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The Director
Operations 3
Anti-Dumping Commission
GPO Box 1632
Melbourne VIC 3001

Expiry review of consumer pineapple exported from Thailand

Dear Director,

This submission is made on behalf of Prime Products Industry Co. Ltd (PPI) in response to the application by Golden Circle Limited (GCL) requesting the continuation of interim dumping duties applying to consumer pineapple exported from Thailand. It also addresses obvious deficiencies in the Anti-Dumping Commission's (the Commission) consideration report.

Threshold test for expiration of measures

PPI wishes to emphasise and remind the Commission of the required threshold test for the Commissioner's level of satisfaction pursuant to subsection 269ZHF(2) of the *Customs Act 1901*. It requires an affirmative likelihood determination based on positive evidence that supports a finding that dumping and material injury would be likely if the measures were removed, and not simply if the evidence suggests that such a result might be possible or plausible. Critical to this assessment is ensuring that factors other than the subject exports are not attributed to the likelihood of material injury determination. This is achieved by distinguishing and isolating the effects from these other factors.

To that end, PPI contends that GCL's application and the Commission's consideration report are critically deficient. Both the application and the consideration report provide an assessment of the likelihood of material injury continuing or recurring on the basis of the export volumes of consumer pineapple from Thailand.

4.2.1 Applicant's claims

In the application, GCL states that imports of consumer and FSI pineapple from Thailand and the Philippines have continued since the measures were continued in 2011, and also represent large proportions of the total import volume of pineapple into Australia in

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2015. GCL presented ABS import data that states that Thailand and the Philippines remain the two largest supply sources for imported consumer and FSI pineapple, accounting in total for the vast majority of total imports in 2015. The ABS data presented by GCL is contained at Confidential Attachment 1. GCL asserted that, as the world's largest suppliers of pineapple, Thailand and the Philippines have available capacity to increase exports of pineapple to Australia should the current measures be allowed to expire.

4.2.2 The Commission's assessment

The Commission has reconciled the ABS import data submitted by GCL to the Australian Border Force (ABF) import database. The ABF import database confirmed that imports of consumer and FSI pineapple from the Philippines and Thailand have continued since measures were imposed, demonstrating that exporters have maintained distribution links in Australia. The data shows that import volumes of consumer and FSI pineapple from Thailand and the Philippines have increased in 2014 and 2015 and account for the vast majority of the volume of all imports.

Missing from GCL's application and the Commission's consideration report is any reference or assessment of the impact of non-dumped exports from Thailand. As identified in the Commission's consideration report, dumping duties are exempt in relation to consumer pineapple exported by Thai Pineapple Canning Industry Corp Ltd (TPC). Given this understanding and the Commission's examination of the import database, PPI expects that the Commission would have at the very least identified and confirmed whether imports of consumer pineapple from TPC were significant relative to total imports from Thailand.

PPI considers this a decisive issue as it understands that the vast majority of exports of consumer pineapple from Thailand are made by TPC. In that circumstance, any actual injury currently being experienced by GCL cannot be attributed to Thai exports currently subject to interim dumping duties.

Therefore, the Commission must in assessing whether the expiry of measures would lead, or likely lead, to a recurrence of material injury, distinguish and isolate the effects of injury that can be attributed to TPC's exempt exports from that component of injury that can be attributed to exports subject to measures. The Commission must not attribute injury or likely injury caused by TPC's exports to exports subject to measures. And finally, as outlined earlier, the Commission must reach a level of satisfaction based on positive evidence and not mere speculation.

Yours sincerely

John Bracic