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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 Anti-Dumping Commission's (the Commission) Statement of Essential Facts Report No 333 (SEF 333).

In summary, it is noted that the primary issue raised in PPI's submission of 29 March 2016 is not at all addressed in SEF 333 and given the lack of reference to TPC's exports during the analysis period, it would appear that the Commission has not at all considered the clearly relevant issue.

Continuation test

In SEF 333 under the sub-heading 'Continuation Test', the Commission recites the relevant provision governing the Commissioner's obligations in preparing a report for the Minister setting out its recommendations with respect to the continuation of the anti-dumping measures. Missing from the Commission's explanation of the relevant threshold test is the requirement and obligation for findings to be based on an affirmative likelihood determination having regard to positive evidence that supports a finding that dumping and material injury would be likely if the measures were removed.

It is not sufficient to recommend continuation of the measures simply because the evidence suggests that such a result might be possible or plausible. As PPI has previously explained, 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.

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On that basis, PPI continues to argue that the Commission's preliminary findings in SEF 33 are critically deficient as there is no attempt to isolate and distinguish the effects of TPC's exports. In fact, it would appear to PPI that the Commission has attributed the effects of factors other than dumping to the goods subject to measures.

At Figure 1 below, the Commission identifies the market share of Thai exports during 2015 but makes no attempt to provide its analysis or explanation as to whether all or the vast majority of those goods are made by exporters exempt from measures. Given that the data is obtained from the ABF import database and importers are required to enter a corresponding DSN relevant to the exporter of the goods, it is expected that the Commission would be able to have easily identified the source of the Thai exports.

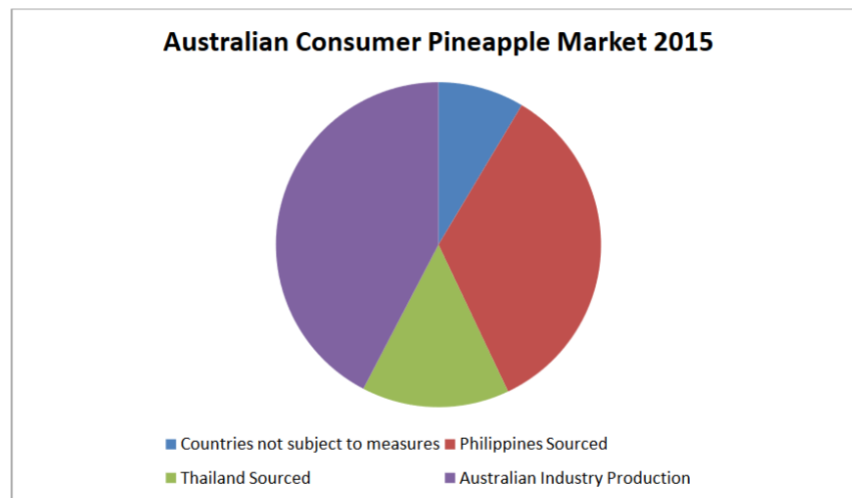


Figure 1 – Australian consumer pineapple market share 2015
Source: ABF import database combined with verified Golden Circle and exporter sales data

Further, the Commission highlights the movement in Thai imports since 2009 without explaining whether any or all of these imports are sourced from exporters exempt from measures. For example, archived reports from previous variable factor and expiry reviews reveals:

- exports by TPC occurred during 2009 and 2010¹
- exports by TPC occurred during 1 October 2011 to 30 September 2012²;
- exports by TPC continued to occur in 2013³.

It is also interesting that the Commission has sought to explain and identify the volumes of imported consumer pineapple from countries not subject to measures but makes no effort to distinguish the volume of imports not subject to measures from Thailand. This strongly suggests that the Commission has incorrectly consolidated and aggregated the effects of goods from Thailand.

¹ REP 173b

² REP 195A

³ REP 195B

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By doing so, the Commission has not properly isolated the injurious effects from non-dumped imports from TPC. This is evident from Figure 11 of SEF 333 which purports to show the level of undercutting by imports relative to the Australian industry's equivalent prices. If the import prices relate to goods from Thai exporters not subject to duties, then the analysis is considered irrelevant to the primary assessment being undertaken by the Commission. If the import prices relate to goods from Thai exporters subject to duties, then it is critical that the Commission identify and compare those prices with corresponding prices from goods not subject to duties. This is essential as the goods exempt from duties are and must be considered to be non-dumped and non-injurious.

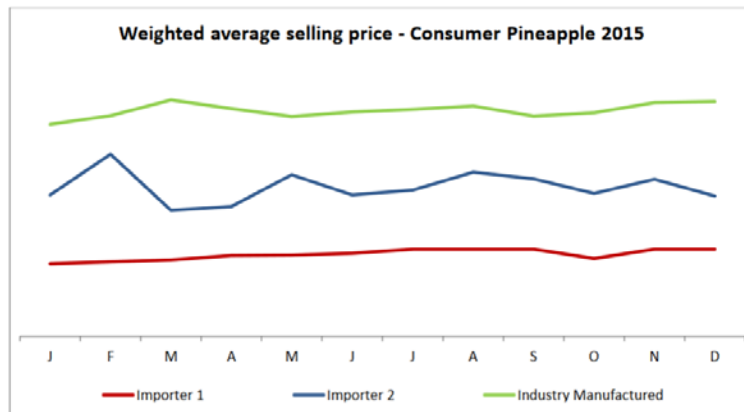


Figure 11 – Weighted average domestic pricing comparison
Source: Golden Circle and importer transactional data

For the reasons outlined above, PPI requests the Commission to publish an addendum to SEF 333 which properly explains, isolates and distinguishes the effects of Thai consumer pineapple exempt from measures.

Yours sincerely

John Bracic