subject countries in each year since the measures were continued in 2016;
- Exporters have maintained distribution links to the Australian market; and
- Exporters in Thailand maintain excess production capacity.

Therefore, the Commission considers that if the anti-dumping measures applying to the goods were to expire, exports from the subject countries to Australia will continue.

7.6 Will dumping continue or recur?

In assessing the likelihood of whether dumping will continue or recur, a number of factors are relevant as outlined in the Manual.

The Manual provides that the inquiry may gather facts relevant to whether dumping will resume, such as exporters' margins, the volume of exports before and after the measures were imposed, the effect of the measures, the level of dumping compared with the level of measures, and any change in those measures (e.g., as a result of a review).

The Commission's view is that the relevance of each factor will vary depending on the nature of the goods being examined and the market into which the goods are being sold.

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No one factor can necessarily provide decisive guidance. The following analysis therefore examines a range of factors that the Commission considers are relevant to this inquiry.

This section assesses the likelihood that in the absence of measures FSI pineapple will be exported to Australia at dumped prices.

7.6.1 Analysis of dumping within inquiry period

The dumping margins from Chapter 6 of this report are reproduced below:

Country	Exporter	Dumping Margin
Philippines	Uncooperative and all other exporters	29.7%
Thailand	Siam Food Products	20.8%
	Uncooperative and all other exporters	21.1%

Table 9: Summary of preliminary dumping margins

The Commission has preliminarily determined that the goods exported to Australia from both the Philippines and Thailand were dumped in the inquiry period.

7.6.2 Likelihood of future dumping

The Commission has examined the facts relevant to assessing the likelihood that these exporters will continue to export the goods at dumped prices.

In respect of goods exported to Australia from the Philippines and Thailand the Commission considers that dumping by these exporters would be likely to continue if the anti-dumping measures expired, on the basis that:

- the goods have been exported at dumped prices during the inquiry period;
- these exporters' were first found to be dumping during the original investigation, or in subsequent matters where variable factors have been ascertained;
- the Commission has not identified evidence of an incentive for these exporters to adjust their behaviour and
- there is no evidence that indicates dumping will not continue.

7.6.3 Impact of trade remedies in other jurisdictions

The Commission is not aware of anti-dumping measures applying to exports of FSI pineapple exported from the Philippines and Thailand applying in other jurisdictions.

7.6.4 Summary

Given the above analysis, the Commission considers there is sufficient evidence to conclude that:

- the goods exported to Australia from the Philippines and Thailand during the inquiry period were dumped; and
- there is no evidence that indicates that dumping will not continue.

As a result, the Commission considers that, if the anti-dumping measures are not continued, the dumping of the goods from the Philippines and Thailand is likely to continue or recur.

7.7 Will material injury continue or recur?

The *Ministerial Direction on Material Injury 2012* provides that injury from dumping need not be the sole cause of injury to the industry, where injury caused by dumping is material in degree.³⁴ It further provides that the materiality of injury caused by a given degree of dumping can be judged differently, depending on the economic condition of the Australian industry suffering the injury. In considering the circumstances of each case, the Commission must consider whether an industry that at one point in time is healthy and could shrug off the effects of the presence of dumped products in the market, could at another time, weakened by other events, suffer material injury from the same amount of dumping.

In its application Golden Circle Limited asserts that imports of FSI pineapple from the subject countries continue to be priced at levels that make it difficult for Golden Circle Limited to raise prices to meet increases in production costs and achieve adequate returns for ongoing reinvestment opportunities. Golden Circle Limited also reiterated the findings in previous continuation inquiries that exports of FSI pineapple from the subject countries undercut the Australian industry, and state that the expiry of the measures will result in a substantial loss of sales volume and market share.

7.7.1 Likely effect on prices

The Commission has used ABF import data to analyse export pricing since 2016 for the subject countries, as well as exports from all other countries.

Figure 20 below demonstrates the export prices compared to the Australian industry's selling prices:

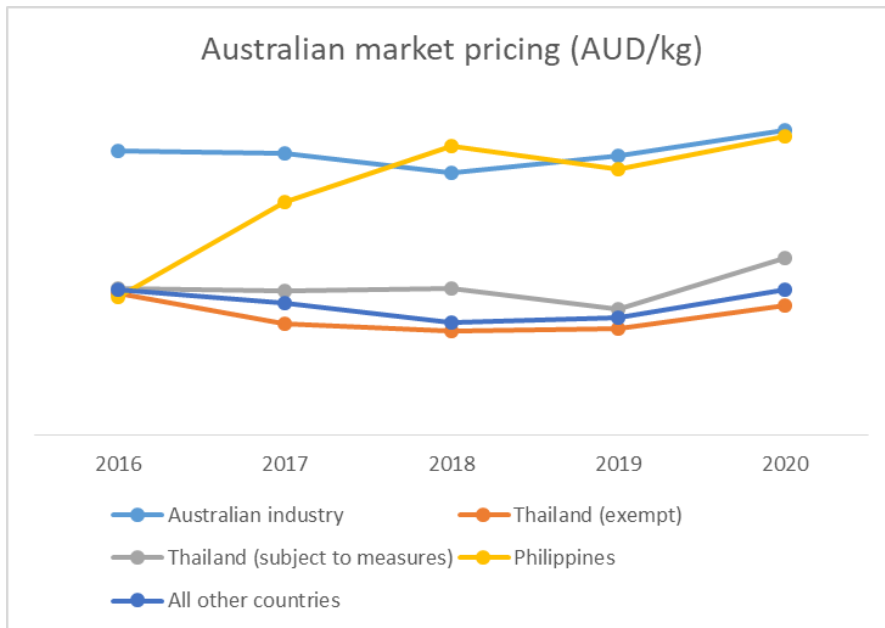


Figure 20: Export prices compared to Golden Circle selling prices

³⁴ ADN No. 2021/024 refers

Figure 20 indicates that:

- Exports from Thailand that are not subject to measures were the lowest priced product throughout the injury analysis period;
- There appears to be price competition between exports from Thailand (both subject to measures and not subject to measures) and exports from other countries;
- Exports from the Philippines have the highest FOB export price from 2016 onwards, at a price approaching or higher than the Australian industry's selling price;³⁵ and
- Golden Circle maintains a high selling price throughout the injury analysis period.

The Commission considers that Figure 19 demonstrates that despite lower priced FSI pineapple being available from Thailand and from other countries not subject to measures, Golden Circle has been able to achieve a consistently higher sales price on its sales of FSI pineapple. The Commission considers that if the measures are allowed to expire, future imports from Thailand and the Philippines will compete at the lower price point, and not impact the prices that Golden Circle is able to achieve.

Price undercutting

Price undercutting occurs when imported goods are sold in the Australian market at a price below that of the Australian produced like goods. The Manual highlights that price undercutting analysis is a feature of the Commission's practice in determining whether dumping has caused injury. The Commission has undertaken a price undercutting analysis that focuses on data that covers transactions made during the inquiry period. This analysis compares the price of the imported goods with the sales price of the locally produced goods, in the Australian market.

The results of the Commission's price undercutting analysis provides information that aids in assessing the effect of dumped imports on the Australian industry's prices and whether this has caused, or is likely to cause, injury in the form of price depression and price suppression, amongst other potential injury factors.

The Commission's price undercutting analysis compares the prices at which the Australian industry sold like goods to the actual prices achieved by importers who sourced the goods from exporters subject to the current measures. Where sufficient detail is available, the Commission has compared goods on a like for like basis.

The Commission determined a landed value for exports for the cooperating exporter as the sum of:

- the verified CIF value of export sales;
- any general duties and dumping duties relevant to each exporter; and
- Australian importation costs based on importer data provided by cooperative importers.

³⁵ As noted at section 6.6.2, the FOB export prices for imports from the Philippines were significantly higher than other imports (from both subject countries and countries not subject to the measures), and significantly higher than the import prices from the subject countries in the previous continuation inquiry. Due to a lack of cooperation from exporters in the Philippines the Commission is unable to provide further clarity.

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The Commission's undercutting analysis indicates that the Australian industry's selling prices for the goods are undercut by Siam Food's imports of the goods. Further, the Australian industry selling prices were undercut by all import sources of the goods except for the Philippines in 2018, and that goods from those countries not subject to the measures (predominantly Indonesia) undercut the Australian industry by the greatest amount.

Price depression and price suppression

The Commission understands that the Australian market for FSI pineapple has predominantly operated on a tender basis. Both the Australian industry and the cooperative importer indicated that customers tend to enter into long-term contracts following a competitive tender process, though Golden Circle advised that recently it has moved away from participating in tender processes and is supplying to wholesalers. Golden Circle did not identify any examples, nor provide any evidence to the Commission, illustrating lost tenders to imports from the subject countries during the inquiry period, nor pricing pressure in its sales to wholesalers. Although the Commission observes from Figure 19 above that selling prices of goods subject to the measures from Thailand has undercut the Australian industry, this does not appear to have had an effect on the selling prices which Golden Circle is able to achieve.

7.7.2 Likely effects on volumes

As noted above, the Commission has not identified evidence to indicate that the Australian industry has had to compete with lower priced FSI pineapple from the subject countries, nor that it has lost sales volumes due to being unable to compete with lower priced offerings. The Commission is of the view that due to limited supply of raw pineapple in Australia, Golden Circle has focussed on the consumer pineapple market rather than the FSI pineapple market. This would explain its declining sales volumes for FSI pineapple. The Commission notes the supply of raw pineapple is not impacted by imports from the subject countries.

The Commission has observed a pattern of behaviour from exporters who are subject to the measures, with exports from the Philippines being immaterial in each year of the injury analysis period, while exports from Thailand that are subject to the measures have declined considerably and represent a minor part of the Australian market.

Golden Circle claimed that processors of FSI pineapple in the Philippines have significantly increased production capacity, and that this demonstrated long term intentions to export these goods. The Commission was unable to confirm these claims directly with exporters as there were no cooperative exporters from the Philippines. The Commission has considered these claims and notes that an increase in production capacity does not necessarily indicate an intention to increase export volumes to Australia, particularly given a pattern of behaviour over an extended period suggesting that the Australian market is not a key focus for exporters in the Philippines.

Therefore, the Commission considers there is insufficient evidence to find that the expiry of the measures is likely to lead to volume injury to the Australian industry.

The Commission notes that Golden Circle advised that it is operating at full production capacity, which was confirmed through verification of the data provided by Golden Circle. Golden Circle also advised that its production capacity is limited to the volumes of raw pineapple that can be sourced from pineapple farmers. While this has the potential to

impact on the sales volumes Golden Circle can achieve, this cannot be attributed to dumped goods from the subject countries.

Golden Circle claims that the expiration of the measures on both consumer and FSI pineapple exported from the Philippines and Thailand pose a 'very real and immediate threat of future material injury to the prospects of the pineapple processing industry that is only recently recovering from enduring drought conditions'.³⁶ The Commission has considered Golden Circle's submission in the conduct of this inquiry. The Commission considers that there is insufficient evidence before it to find that the expiration of the measures would impact Golden Circle's pineapple processing plans as claimed. While Golden Circle states that the expiration of measures will prevent it re-building supply of pineapples for canning, there is insufficient evidence before the Commission to indicate that Golden Circle's future volumes will be limited by the dumping of imports from the subject exporters of this inquiry. The Commission also notes that 'threat of future material injury' is not part of the test for whether measures should be continued.

The Commission has also considered Australian Pineapples' submission (noted at section 7.4.1 above) in the conduct of this inquiry.³⁷ The Commission considers that there is insufficient evidence to indicate that supply certainty will be limited by the dumping of imports from the subject exporters of this inquiry.

7.8 Conclusion

Taking the above analysis into account, the Commissioner is satisfied that there is sufficient evidence to support a finding that imports of the goods from Thailand and the Philippines are likely to continue in the absence of anti-dumping measures.

The Commissioner is satisfied that imports of the goods from the Philippines and Thailand were dumped during the inquiry period, and that there is sufficient evidence to indicate that imports from the Philippines and Thailand will continue to be at dumped prices in the absence of anti-dumping measures.

The Commissioner is not, however, satisfied that there is sufficient evidence to support a finding that material injury is *likely* to be caused by future exports at dumped prices in the absence of measures.

Specifically, the Commissioner has found that:

- Golden Circle has been able to achieve a consistently higher sales price on its FSI pineapple, despite its prices being undercut by imports from the subject countries and other countries;
- Future imports from Thailand and the Philippines are likely to compete on price with each other and with imports from other countries (not subject to the measures). This competition is at a much lower price point than Golden Circle's sales price. There is no evidence before the Commission indicating that the prices Golden Circle achieves are impacted by the price of imported goods;
- Due to limited supply of raw pineapple (which is not impacted by imports from the subject countries), Golden Circle has focussed on the consumer pineapple market rather than the FSI pineapple market, a factor which has led to their declining sales volume for FSI pineapple; and

³⁶ EPR 573 and 574, [document 5](#).

³⁷ EPR 573 and 574, [document 6](#).

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- There is no evidence that Golden Circle has lost sales volumes to imported products or would lose sales volumes if the measures expire, with the data indicating that Golden Circle is operating at full capacity.

The Commissioner accepts that, should the measures be allowed to expire, it is possible that consumer pineapple will be exported to Australia at dumped prices in the future and materially injure the Australian industry. However, the Commissioner is not satisfied on the evidence before him that this is *likely*.

As a result, the Commissioner is not satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of the material injury that the anti-dumping measures are intended to prevent.

8 NON-INJURIOUS PRICE

8.1 Introduction

The Commissioner proposes to recommend to the Minister that the notices in respect of FSI pineapple exported to Australia from Thailand and the Philippines be allowed to expire on 17 October 2021 and 13 November 2021 respectively. However, in the event that a different recommendation is made and the anti-dumping measures are continued, the Commission has considered the non-injurious price (NIP).

8.2 Non-injurious price

The NIP is defined in section 269TACA as 'the minimum price necessary to prevent the injury, or a recurrence of the injury' caused by the dumped or subsidised goods, the subject of a dumping duty notice or a countervailing duty notice. The Commission will generally derive the NIP from an unsuppressed selling price (USP).

8.3 Lesser duty rule

Where the Minister is required to determine the IDD, section 8(5B) of the *Customs Tariff (Anti-Dumping) Act 1975* (Cth) (Dumping Duty Act) applies.

Sections 8(5B) requires the Minister, in determining the IDD payable, to have regard to the 'lesser duty rule'. In relation to a dumping duty notice, the lesser duty rule requires consideration of whether the NIP is less than the normal value of the goods.

However, pursuant to sections 8(5BAA) of the Dumping Duty Act, the Minister is not required to have regard to the lesser duty rule where one or more of the following circumstances apply:³⁸

- a) the normal value of the goods was not ascertained under section 269TAC(1) because of the operation of section 269TAC(2)(a)(ii); and/or
- b) there is an Australian industry in respect of like goods that consists of at least two small-medium enterprises, whether or not that industry consists of other enterprises.

None of these circumstances apply in the case of this inquiry, and therefore the Minister must consider the desirability of applying a lesser amount of duty.

8.4 Assessment of NIP

The USP is a selling price that the Australian industry could reasonably achieve in the market in the absence of dumped or subsidised imports.³⁹

The Commission's preferred approach to establishing the USP for the goods is set out in chapter 24 of the Manual, which sets out the following methods:

- industry selling prices at a time unaffected by dumping or subsidisation;
- constructed Australian industry price based on the industry's CTMS, plus an amount for profit; or

³⁸ Sections 8(5BAAA)(a) to (c) of the Dumping Duty Act concern the calculation of dumping duty.

³⁹ The Manual, page 137.

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- use relevant and comparable selling prices of un-dumped and unsubsidised imports.

Having calculated the USP, the Commission then calculates a NIP by deducting the costs incurred in getting the goods from the export FOB point (or another point if appropriate) to the relevant level of trade in Australia. The deductions normally include overseas freight, insurance, into store costs and amounts for importer expenses and profit.

Based on the information before it, the Commission considers that the Australian industry was not affected by dumping during the inquiry period. Therefore, the Commission considers it is preferable to use the Australian industry's recent selling prices to calculate the USP.

Post-exportation cost data gathered from importers during the inquiry form the basis of deductions from the USP to calculate the NIP.

The Commission has found that the NIP is higher than the normal values for all exports of the goods from the Philippines and Thailand and, in the event that anti-dumping measures are continued, the Commissioner proposes to recommend that dumping duties be based on the full margins of dumping.

The Commission's calculation of the NIP is contained in **Confidential Attachment 6**.

9 FORM OF MEASURES

9.1 Introduction

The Commissioner proposes to recommend to the Minister that the dumping duty notices in respect of FSI pineapple exported to Australia from the Philippines and Thailand be allowed to expire. However, in the event that a different recommendation is made and the anti-dumping measures are continued, the Commission has considered the form of measures.

9.2 Preliminary findings

The Commissioner preliminarily finds that, in relation to FSI pineapple exported to Australia from the Philippines and Thailand during the inquiry period, for all exporters:

- the ascertained export price has changed;
- the ascertained normal value has changed; and
- the NIP has changed.

9.2.1 Legislative framework

The forms of dumping duty available to the Minister when imposing anti-dumping measures are prescribed in the *Customs Tariff (Anti-Dumping) Regulation 2013* (Cth) and include:

- fixed duty method (\$X per tonne);
- floor price duty method;
- combination duty method; or
- *ad valorem* duty method (i.e. a percentage of the export price).⁴⁰

The various forms of dumping duty all have the purpose of removing the injurious effects of dumping. However, in achieving this purpose, certain forms of duty will better suit particular circumstances more so than others. In considering which form of duty to recommend to the Minister, the Commissioner will have regard to the published *Guidelines on the Application of Forms of Dumping Duty November 2013* (the Guidelines) and relevant factors in the market for the goods.⁴¹

9.2.2 Fixed duty method

A fixed duty method operates to collect a fixed amount of duty – regardless of the actual export price of the goods. The fixed duty is determined when the Minister exercises her powers to ascertain an amount for the export price and the normal value.

9.2.3 Floor price duty method

The floor price duty method sets a ‘floor’ – for example a normal value of \$100 per tonne – and duty is collected when the actual export price is less than that normal value of \$100

⁴⁰ Section 5 of the *Customs Tariff (Anti-Dumping) Regulation 2013* (Cth).

⁴¹ [Available on the Commission website.](#)

per tonne. The floor price is either the normal value or the non-injurious price (NIP), whichever becomes applicable under the duty collection system.

This duty method does not use an ascertained export price as a form of 'floor price' as occurs with the combination and fixed duty methods.

9.2.4 *Ad valorem* duty method

The *ad valorem* duty method is applied as a proportion of the actual export price of the goods. An *ad valorem* dumping duty is determined for the product as a whole, meaning that a single ascertained export price is required when determining the dumping margin. The *ad valorem* duty method is the simplest and easiest form of duty to administer when delivering the intended protective effect.

9.2.5 Combination duty method

The combination duty comprises two elements: the 'fixed' element and the 'variable' duty element. The fixed element is determined when the Minister exercises powers to 'ascertain' an amount (i.e. set a value) for the export price and the normal value. This may take the form of either a fixed duty or an *ad valorem* on the ascertained export price.

The variable component stems from a feature of this form of duty whereby, having ascertained the export price for the purposes of imposing the dumping duty, if the actual export price of the shipment is lower than the ascertained export price, the variable component works to collect an additional duty amount (i.e. the difference between the ascertained export price and the actual export price). It is called a 'variable' element because the amount of duty collected varies according to the extent the actual export price is beneath the ascertained export price.

9.3 Conclusion

The form of measures currently applicable to FSI pineapple from the Philippines and Thailand is the combination duty method.

Subject to submissions received in response to this SEF and if it is recommended that the measures be continued, the Commission is of the view that the combination duty method should be used to determine the IDD payable.

10 APPENDICES AND ATTACHMENTS

Confidential Attachment 1	Australian market
Confidential Attachment 2	Global supply - pineapples
Confidential Attachment 3	Global demand - pineapples
Confidential Attachment 4	Economic condition of the industry
Confidential Attachment 5	Siam Food – excess production capacity
Confidential Attachment 6	USP/NIP
Confidential Appendix 1	Siam Food dumping margin – appendix 1
Confidential Appendix 2	Siam Food dumping margin – appendix 2
Confidential Appendix 3	Siam Food dumping margin – appendix 3
Confidential Appendix 4	Siam Food dumping margin – appendix 4
Confidential Appendix 5	Uncooperative dumping margin - Thailand
Confidential Appendix 6	Uncooperative dumping margin - Philippines