



Australian Government
**Department of Industry,
Innovation and Science**

**Anti-Dumping
Commission**

CUSTOMS ACT 1901 - PART XV B

**STATEMENT OF ESSENTIAL FACTS
NO. 334**

**INQUIRY CONCERNING THE CONTINUATION OF
ANTI-DUMPING MEASURES APPLYING TO
FOOD SERVICE AND INDUSTRIAL PINEAPPLE
EXPORTED FROM THE REPUBLIC OF THE PHILIPPINES AND
THE KINGDOM OF THAILAND**

JUNE 2016

CONTENTS

ABBREVIATIONS.....	4
1 SUMMARY AND RECOMMENDATIONS	6
1.1 INTRODUCTION	6
1.2 PRELIMINARY FINDINGS AND CONCLUSIONS	6
1.3 PROPOSED RECOMMENDATION	7
2 BACKGROUND.....	9
2.1 BACKGROUND.....	9
2.2 INITIATION	9
2.3 LEGISLATIVE FRAMEWORK	9
2.4 HISTORY OF THE ANTI-DUMPING MEASURES.....	9
2.5 CONDUCT OF INQUIRY.....	11
2.6 RESPONDING TO THIS SEF.....	13
2.7 FINAL REPORT	14
3 THE GOODS AND LIKE GOODS.....	15
3.1 PRELIMINARY FINDING	15
3.2 THE GOODS	15
3.3 TARIFF CLASSIFICATION.....	15
3.4 LIKE GOODS.....	15
4 THE AUSTRALIAN INDUSTRY	17
4.1 PRELIMINARY FINDING	17
4.2 LEGISLATIVE FRAMEWORK	17
4.3 PRODUCTION PROCESS	17
4.4 COMMISSIONER’S ASSESSMENT	17
5 AUSTRALIAN MARKET.....	18
5.1 PRELIMINARY FINDING	18
5.2 BACKGROUND.....	18
5.3 MARKET STRUCTURE.....	18
5.4 MARKET SHARE AND MARKET SIZE.....	20
5.5 PRICING IN AUSTRALIA AND BRAND	22
6 ECONOMIC CONDITION OF THE AUSTRALIAN INDUSTRY	23
6.1 PRELIMINARY FINDING	23
6.2 AUSTRALIAN INDUSTRY CLAIMS.....	23
6.3 APPROACH TO INJURY ANALYSIS.....	23
6.4 VOLUME EFFECTS.....	23
6.5 PRICE EFFECTS.....	26
6.6 PROFITS AND PROFITABILITY	30
7 LIKELIHOOD OF DUMPING AND MATERIAL INJURY RECURRING OR CONTINUING	31
7.1 PRELIMINARY FINDING	31
7.2 CONTINUATION TEST	31
7.3 AUSTRALIAN INDUSTRY CLAIMS.....	31
7.4 LIKELIHOOD OF DUMPING CONTINUING OR RECURRING	31
7.5 LIKELIHOOD OF MATERIAL INJURY CONTINUING OR RECURRING	33
7.6 FACTORS OTHER THAN DUMPING	35
7.7 COMMISSION’S OVERALL ASSESSMENT	35
8 REVIEW OF VARIABLE FACTORS	36
8.1 PRELIMINARY FINDING	36

PUBLIC RECORD

8.2	INTRODUCTION	36
8.3	DUMPING – THE PHILIPPINES.....	36
8.4	DUMPING - THAILAND	37
9	NON-INJURIOUS PRICE.....	44
9.1	INTRODUCTION	44
9.2	USP AND NIP.....	44
10	FORM OF MEASURES	46
11	PRELIMINARY RECOMMENDATION.....	47
12	APPENDICES AND ATTACHMENTS.....	48

PUBLIC RECORD

ABBREVIATIONS

\$	Australian dollars
ABF	Australian Border Force
the Act	<i>Customs Act 1901</i>
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
Dole	Dole Thailand Limited
the Direction	<i>Customs (Extensions of Time and Non-cooperation) Direction 2015</i>
Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975</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)
Kuiburi	Kuiburi Fruit Canning Co. Ltd
MSP	Malee Sampran Public Co
NIP	Non-injurious Price
OCOT	Ordinary course of trade
the Parliamentary Secretary	the Assistant Minister for Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science
the Philippines	the Republic of the Philippines
Prime Products	Prime Products Industry Co. Ltd.
QSR	Quick service restaurants
the Regulation	<i>Customs (International Obligations) Regulation 2015</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 171a	<i>Trade Measures Branch Report No. 171a</i>
REP 171c	<i>Trade Measures Branch Report No. 171c</i>
REP 172a	<i>Trade Measures Branch Report No. 172a</i>
REP 172c	<i>Trade Measures Branch Report No. 172c</i>
SAICO	Siam Agro-Food Industry Public Company Limited
SEF	Statement of Essential Facts
SG&A	Selling, general and administrative
Thailand	the Kingdom of Thailand

PUBLIC RECORD

USP	Unsuppressed Selling Price
Vita Food	Vita Food Factory (1999) Company Limited

1 SUMMARY AND RECOMMENDATIONS

1.1 Introduction

This continuation inquiry is in response to an application by Golden Circle Limited (Golden Circle) seeking the continuation of the anti-dumping measures, in the form of a dumping duty notice, applying to Food Service and Industrial (FSI) pineapple exported to Australia from the Republic of the Philippines (the Philippines) and the Kingdom of Thailand (Thailand).

This Statement of Essential Facts (SEF) sets out the findings and conclusions on which the Commissioner of the Anti-Dumping Commission (the Commissioner) proposes to base his recommendations to the Assistant Minister for Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science (the Parliamentary Secretary)¹ concerning the inquiry conducted by the Anti-Dumping Commission (the Commission) into the continuation of the anti-dumping measures applying to FSI pineapple exported to Australia from the Philippines and Thailand.

A separate SEF, SEF 333, has been issued in relation to the continuation inquiry for consumer pineapple from the Philippines and Thailand.

1.2 Preliminary findings and conclusions

The Commissioner has made the following preliminary findings and conclusions based on available evidence.

1.2.1 The goods and like goods (Chapter 3)

Locally produced FSI pineapple is like to the goods under consideration.

1.2.2 Australian industry (Chapter 4)

There is an Australian industry producing like goods, comprising of Golden Circle.

1.2.3 Australian market (Chapter 5)

The Australian market for FSI pineapple is supplied by the Australian industry and imports, predominately from the Philippines. Imports from Thailand and countries not subject to measures make up the remainder of the Australian market.

1.2.4 Economic condition of the Australian industry (Chapter 6)

The Australian industry remains susceptible to injury from dumped imports.

¹ On 23 December 2014, the Minister for Industry and Science delegated his powers and functions under Part XVB of the *Customs Act 1901* to the Parliamentary Secretary to the Minister for Industry and Science. On 20 September 2015, the Prime Minister appointed the Parliamentary Secretary to the Minister for Industry, Innovation and Science as the Assistant Minister for Science.

PUBLIC RECORD

1.2.5 Likelihood of dumping and material injury recurring (Chapter 7)

Based on the findings that:

- Australian importers have maintained distribution links with exporters of FSI pineapple from the Philippines and Thailand;
- exports of FSI pineapple from the Philippines and Thailand were dumped during the review period (1 January 2015 to 31 December 2015);
- imported FSI pineapple from the Philippines and Thailand has undercut the Australian industry's selling prices; and
- if the measures were to expire, FSI pineapple from the Philippines and Thailand would likely be exported at increased margins of dumping that would lead to the recurrence of material injury to the Australian industry,

the Commissioner concludes 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 measures were intended to prevent:

1.2.6 Review of variable factors (Chapter 8)

The variable factors have changed. Preliminary dumping margins have been calculated as set out below.

Country	Exporter	Dumping margin
The Philippines	All Exporters	36.0%
Thailand	Kuiburi Fruit Canning Co. Ltd	9.2%
	Siam Agro-Food Industry Public Company Ltd	35.0%
	Dole Thailand Limited	13.8%
	Prime Products Industry Co. Ltd	3.1%
	Vita Food Factory (1989) Company Limited	46.8%
	Uncooperative and All Other Exporters	36.2%

Table 1: Preliminary dumping margins

1.2.7 Non-injurious price (Chapter 9)

The non-injurious price (NIP) should be based on an unsuppressed selling price (USP) calculated as Golden Circle's cost to make and sell (CTMS) and an amount for profit.

1.2.8 Form of measures (Chapter 10)

With the exception of Prime Products Industry Co. Ltd (Prime Products), the Commission proposes to leave the form of measures unchanged.

1.3 Proposed recommendation

Based on the above findings and conclusions, the Commissioner proposes to recommend to the Parliamentary Secretary that she take steps to secure the continuation of the anti-

PUBLIC RECORD

dumping measures applicable to FSI pineapple exported to Australia from the Philippines and Thailand.

The Commissioner proposes to recommend that the dumping duty notice have effect as if the Parliamentary Secretary had ascertained different variable factors for all exporters generally.

2 BACKGROUND

2.1 Background

On 2 December 2015, in accordance with subsection 269ZHB(1), a notice (Anti-Dumping Notice (ADN) No. 2015/136) was published on the Commission's website inviting certain persons to apply to the Commissioner for the continuation of anti-dumping measures on FSI pineapple exported to Australia from the Philippines and Thailand.

On 29 January 2016, Golden Circle, a member of the Australian industry producing FSI pineapple, lodged an application for the continuation of the measures, which was within the applicable legislative timeframes.

2.2 Initiation

Consideration Report No. 334 and ADN 2016/21 available on the Electronic Public Record (EPR)² sets out the Commissioner's reasons for initiating this continuation inquiry.

2.3 Legislative framework

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

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

Pursuant to subsection 269ZHF(2), in order to recommend that the Parliamentary Secretary take steps to secure the continuation of the anti-dumping measures, the Commissioner must be 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 and the material injury that the anti-dumping measure is intended to prevent.

2.4 History of the anti-dumping measures

2.4.1 FSI pineapple from Thailand

On 8 January 2001, Golden Circle lodged an application requesting that the then Minister for Justice and Customs publish a dumping duty notice in respect of FSI pineapple exported to Australia from Thailand. The then Minister accepted the recommendations in *Trade Measures Report No. 41* (REP 41) and published a dumping duty notice for FSI

² The EPR is located at www.adcommission.gov.au. Refer to nos. 2 and 3 of EPR 334.

³ All legislative references in this report are to the *Customs Act 1901*, unless otherwise stated

PUBLIC RECORD

pineapple exported to Australia from Thailand with the exception of FSI pineapple exported by Malee Sampran Public Co (MSP).

On 26 February 2006, following consideration of applications by Golden Circle, a continuation inquiry and review of measures were initiated in relation to the anti-dumping measures imposed on FSI pineapple exported to Australia from Thailand. On 28 September 2006, the then Minister for Justice and Customs accepted the recommendations contained in *Trade Measures Branch Report Nos 110 and 111* (REP 110 and REP 111) to continue the anti-dumping measures applying to FSI pineapple for a further five years and fix different variable factors in relation to the anti-dumping measures.

On 15 April 2011, following consideration of an application for the continuation of measures by Golden Circle, a continuation inquiry and review of measures were initiated in relation to the anti-dumping measures imposed on FSI pineapple from Thailand. The then Minister for Home Affairs, accepted the recommendations contained in *Trade Measures Branch Report Nos 171c and 172c* (REP 171c) and (REP 172c), to continue the anti-dumping measures and fix different variable factors in relation to the anti-dumping measures for a further five years from 18 October 2011.

On 10 December 2012, a review of measures was initiated for FSI pineapple from Thailand following an application by Tipco Foods Public Company Limited. The review of measures was extended to all exporters from Thailand. The then Minister for Home Affairs, accepted the recommendations contained in *International Trade Remedies Branch Report No. 196* and fixed different variable factors in relation to the anti-dumping measures.

On 8 September 2015, following an accelerated review, the Parliamentary Secretary altered the dumping duty notice as it applied to Prime Products by fixing different variable factors relevant to the determination of duty payable by Prime Products. The duty applicable to Prime Products is currently worked out in accordance with the floor price duty method.

The anti-dumping measures for FSI pineapple from Thailand (except by MSP) are due to expire on 17 October 2016.

2.4.2 FSI pineapple from the Philippines

On 21 March 2006, Golden Circle lodged an application with the Australian Customs Service requesting that the then Minister publish a dumping duty notice in respect of FSI pineapple exported to Australia from the Philippines.

The then Minister accepted the recommendations in *Trade Measures Report No. 112* (REP 112) and published a dumping duty notice for FSI pineapple exported to Australia from the Philippines.

On 4 February 2011, following an application for the continuation of measures by Golden Circle, the then Australian Customs and Border Protection Service commenced a continuation inquiry in relation to the anti-dumping measures imposed on FSI pineapple exported to Australia from the Philippines. The then Minister for Home Affairs accepted the recommendations in *Trade Measures Branch Report No. 171a* (REP 171a) and *Trade*

PUBLIC RECORD

Measures Branch Report No. 172a (REP 172a), to continue the measures for a further five years and fix different variable factors in relation to the anti-dumping measures from 14 November 2011.

The anti-dumping measures applicable to FSI pineapple from the Philippines are due to expire on 13 November 2016.

2.5 Conduct of inquiry

2.5.1 Cooperation from interested parties

Following initiation of the continuation inquiry, the Commission requested sales and CTMS data from Golden Circle and sent importer questionnaires and exporter questionnaires to importers and exporters of FSI pineapple from the Philippines and Thailand.

2.5.2 Australian industry

The Commission did not identify any company other than Golden Circle (the applicant) manufacturing like goods in Australia.

The Commission conducted a verification visit to Golden Circle's Northgate, Queensland production facility on 6-7 April 2016, and at the Kraft Heinz Melbourne offices on 14 and 20 April 2016. A report of the visits is available on the EPR.⁴

2.5.3 Importers

A response to the importer questionnaire was received from seven importers:

- FTA Food Solutions Pty Ltd (FTA);
- Woolworths Ltd (Woolworths);
- Pave Brands Limited (Pave);
- Grocery Holdings Pty Ltd;
- Juremont Pty Ltd;
- MacEwen Falconer and Company Limited; and
- SPC Ardmona Operations Ltd.

In relation to FSI pineapple, the Commission conducted a verification visit to FTA. A report of this visit is available on the EPR.⁵

2.5.4 Exporters from Thailand

A response to the exporter questionnaire for FSI pineapple was received from five exporters from Thailand:

- Kuiburi Fruit Canning Col Ltd (Kuiburi);
- Siam Agro-Food Industry Public Company Limited (SAICO);
- Prime Products;

⁴ No. 9 of EPR 334

⁵ No. 13 of EPR 334

PUBLIC RECORD

- Dole Thailand Limited (Dole); and
- Vita Food Factory (1999) Company Limited (Vita Food).

Kuiburi

The Commission considers that Kuiburi has cooperated with the investigation.

In May 2016, the Commission conducted an on-site verification of the information provided by Kuiburi and calculated a dumping margin based on this information. A visit report for Kuiburi is available on the EPR.⁶

SAICO

The Commission considers that SAICO has cooperated with the investigation.

In May and June 2016, the Commission conducted a desktop verification of the information provided by SAICO and calculated a dumping margin based on this information. A dumping margin report for SAICO is available on the EPR.⁷

Prime Products

The Commission considers that Prime has cooperated with the investigation.

In May and June 2016, the Commission conducted a desktop verification of the information provided by Prime Products and calculated a dumping margin based on this information. A dumping margin report for Prime is available on the EPR.⁸

Dole

The Commission considers that Dole has cooperated with the investigation.

In May and June 2016, the Commission conducted a desk top verification of the information provided by Dole and calculated a dumping margin based on this information. A dumping margin report for Dole is available on the EPR.

Vita Food

The Commission considers that Vita Food has cooperated with the investigation.

In May and June 2016, the Commission conducted a desk top verification of the information provided by Vita Food and calculated a dumping margin. While Vita Food is considered a cooperating exporter, the company was unable to evidence the selling, general and administrative cost (SG&A) allocations used in its CTMS calculations to the Commission's satisfaction. A dumping margin report for Vita Food will be made available on the Commission's EPR in due course.

⁶ No. 14 of EPR 334

⁷ No. 16 of EPR 334

⁸ No. xx of EPR 334

2.5.5 Exporters from the Philippines

No responses to the exporter questionnaire for FSI pineapple were submitted by exporters from the Philippines.

2.5.6 Submissions

The Commission has received five submissions from interested parties at this stage of the inquiry.⁹ These submissions have been considered in preparing this SEF and are available on the EPR.

2.6 Responding to this SEF

This SEF sets out the essential facts on which the Commissioner proposes to base his final recommendations to the Parliamentary Secretary concerning the continuation of the measures.

This SEF represents an important stage in the continuation inquiry. It informs interested parties of the facts established to date and invites them to make submissions in response to the SEF.

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

The Commissioner must have regard to submissions received in response to this SEF within 20 days of the SEF being placed on the public record in making his final report to the Parliamentary Secretary. The final report will recommend whether or not the continuation of the anti-dumping measures should be secured, and if so, whether the dumping duty notice should remain unaltered, ceases to apply to particular exporters, or have effect as if different variable factors had been ascertained in relation to a particular exporter or exporters generally. Therefore, this final report will also recommend the extent of any interim duties that are, or should be, payable.

Responses to this SEF should be received by the Commissioner no later than 17 July 2016. 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 final report to the Parliamentary Secretary.¹⁰

The Commissioner must report to the Parliamentary Secretary by 11 August 2016.

Submissions should preferably be emailed to operations3@adcommission.gov.au.

Alternatively, submissions may be sent to fax number +61 3 8539 2499, or posted to:

⁹ Nos. 10, 11, 12, 15 and 18 of EPR 334

¹⁰ Subsection 269ZHF(4).

PUBLIC RECORD

Director Operations 3
Anti-Dumping Commission
Level 35, 55 Collins Street
MELBOURNE VIC 3000
AUSTRALIA

Confidential submissions must be clearly marked accordingly and a non-confidential version of any submission is required for inclusion on the Public Record.

A guide for making submissions is available at the Commission's web site 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. It is available by request in hard copy in Melbourne (phone (03) 8539 2415 to make an appointment), or online at www.adcommission.gov.au.

Documents on the public record should be read in conjunction with this SEF.

2.7 Final report

The final report in relation to this continuation inquiry must be provided to the Parliamentary Secretary by 11 August 2016.

3 THE GOODS AND LIKE GOODS

3.1 Preliminary finding

The Commission considers that the Australian industry (Golden Circle) produces FSI pineapple that has characteristics closely resembling FSI pineapple manufactured in the Philippines and Thailand and exported to Australia. Therefore, the Commissioner is satisfied that FSI pineapple manufactured by the Australian industry are like goods.¹¹

3.2 The goods

The goods subject to measures (the goods) are:

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

3.3 Tariff classification

The goods are generally classified to the following tariff classifications in Schedule 3 to the *Customs Tariff Act 1995*:

2008.20.00	Pineapples
2008.20.00/27	Canned, in containers exceeding one litre
2008.20.00/28	Other

FSI pineapple imported from the Philippines and Thailand is not subject to Customs Duty.

3.4 Like goods

The issue of like goods was considered during the original investigation into FSI pineapple exported from Thailand in REP 41 and the original investigation into FSI pineapple exported from the Philippines in REP 112.

In REP 41 and REP 112, for FSI pineapple, Customs and Border Protection was satisfied that there was an Australian industry producing like goods to the goods under consideration.

Subsection 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*'.

As outlined in the *Dumping and Subsidy Manual*¹² (the Manual), in assessing like goods the Commission uses an analytical framework, which identifies different ways of examining likeness, namely physical likeness, commercial likeness, functional likeness and production likeness.

¹¹ In terms of subsection 269T(1).

¹² <http://adcommission.gov.au/accessadsystem/Pages/Dumping-and-Subsidy-Manual.aspx>

PUBLIC RECORD

Golden Circle describes the locally produced (like) goods as prepared or preserved pineapple fruit in container sizes exceeding one litre, typically sold into FSI markets through distributors or directly.

3.4.1 Physical likeness

Golden Circle produces a range of pineapple products in container sizes of greater than 1 litre. The range includes (but is not limited to) pineapple pieces, pineapple thins, pineapple slices and crushed pineapple. The products can be sold in containers in either syrup or natural juice.

As part of this continuation inquiry, the Commission verified the sales of FSI pineapple made by the Australian industry and importers during the review period and is satisfied that the products are physically alike.

3.4.2 Commercial likeness

Golden Circle claims that prepared or processed pineapple fruit is a price-sensitive product that competes directly with imports of the goods in the FSI market segment.

The Commission collected information during this inquiry that confirmed this direct competition.

3.4.3 Functional likeness

Golden Circle stated that its locally produced products are directly substitutable for the imported goods.

The Commission collected information during this inquiry that confirmed the locally produced product and imported product are directly substitutable.

3.4.4 Production likeness

Verified information from the Australian industry and exporters during the inquiry shows that the locally produced goods and imported goods are manufactured from similar raw materials using a similar manufacturing process.

3.4.5 Commissioner's assessment – like goods

Based on the above findings, the Commissioner remains satisfied that there is an Australian industry producing like goods to the goods under consideration.

4 THE AUSTRALIAN INDUSTRY

4.1 Preliminary finding

There is an Australian industry that is producing like goods, consisting of Golden Circle.

4.2 Legislative framework

The Commissioner must be satisfied that the “like” goods are produced in Australia. Subsection 269T(2) specifies that for goods to be regarded as being produced in Australia, they must be wholly or partly manufactured in Australia. Subsection 269T(3) provides that 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.

4.3 Production process

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

A verification visit was undertaken to Golden Circle during the inquiry where the manufacturing process was observed and data was verified. A report of the visit is available on the EPR.¹³

4.4 Commissioner’s assessment

Based on the manufacturing process observed by the Commission during the verification visit to Golden Circle, the Commissioner considers that at least one substantial process in the manufacture of FSI pineapple is carried out in Australia and is, therefore, satisfied that FSI pineapple is manufactured in Australia.

¹³ No. 8 of EPR 334

5 AUSTRALIAN MARKET

5.1 Preliminary finding

The Australian market for FSI pineapple is supplied by the Australian industry and imports, predominately from the Philippines. Imports from Thailand and countries not subject to measures make up the remainder of the Australian market.

5.2 Background

The Commission used information from past investigations and inquiries and information collected during this inquiry in its examination of the Australian market for FSI pineapple.

The Commission established the size of the Australian market for FSI pineapple by using information from the Australian Border Force's (ABF) import database and information supplied by the Australian industry, importers and cooperating exporters.

FSI pineapple is primarily sold into four key markets:

- distributors, the largest group of FSI pineapple buyers;
- quick service restaurants (QSR) who use the pineapple product in fast foods sold direct to the consumer, for example, McDonald's, KFC, Hungry Jacks etc.;
- food manufacturers, who use pineapple as an ingredient in fresh and frozen meals and other prepared products; and
- catering companies that include pineapple as an ingredient to bulk meal distribution.

The goods include thins, slices, pieces, tidbits and crushed pineapple. The fruit is packed in either syrup or natural juice, predominantly in steel cans but may also be packaged in hard or soft plastic containers and pouches.

FSI pineapple can include branded product, such as the Golden Circle brand, manufacturer branding or generic branding. However, in contrast to consumer pineapple, for FSI pineapple there is less value attached to brand because end consumers are unlikely to be aware of the brand of the FSI pineapple being consumed.

Selling prices of FSI pineapple are more likely to be influenced by volume. FSI pineapple is a bulk product which is typically packaged in multi-kilogram packs. FSI pineapple achieves a significantly lower selling price per kilogram than consumer pineapple and as a result, sales compete more predominantly on unit price. As a bulk product, the CTMS per kilogram is lower, due to lower packaging and processing costs.

5.3 Market structure

The Australian market is predominately supplied by imports from Thailand, with the Australian industry and imports from countries not subject to measures having a share of the remainder of the market. Imports from the Philippines make up a small portion of the market.

5.3.1 Australian industry

The Australian industry for FSI pineapple services each of the four above named market segments, with the majority of sales being to third party distribution channels that service the QSR, manufacturing and catering segments.

Like all primary industries, pineapple availability can be subject to weather and other disruptions and in 2014 and 2015 supply was a significant issue for Golden Circle, leading to a shortfall in available fresh pineapple for processing. As a result, Golden Circle was required to restructure the planned volumes into each market segment (consumer and FSI). Golden Circle also imported FSI pineapple in order to service its customer base. Golden Circle imports FSI pineapple from Thailand and Indonesia.

Given the lower unit price achievable in the FSI pineapple market, Golden Circle directed much of its reduced production towards the higher value retail market and imported the more commoditised FSI pineapple products to supplement its own production and maintain market competitiveness and market share.

While this shortage has led Golden Circle to alter its normal manufacturing and marketing plans through 2014 and 2015, it plans to increase its production output of consumer and FSI pineapple in 2016 and beyond, having agreed to work with growers to source an increased intake of fresh pineapples.

Golden Circle provided the Commission with grower estimates (by grower) as evidence of the additional planned production volumes to year end 2017.

5.3.2 Global supply

The global market for pineapple is dominated by production from a few large countries. The major pineapple growing countries are Costa Rica, Brazil, the Philippines and Thailand. The main pineapple products are fresh and processed (usually canned) pineapple.

Costa Rica is the largest producer of fresh pineapple. At the end of 2014, the two largest canners of processed pineapples were Thailand, with an estimated global market share of 47 per cent and the Philippines, with an estimated global market share of 16 per cent.¹⁴

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.

Pineapple production was disrupted in 2014 and 2015 which led to challenging times for the pineapple processors, for example:

¹⁴ Source: <http://www.statista.com/statistics/502716/global-canned-pineapple-export-value-share-by-country/>

PUBLIC RECORD

- Costa Rican pineapple exports dropped 12 per cent by volume between January and July year-on-year driven by an adverse business environment that prompted the departure of 500 farmers.¹⁵
- Due to weather conditions since beginning of 2015, the total Thai Pineapple crop from January through August 2015 was 11 per cent shorter than last year same time period. The shortage of pineapple has led to quality issues because pineapple farmers are harvesting immature fruit because demand is so strong.¹⁶
- Prices for fresh pineapple from Thailand (the major producer of canned pineapples) rose significantly, up 70 per cent year on year and up 6 per cent month on month in June 2014. The rise is due to tight supplies caused by adverse weather conditions. Heavy rains in Thailand at the end of 2013 destroyed around 50 per cent of the crop due to be harvested in 2014 and this led to a reduction in supply and resulted in an increase in prices. Fresh pineapple production in Thailand in 2015 is projected to increase reaching 1.6m Tonnes, up 18 per cent year on year. However, due to increased export demand, prices might remain at high levels as demand outweighs production.¹⁷
- In addition, some Philippine producers had suffered significant stock losses during weather events, including typhoons in 2013 and 2015 leaving some processors unable to acquire enough stock for canning.

Some analysts are predicting improved 2016 yields, while others believe that global production growth will not recover significantly until 2017.

5.3.3 Supply in the Philippines and Thailand

Production from the Philippines has been impacted by a significant shortage of fresh pineapple in 2015 and pineapple processors have not been able to fill all domestic and export orders. The Commission was informed by Dole that, like the Australian industry, pineapple processors from the Philippines have been rationing to lower priority customers and markets as a means of managing supply. Production is expected to improve in 2016 and beyond as both independent growers and integrated producers increase planting.

Thailand also experienced a shortage of fresh pineapple in 2015, with integrated producers buying fruit from other suppliers in order to maintain supply volumes.

5.4 Market share and market size

5.4.1 Market share

Figure 1 below shows that while the Australian industry maintains a significant share of the Australian market, imports from Thailand dominate the Australian FSI pineapple market.

¹⁵ Source: <https://www.agra-net.com/agra/foodnews/canned/canned-fruit/pineapple/costa-rican-pineapple-exports-slump-491354.htm>

¹⁶ Source: <http://www.bwgroc.com/media/Market%20Report%202010-2-15.pdf>

¹⁷ Source: <https://www.mintecglobal.com/2015/07/price-increase-fresh-thai-pineapples/>

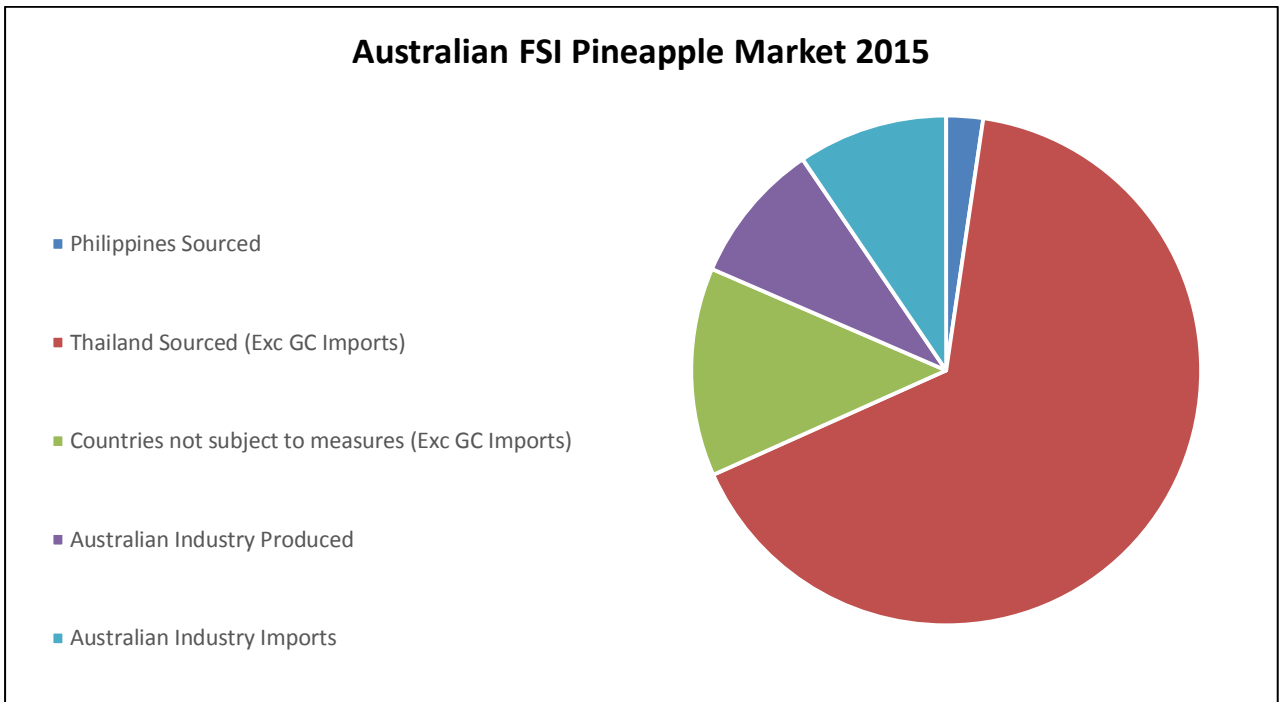


Figure 1 – Australian FSI pineapple market share

Source: ABF import database combined with verified Golden Circle and exporter sales data

Figure 2 below shows a shift in market share over the past three years. The Australian industry lost market share in 2014 but achieved a small growth in volumes and market share by supplementing its own production with imported product in 2015. Thailand imports increased Australian market share in 2015, displacing imports from the Philippines and countries not subject to measures.

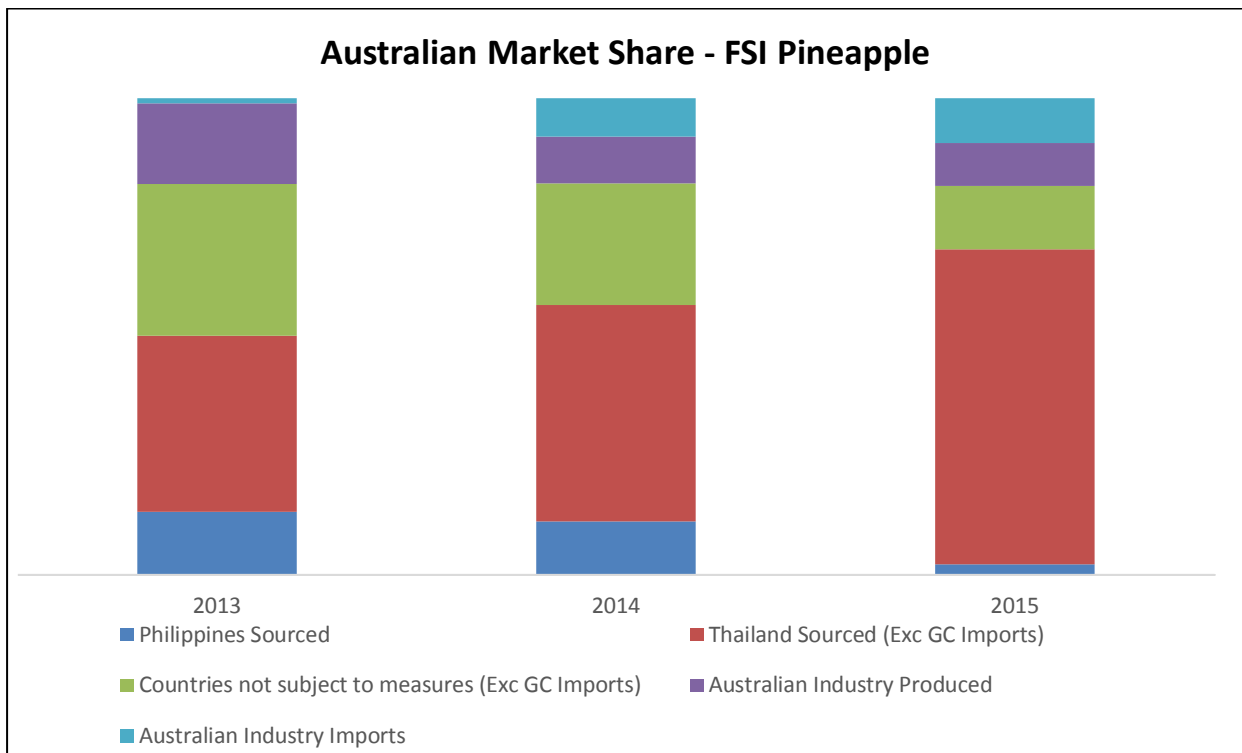


Figure 2 – Australian FSI pineapple market share 2013 to 2015

Source: ABF import database combined with verified Golden Circle and exporter sales data.

PUBLIC RECORD

Figure 3 below shows the size of the Australian FSI pineapple market for the past three years. The Commission estimates that the size of the Australian market for FSI pineapple was approximately 14,600 tonnes in 2015. Raw pineapple shortages over the past few years have caused the Australian FSI pineapple market to be more volatile than the consumer pineapple market, with a contraction of approximately 20 per cent in 2014 before a partial recovery in 2015. The partial recovery appears to have continued in the first 5 months of 2016 with imports being 12.5 per cent higher than the same period in 2015.

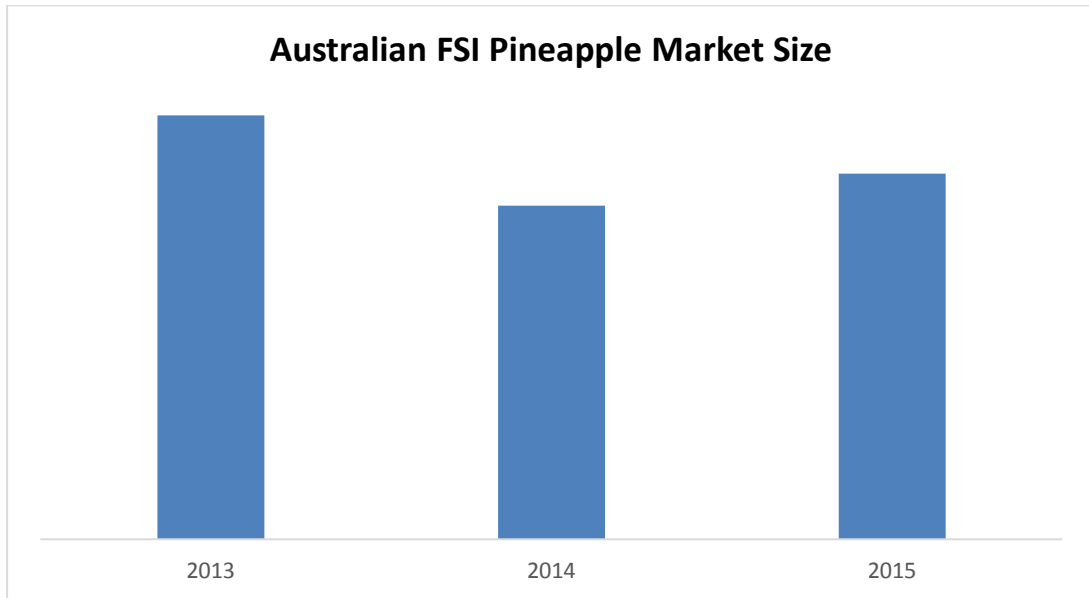


Figure 3 – Australian FSI pineapple market size 2013 to 2015

Source: ABF import database combined with verified Golden Circle and exporter sales data

5.5 Pricing in Australia and brand

As mentioned previously, the FSI pineapple sector is highly price sensitive and branding has less relevance to end users than is the case in the consumer pineapple sector where branded products demand a premium.

Although brand is less relevant in the FSI pineapple sector, product profile and quality can be important. An example of this is the unique thin pineapple rings which Golden Circle produces in Australia. Golden Circle claim that an equivalent product is not available from imported FSI pineapple suppliers. Golden Circle advised that for some FSI pineapple applications, the thin slices were preferred as they were more cost effective. Golden Circle also stated that while there was some product advantage in the thin pineapple slices, low priced thicker slices remained a direct competitor and any drop in competitor pricing would have a significant detrimental effect on its sales.

6 ECONOMIC CONDITION OF THE AUSTRALIAN INDUSTRY

6.1 Preliminary finding

Australian selling prices rose marginally in 2014 and to a greater extent in 2015 for both locally produced and imported FSI pineapple. These price increases appear to reflect the tight supply conditions experienced in 2014 and 2015.

Profitability in the FSI pineapple market is mixed. Although improving, Golden Circle has made losses for the past three years. In contrast, verified importer's data shows overall profits.

The Commissioner remains satisfied that the Australian industry is susceptible to injury caused by dumping.

6.2 Australian industry claims

In its application, Golden Circled claimed that:

- the Australian industry's sales volumes in the FSI pineapple market deteriorated in 2014 and even more so in 2015;
- import volumes of FSI pineapple have persisted since the measures were continued in 2011 and hold large proportions of the total import volume into Australia in 2015;
- the Australian industry is experiencing price undercutting from imported FSI pineapple from the Philippines and Thailand. This price undercutting has caused the selling prices for locally produced FSI pineapple to be lower than it otherwise would have been.

6.3 Approach to injury analysis

The Commission has analysed verified Golden Circle data to assess the economic performance of the Australian industry. The following analysis examines trends in respect of sales of local production and imports where noted, on a calendar year basis.

6.4 Volume effects

6.4.1 Australian industry sales volumes

Trends in Golden Circle's sales volumes are illustrated in Figure 4 below. Figure 4 shows that Golden Circle's sales declined substantially in 2014 before improving in 2015.

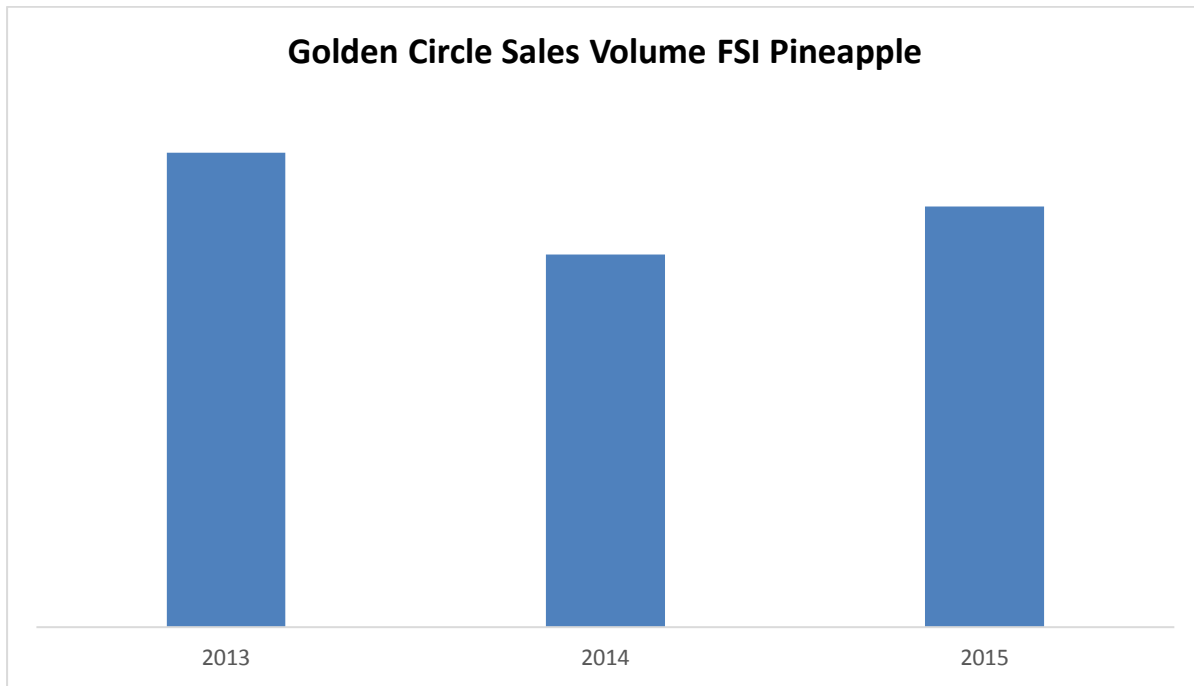


Figure 4 – Golden Circle’s FSI Sales Volumes 2013 to 2015

Source: Golden Circle

6.4.2 Import volumes

The profile of the Australian market for FSI pineapple has shifted over the past few years. Following the 2011 continuation inquiry, imports from Thailand decreased while imports from the Philippines and countries not subject to measures increased. This trend continued in 2013 at which point imports from the Philippines and countries not subject to measures began to decline. In 2015, imports from Thailand increased dramatically, growing by 69 per cent compared to 2014.

Due to the shortage of fresh pineapple, the Australian industry’s locally produced sales volumes more than halved between 2013 and 2014 and remained at similar levels in 2015. Golden Circle imported FSI pineapple from Thailand and Indonesia, in order to maintain market share.

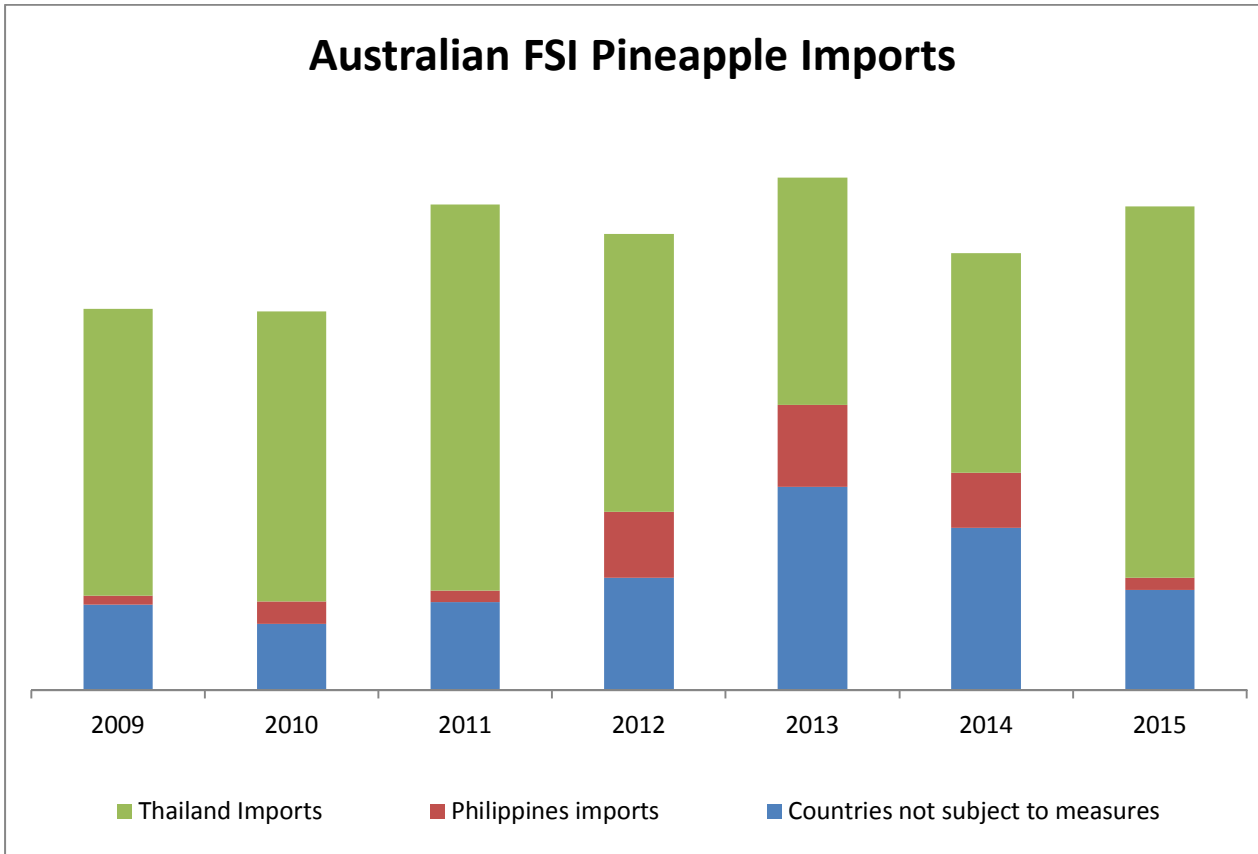


Figure 5 – FSI pineapple import volumes by country 2009-2015
 Source: ABF import database

Figure 6 shows that imports of FSI pineapple from the Philippines grew in 2012 and 2013 (off a low base) however in 2014 and 2015 have fallen back to 2011 levels.

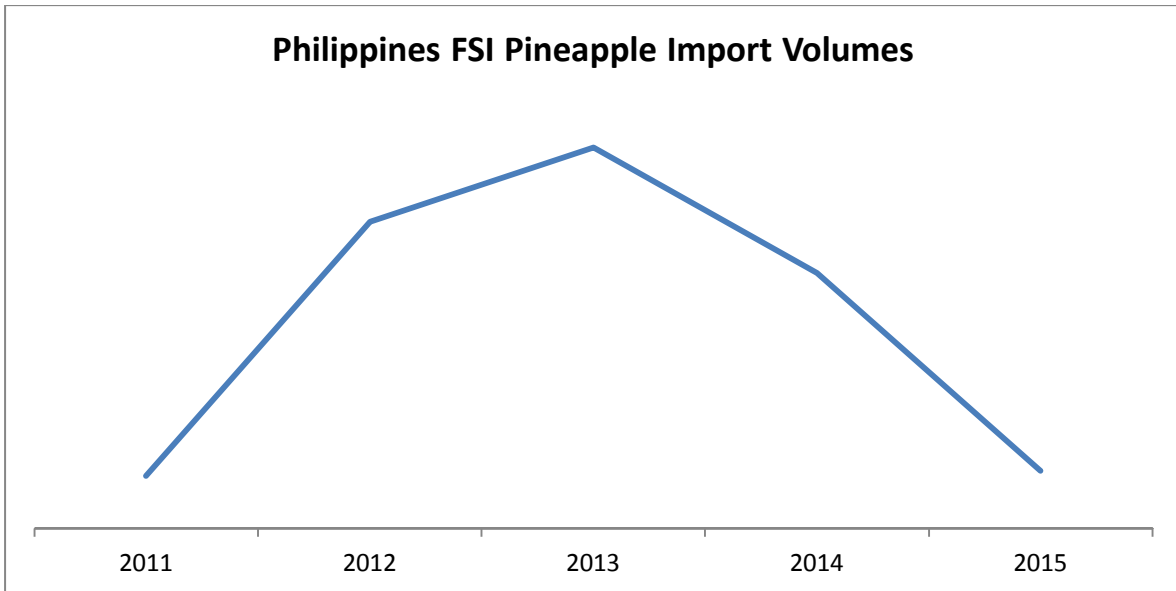


Figure 6 – Philippines FSI pineapple exports to Australia 2011 to 2015
 Source: ABF import database

PUBLIC RECORD

After falling away year on year between 2011 and 2014, Thailand exports of FSI pineapple spiked in 2015 and are consistent with 2011 levels. This trend is inverse to the imports from the Philippines.

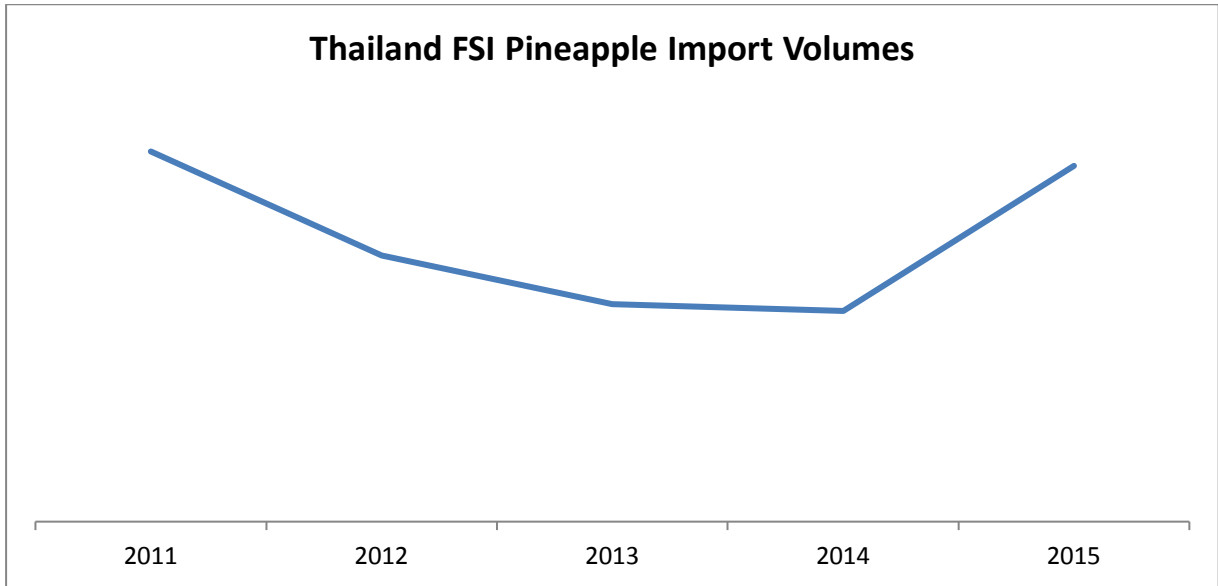


Figure 7 – Thailand FSI pineapple exports to Australia 2011 to 2015
Source: ABF import database

After significant growth between 2011 and 2013, imports from countries not subject to measures declined in 2014 and 2015 as displayed in Figure 8 below.

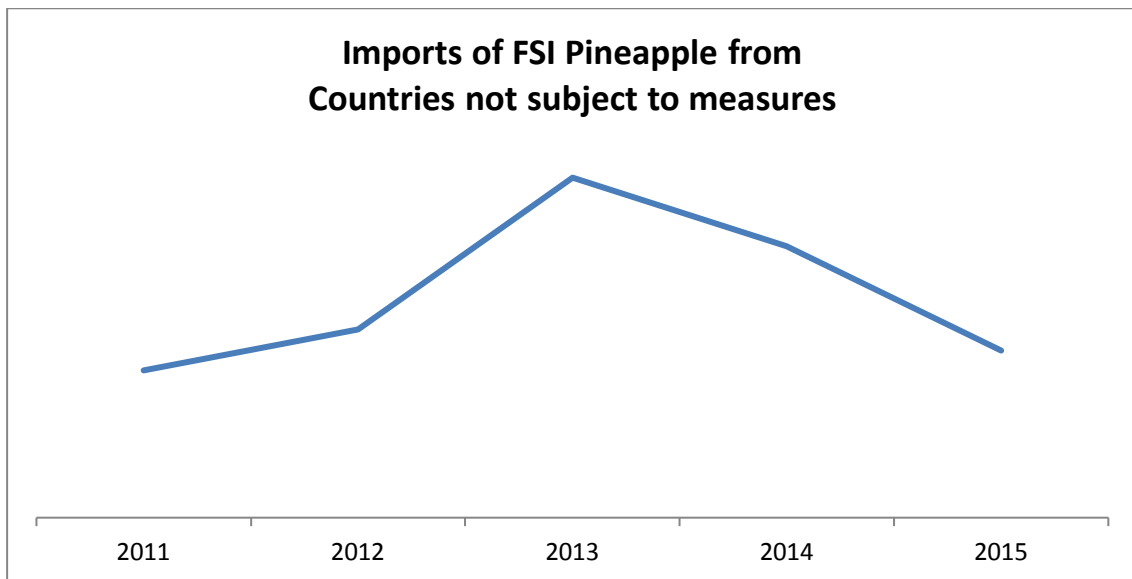


Figure 8 – Imports of FSI pineapple from countries not subject to measures - 2011 to 2015
Source: ABF import database

6.5 Price effects

Price depression occurs when a company, for some reason, lowers its prices. Price suppression occurs when price increases, which would otherwise have occurred, have been prevented.

PUBLIC RECORD

In assessing price effects, the Commission analysed the Australian selling prices for FSI pineapple using verified information of the Australian industry and importers. In addition, the Commission used the ABF import database to measure weighted average export prices movements for imported goods.

6.5.1 Australian industry

Figure 9 below shows that the Australian industry's selling prices have increased in 2014 and 2015. Unit CTMS dropped in 2014 and 2015. In no year did the unit selling prices exceed unit CTMS.

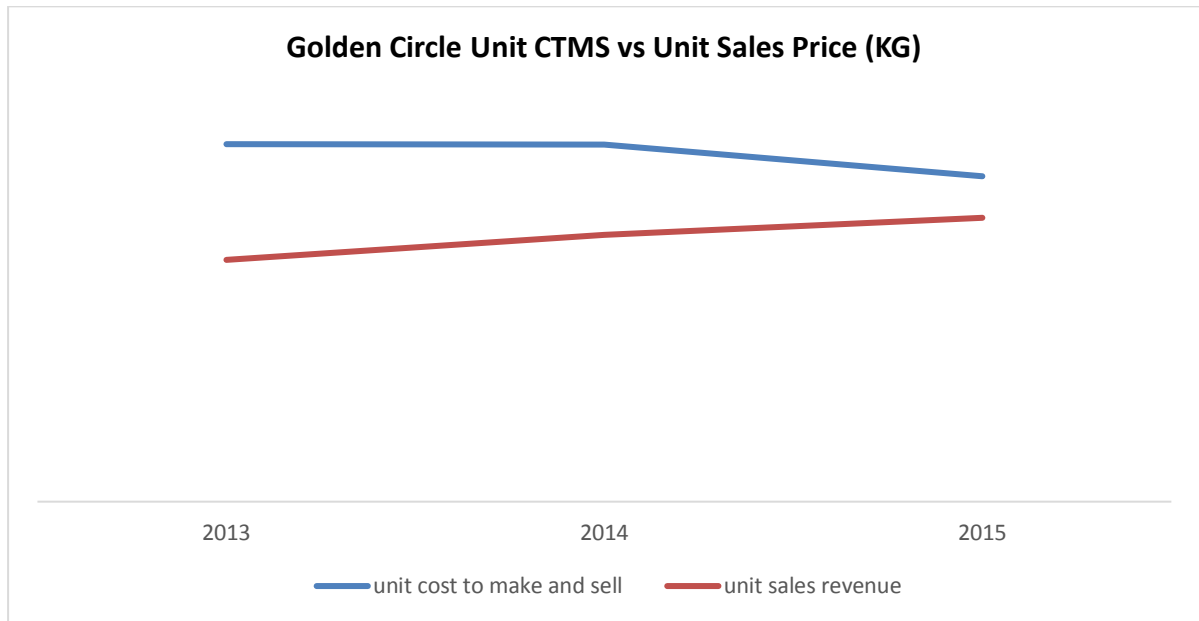


Figure 9 – Comparison of Golden Circle Unit CTMS and Unit Selling Price
Source: Golden Circle

6.5.2 Price undercutting

Figure 10 below shows the level of undercutting at a gross sales level (all products) of FSI pineapple in the Australian market. It compares the weighted average selling price from two importers and marketers of FSI pineapple to the weighted average selling price of the Australian industry's locally produced FSI pineapple. As per previous investigations and continuation inquiries, the data shows substantial price undercutting.

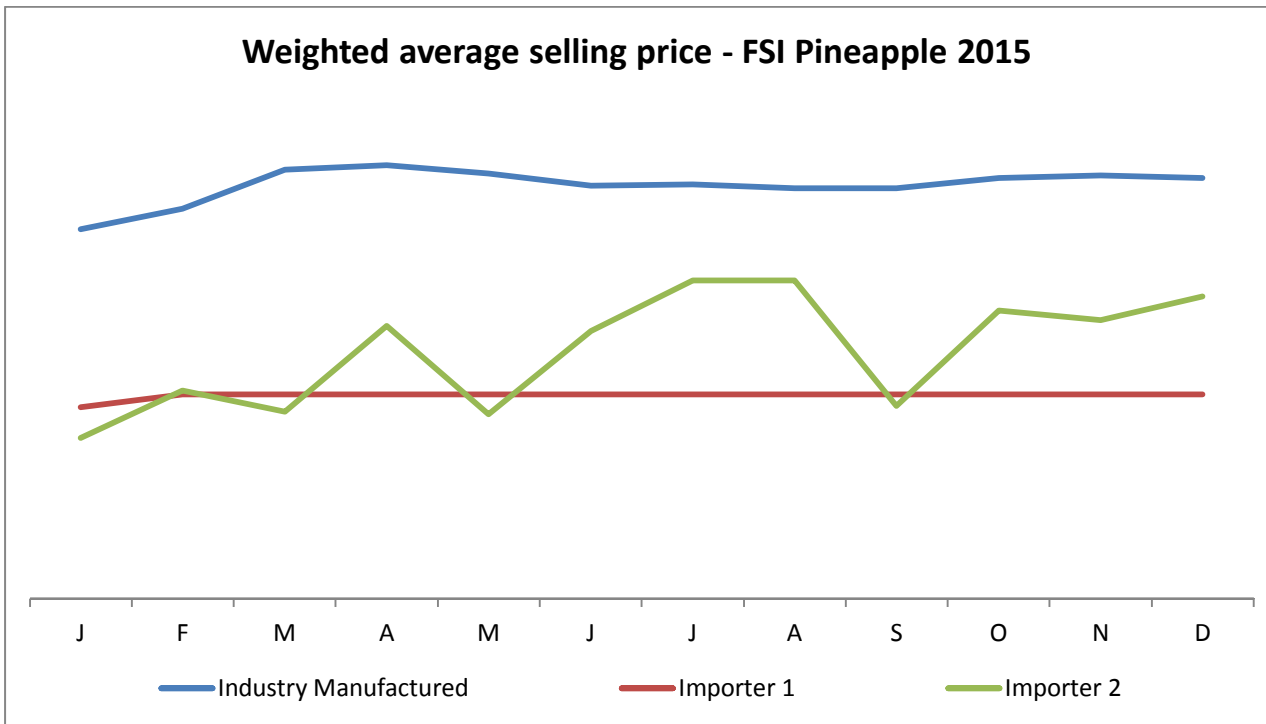


Figure 10 – Weighted average domestic pricing comparison
 Source: Golden Circle and importer transactional data

Figure 11 below compares Australian selling prices to a single major FSI pineapple distributor (Distributor 1). The data highlights significant undercutting across all months, where data was available.

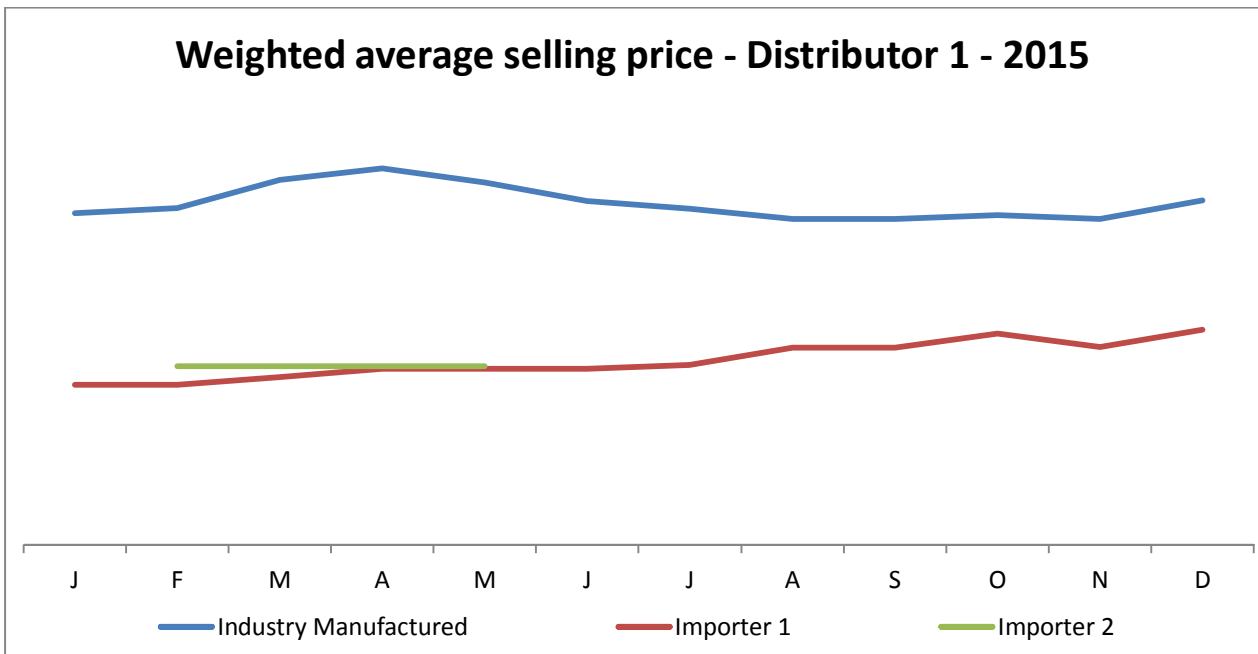


Figure 11 – Competitive pricing to major FSI pineapple buyer (Distributor 1)
 Source: Golden Circle and importer transactional data

Figure 12 below compares the Australian selling prices to a single major QSR buyer. The data highlights that while the importer's prices undercut the Australian industry prices by a

PUBLIC RECORD

relatively small amount in January 2015, the level of undercutting increased and remained significant across the remainder of the 2015 year.

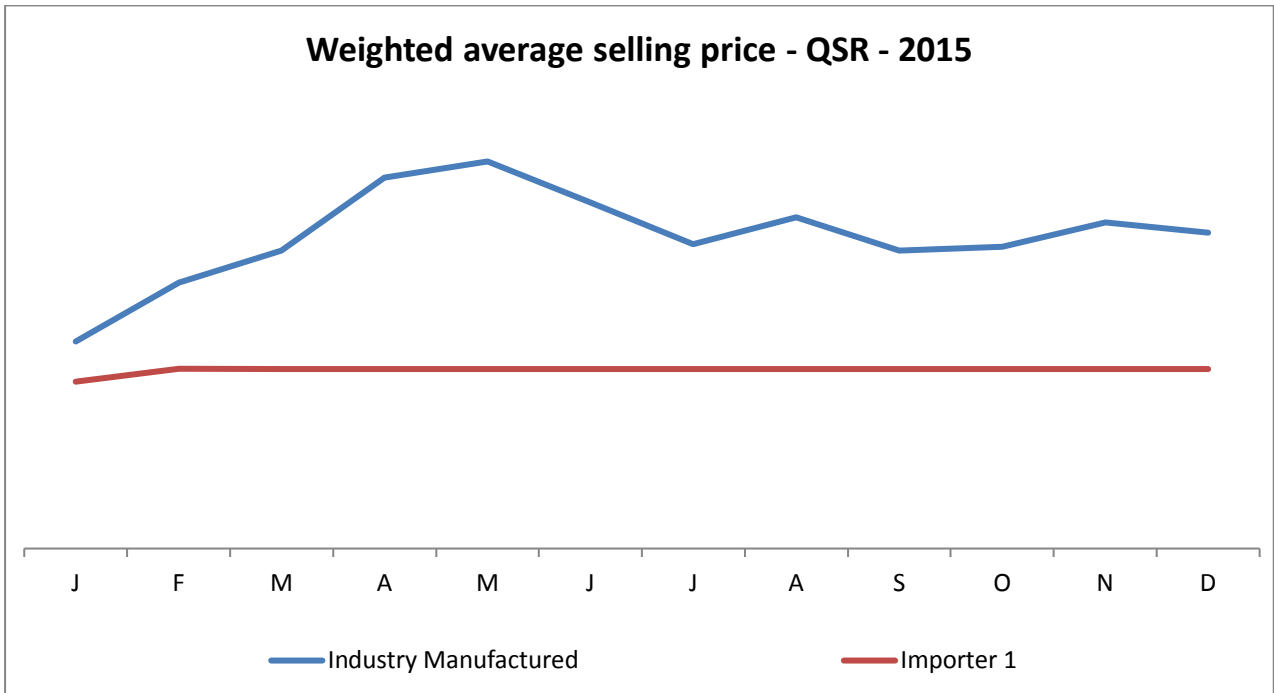


Figure 12 – Competitive pricing to major FSI pineapple buyer (QSR)
Source: Golden Circle and Importer transactional data.

6.5.3 Export prices

Export prices from Thailand and countries not subject to measures prices remained relatively stable during 2011 and 2012 but increased in 2014 and 2015, possibly as a result of fresh pineapple shortages. Export prices from the Philippines fell in 2012 and 2013, before increasing in 2014 and 2015. Export prices converged in 2015.

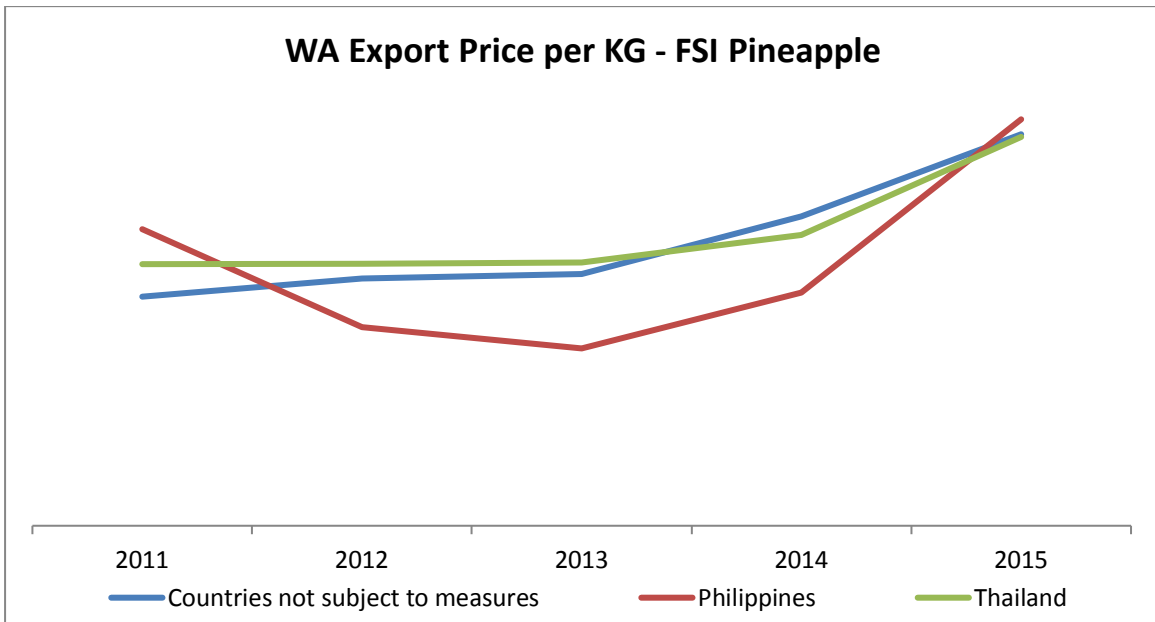


Figure 10 – Weighted average export pricing comparison
Source: ABF import database

6.6 Profits and profitability

Although improving through a combination of improved selling prices and lower CTMS Golden Circle has been unable to achieve a profit on its FSI pineapple sales over the past three years.

To demonstrate the price competitiveness of the FSI pineapple market, Golden Circle supplied evidence of tenders where it has lost sales to imported goods that were lower than previous contracts and at a price point that Golden Circle was unable to compete against profitably. In addition, Golden Circle provided evidence of FSI pineapple price negotiations which were clearly influenced by imported goods from the Philippines and Thailand.

7 LIKELIHOOD OF DUMPING AND MATERIAL INJURY RECURRING OR CONTINUING

7.1 Preliminary finding

The expiration of 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.

7.2 Continuation test

Under subsection 269ZHF(2), the Commissioner must not recommend that the Parliamentary Secretary take steps to secure the continuation of the 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, the dumping and the material injury that the anti-dumping measures are intended to prevent.

7.3 Australian industry claims

Golden Circle claimed in its application that dumping and material injury will continue and/or recur on the grounds that:

- exporters of FSI pineapple in the Philippines and Thailand have maintained distribution links and continued to supply the Australian market during the period covered by the anti-dumping measures;
- the Philippines and Thailand pineapple processing industry has significant capacity from which it can increase export volumes to Australia in the absence of anti-dumping measures;
- both the Philippines and Thailand were affected by poor growing conditions which reduced its volume of pineapple available for supply over the review period. Expected improvements in conditions would see a sharp increase in the supply of pineapple which could be easily directed towards the Australian market;
- imported goods from the Philippines and Thailand have undercut industry prices;
- should the measures be allowed to expire, the Australian industry will likely experience further lost sales volumes and loss of market share caused by price undercutting; and
- material injury will also likely be experienced through price depression (as export prices decline in the absence of the floor price imposed by the current measures) and price suppression, resulting in a deterioration of profits and profitability.

7.4 Likelihood of dumping continuing or recurring

7.4.1 History of dumping

Thailand

The original investigation in 2001 into FSI pineapple from Thailand found that, with the exception of MSP, the goods were dumped in the range of 3 per cent to 27.2 per cent.

PUBLIC RECORD

A review of measures in 2006 found that FSI pineapple from Thailand was dumped at prices that were not negligible.

A review of measures in 2011 found that FSI pineapple from Thailand was dumped at margins ranging between 2 per cent and 80 per cent.

A review of measures in 2012 found that with the exception of Natural Fruit Co., Limited, Kuiburi, Tipco Foods Public Company Limited and SAICO, FSI pineapple was dumped at margins ranging between 18 per cent and 25.5 per cent.¹⁸

As outlined further in Chapter 8, the Commission has calculated a dumping margins for FSI pineapple exported from Thailand during the review period and dumping margins range between 3.1 per cent and 46.8 per cent.

The Philippines

The original investigation in 2006 into FSI pineapple from the Philippines found that the goods were dumped at margins ranging from 2 per cent to 20 per cent.

A review of measures in 2011 found that FSI pineapple from the Philippines was dumped at margins ranging between 17.7 per cent and 57.3 per cent.

The Commission has calculated a dumping margin for FSI pineapple exported from the Philippines during the review period of 36.0 per cent.

7.4.2 Capacity

Whilst the supply of pineapple has been a limiting factor over the past few years, exporters have significant scope to increase capacity of FSI pineapple once pineapple supply improves. This is evidenced through the capacity utilisation rates supplied to the Commission by the cooperative exporters.

7.4.3 Dependence on export markets

Both the Philippines and Thailand producers of FSI pineapple are export focussed. Local domestic sales in both the Philippines and Thailand are very low for most producers and non-existent for some. In part this is due to the consumer preferences for fresh pineapple in these markets, but mainly due to the operations having been set up or expanded specifically to service export markets.

7.4.4 Commission's assessment - likelihood of dumping continuing or recurring

The Commission considers that there is sufficient evidence to establish that the Australian industry's selling prices for FSI pineapple were lower than they otherwise would have been during 2015 had the goods not been exported at significant dumping margins.

The Commission has given consideration to the regional and global supply and demand situation during recent years, where tight supply over 2014 and 2015 allowed exporters and the Australian industry to raise prices.

¹⁸ Noting that for certain exporters sufficient information was not available to allow the calculation of a dumping margin

PUBLIC RECORD

Market expectations are that additional planting in key global grower markets including the Philippines and Thailand, as well as in Australia, will bring supply closer to equilibrium with demand over the next few years.

The Commission considers that the willingness to sell at dumped prices would be further magnified as markets regain normal production capacity utilisation.

The Commission's preliminary finding is that the expiration of anti-dumping measures on FSI pineapple from Thailand and the Philippines would lead, or would be likely to lead, to a continuation of the goods being exported at dumped prices.

7.5 Likelihood of material injury continuing or recurring

7.5.1 Previous findings

During the original dumping investigation against Thailand in 2001 (REP 41) Customs and Border Protection found that dumped FSI pineapple exports from Thailand had of itself caused material injury to the Australian industry producing like goods.

In the review and continuation of the measures in 2006 (REP 110 and 111) Customs and Border Protection found that FSI pineapple from Thailand were purchased at dumped prices that significantly undercut the Australian industry's 'Golden Circle' brand.

In the review and continuation of the measures in 2011 (REP 171a, 171c, 172a and 17cd) FSI pineapple products were purchased at dumped prices that significantly undercut the Australian industry's 'Golden Circle' brand.

In line with previous inquiries, this inquiry found that FSI pineapple exported from the Philippines and Thailand were sold at dumped prices and significantly undercut the Australian industry's 'Golden Circle' brand.

7.5.2 State of the Australian industry

While brand and sentiment for Australian made produce may have had some value to FSI buyers, the market is price sensitive. This makes building brand premiums into FSI pineapple pricing very difficult. Although there may be some price premiums, any premiums are more likely to be the result of producers being able to offer consistent quality and supply.

Golden Circle produced product sales fell dramatically between 2013 and 2014 and remained at the lower levels in 2015 mainly due to a shortage of fresh pineapple fruit as input during 2014 and 2015. The company lost market share between 2013 and 2014, but was able to maintain market share in 2015 by importing FSI pineapple to supplement its own production.

The company has been able to increase prices in 2014 and 2015 as have many of the other sellers into the FSI pineapple market, due mainly to the shift in supply and demand as a result of supply shortages.

Although improving, Golden Circle's financial performance in the FSI pineapple segment has shown losses for the past three years.

PUBLIC RECORD

As noted above, Golden Circle imports of FSI pineapple increased significantly during the 2014 and 2015 years due to supply shortages. Golden Circle believes that as supply increases from 2016, it will be able to allocate more pineapple to local FSI production and reduce its reliance on imports. Currently, the vast majority of Golden Circle FSI pineapple production is allocated to producing the “thins” sliced product which has a functional advantage to some end users. Golden Circle aim to expand its production into other types of FSI pineapple.

7.5.3 Commission’s assessment—likelihood of material injury continuing or recurring

An analysis of the Australian selling prices relative to the volume of the imports, together with discussions with the Australian industry, importers and exporters leads the Commission to conclude that price is a key factor in the purchasing decisions of FSI distributors and FSI pineapple users.

Despite Golden Circle’s product advantage for “thins” sliced pineapples, if imported regular sliced pineapple become cheaper, the attractiveness and value of Golden Circle’s “thins” would reduce.

Notwithstanding the increased prices over 2014 and 2015 due to the supply constraints, the Commission considers that there is sufficient evidence to demonstrate that selling prices for FSI pineapple were lower than what they would have otherwise been during 2015 had the goods not been exported at significantly dumped prices. The Commission considers that exporter’s willingness to sell at dumped prices within a tight supply market would be further magnified as markets regain normal production and processing capacities.

Therefore, the Commission preliminarily concludes that dumped FSI pineapple from the Philippines and Thailand that are subject to measures are continuing to cause material injury to the Australian industry during the review period but that due to the shortages in local and overseas pineapple fruit, the injury has been reduced.

However, the commission also concludes that if the measures were to expire, the removal of the measures would lead to increased levels of dumping.

Therefore, the Commission is preliminarily satisfied that:

- imports of FSI pineapple from the Philippines and Thailand continued to cause material injury to the Australian industry, and
- the dumped FSI pineapple from the Philippines and Thailand would likely lead to a continuation of the material injury previously experienced by the Australian industry in the form of price suppression and depression, loss of sales and market share, and reduced profits.

The Commission’s preliminary finding is that the expiration of anti-dumping measures on FSI pineapple from Thailand would lead or would be likely to lead to a continuation or recurrence of the material injury that the anti-dumping measure is intended to prevent.

7.6 Factors other than dumping

7.6.1 Higher costs of production for locally grown pineapples

The Commission acknowledges that Golden Circle has operated unprofitably for the past three years. Golden Circle has however reduced its losses for FSI pineapple sales by two thirds over the past three years and is forecasting further improvements as the price of local fresh pineapple falls, in line with forecast increased supply.

7.7 Commission's overall assessment

The Commission's preliminary view is that the following factors support a finding 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 measures were intended to prevent:

- exports of FSI pineapple from the Philippines and Thailand were dumped during the inquiry period;
- imports of FSI pineapple from Philippines and Thailand have undercut the Australian industry's prices;
- importers have maintained distribution links with exporters of FSI pineapple from the Philippines and Thailand; and
- FSI pineapple from the Philippines and Thailand would likely be exported at increased margins of dumping that would lead to the recurrence of material injury to the Australian industry.

8 REVIEW OF VARIABLE FACTORS

8.1 Preliminary finding

The Commission has found that the variable factors have changed. Preliminary dumping margins have been calculated as set out below.

Country	Exporter	Dumping margin
The Philippines	All Exporters	36.0%
Thailand	Kuiburi Fruit Canning Co. Ltd	9.2%
	Siam Agro-Food Industry Public Company Ltd	35.0%
	Dole Thailand Limited	13.8%
	Prime Products Industry Co. Ltd	3.1%
	Vita Food Factory (1989) Company Limited	46.8%
	Uncooperative and all other exporters	36.2%

Table 2: Preliminary dumping margins

8.2 Introduction

In its application, Golden Circle claimed that one or more of the variable factors relevant to the taking of anti-dumping measures have changed. Exporter questionnaires were sent to companies identified as suppliers of FSI pineapple from the Philippines and Thailand in the ABF import database during the review period.

The Commission received five responses to the FSI exporter questionnaire from Thailand based exporters. No responses were received from exporters from the Philippines.

8.3 Dumping – the Philippines

Subsection 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 investigation within a period the Commissioner considered to be reasonable or where the Commissioner is satisfied that an exporter significantly impeded the investigation.

As no exporter questionnaires were received from exporters from the Philippines, having regard to the *Customs (Extensions of Time and Non-cooperation) Direction 2015* (the Direction), and in particular subsection 8(b) of the Direction, the Commissioner is treating all exporters of the goods from the Philippines as uncooperative exporters as defined in subsection 269T(1).

Subsection 269TACAB(1) sets out the provisions for calculating export prices and normal values for uncooperative exporters. This provision specifies that for uncooperative exporters, export prices are to be calculated under subsection 269TAB(3) and normal values are to be calculated under subsection 269TAC(6).

PUBLIC RECORD

The Commission has therefore determined an export price pursuant to subsection 269TAB(3) after having regard to all available information. Specifically, the Commission has used a weighted average export price for the Philippines as recorded in the ABF import database at FOB terms in the review period.

The Commission has determined normal value for the uncooperative exporters pursuant to subsection 269TAC(6) after having regard to all relevant information. Specifically, the Commission has used a weighted average normal value established for Thailand exporters in the review period.¹⁹

The dumping margin for all exporters of FSI pineapple from the Philippines is 36.0 per cent.

8.4 Dumping - Thailand

8.4.1 Kuiburi

Verification

The Commission conducted an in-country visit to Kuiburi in May 2016 to verify the information disclosed in its exporter questionnaire response. A detailed report covering the visit findings is available on the EPR.²⁰

Export price

The Commission considers that sufficient information is available to establish the export price for Kuiburi under subsection 269TAB(1)(a). In particular, the Commission found that goods were exported by Kuiburi to Australia and were purchased in arms length transactions by the importer from Kuiburi. Therefore, export price was determined to be the price paid by the importer to the exporter less transport and other costs arising after exportation.

Normal value

The Commission found that there is a low volume of domestic sales of like goods in the ordinary course of trade (OCOT), therefore the normal value of the goods exported to Australia cannot be ascertained under subsection 269TAC(1).

The normal value was determined using a constructed method, as permitted under subsection 269TAC(2)(c).

As required by subsections 269TAC(5A) and 269TAC(5B), in ascertaining the normal value of the goods under subsection 269TAC(2)(c), the costs of production or manufacture, the SG&A costs and profit were established in accordance with sections 43, 44 and 45 of the *Customs (International Obligations) Regulation 2015* (the Regulation), respectively.

¹⁹ Consistent with Chapter 13.3 of the Manual which permits the use of information gathered from other countries subject of the same investigation in establishing normal values under subsection 269TAC(6)

²⁰ No. 16 of EPR 334

PUBLIC RECORD

The cost of production was calculated under subsection 43(2) of the Regulation, using the exporter's records. SG&A costs were calculated under subsection 44(2) of the Regulation, using the exporter's records. The amount of profit was worked out under subsection 45(2) of the Regulation.

Adjustments

To ensure the comparability of normal values to export prices, the Commission made adjustments pursuant to subsection 269TAC(9).²¹

Preliminary dumping margin

A dumping margin has been calculated for FSI pineapple exported by Kuiburi over the review period based upon a comparison of the quarterly normal values and the export prices.²² The dumping margin calculated for Kuiburi was 9.2 per cent.

8.4.2 SAICO

Verification

Based on the volume of SAICO's exports of FSI pineapple relative to the total export volume during the review period, a decision was made not to conduct an on-site verification visit at SAICO's premises.

Whilst an on-site verification visit was not conducted, the Commission analysed the data submitted by SAICO and is satisfied that the data is reasonably accurate, relevant and complete. This data was used to calculate a dumping margin.

The Commission's verification report is available on the EPR.²³

Export price

The Commission considers that sufficient information is available to establish the export price for SAICO under subsection 269TAB(1)(a). In particular, the Commission found that goods were exported by SAICO to Australia and were purchased in arms length transactions by the importer from SAICO. Therefore, export price was determined to be the price paid by the importer to the exporter less transport and other costs arising after exportation.

Normal value

The Commission found that there is a low volume of domestic sales of like goods in the OCOT, therefore the normal value of the goods exported to Australia cannot be ascertained under subsection 269TAC(1).

²¹ Where normal value was calculated under subsection 269TAC(2)(c), to ensure the comparability of normal values to export prices, adjustments are required for maintaining price comparability pursuant to subsection 269TAC(9). A full list of the adjustments are available in the visit report.

²² All dumping margins in this section have been calculated in accordance with subsection 269TACB(2)(a).

²³ No. 17 of EPR 334

PUBLIC RECORD

The normal value was determined using a constructed method, as permitted under subsection 269TAC(2)(c).

As required by subsections 269TAC(5A) and 269TAC(5B), in ascertaining the normal value of the goods under subsection 269TAC(2)(c), the costs of production or manufacture, the SG&A costs and profit were established in accordance with sections 43, 44 and 45 of the Regulation, respectively.

The cost of production was calculated under subsection 43(2) of the Regulation, using the exporter's records. SG&A costs were calculated under subsection 44(2) of the Regulation, using the exporter's records.

As there were no sales in the OCOT for SAICO, the amount of profit was worked out under subsection 45(3)(b) of the Regulation. Subsection 45(3)(b) of Regulation allows for the profit to be determined by using the weighted average of the actual amount realised by other exporters or producers from the sale of like goods in the domestic market.

Adjustments

To ensure the comparability of normal values to export prices, the Commission made adjustments pursuant to subsection 269TAC(9).²⁴

Preliminary dumping margin

A dumping margin has been calculated for FSI pineapple exported by SAICO over the review period based upon a comparison of the quarterly normal values and the export prices. The dumping margin calculated for SIACO is 35.0 per cent.

8.4.3 Dole Thailand Limited

Verification

Based on the volumes of Dole's exports of FSI pineapple relative to the total export volume during the review period, a decision was made not to conduct an on-site verification visit at Dole's premises.

Whilst an on-site verification visit was not conducted, the Commission analysed the data submitted by Dole and is satisfied that the data is reasonably accurate, relevant and complete. This data was used to calculate a dumping margin.

The Commission's verification report is available on the EPR.²⁵

Export price

The Commission considers that sufficient information is available to establish the export price for Dole under subsection 269TAB(1)(a). In particular, the Commission found that goods were exported by Dole to Australia and were purchased in arms length transactions by the importer from Dole. Therefore, export price was determined to be the

²⁴ A full list of the adjustments are available in the visit report.

²⁵ No. 17 of EPR 334

PUBLIC RECORD

price paid by the importer to the exporter less transport and other costs arising after exportation.

Normal value

The Commission is satisfied that prices paid in respect of Dole's domestic sales are suitable for assessing normal values under subsection 269TAC(1) for all FSI pineapple exported to Australia during the review period.

Adjustments

To ensure the comparability of normal values to export prices, the Commission made adjustments pursuant to subsection 269TAC(8).²⁶

Preliminary dumping margin

A dumping margin has been calculated for FSI pineapple exported by Dole over the review period based upon a comparison of the quarterly normal values and the export prices. The dumping margin calculated for Dole is 13.8 per cent.

8.4.4 Prime Products

Verification

Based on the volume of Prime Product's exports of FSI pineapple relative to the total export volume during the review period, a decision was made not to conduct an on-site verification visit at Prime Product's premises.

Whilst an on-site verification visit was not conducted, the Commission analysed the data submitted by Prime Products and is satisfied that the data is reasonably accurate, relevant and complete. This data was used to calculate a dumping margin.

The Commission's verification report is available on the EPR.

Export price

The Commission considers that sufficient information is available to establish the export price for Prime Products under subsection 269TAB(1)(a). In particular, the Commission found that goods were exported by Prime Products to Australia and were purchased in arms length transactions by the importer from Prime Products. Therefore, export price was determined to be the price paid by the importer to the exporter less transport and other costs arising after exportation.

Normal value

²⁶ Where the normal value was calculated under subsection 269TAC(1), to ensure the comparability of normal values to export prices, adjustments are required for maintaining price comparability pursuant to subsection 269TAC(8). A full list of the adjustments can be found in the verification report.

PUBLIC RECORD

The Commission found that there is a low volume of domestic sales of like goods in the OCOT, therefore the normal value of the goods exported to Australia cannot be ascertained under subsection 269TAC(1).

The normal value was determined using a constructed method, as permitted under subsection 269TAC(2)(c).

As required by subsections 269TAC(5A) and 269TAC(5B), in ascertaining the normal value of the goods under subsection 269TAC(2)(c), the costs of production or manufacture, the SG&A costs and profit were established in accordance with sections 43, 44 and 45 of the Regulation, respectively.

The cost of production was calculated under subsection 43(2) of the Regulation, using the exporter's records. SG&A costs were calculated under subsection 44(2) of the Regulation, using the exporter's records.

As there were no sales in the OCOT for Prime Products, the amount of profit was worked out under subsection 45(3)(b) of the Regulation using the weighted average of the actual amount realised by other exporters or producers from the sale of like goods in the domestic market.

Adjustments

To ensure the comparability of normal values to export prices, the Commission made adjustments pursuant to subsection 269TAC(9).²⁷

Preliminary dumping margin

A dumping margin has been calculated for FSI pineapple exported by Prime Products over the review period based upon a comparison of the quarterly normal values and the export prices. The dumping margin calculated for Prime is 3.1 per cent.

8.4.5 Vita Food

Verification

Based on the volume of Vita Food's exports of FSI pineapple relative to the total export volume during the review period, a decision was made not to conduct an on-site verification visit at Vita Food's premises.

While Vita Food is considered a cooperating exporter, the company is yet to evidence the SG&A allocations used in its CTMS calculations to the Commission's satisfaction. A dumping margin report for Vita Food will be made available on the EPR in due course. For the purposes of this SEF, the Commission has replaced some of Vita Food's SG&A costs with what it considers to be reasonable data using the best available information. This finding may change subsequent to the SEF.

Export price

²⁷ A full list of the adjustments are available in the visit report.

PUBLIC RECORD

The Commission considers that sufficient information is available to establish the export price for Vita Foods under subsection 269TAB(1)(a). In particular, the Commission found that goods were exported by Vita Foods to Australia and were purchased in arms length transactions by the importer from Vita Foods. Therefore, export price was determined to be the price paid by the importer to the exporter less transport and other costs arising after exportation.

Normal value

The Commission found that there is a low volume of domestic sales of like goods in the OCOT, therefore the normal value of the goods exported to Australia cannot be ascertained under subsection 269TAC(1).

The normal value was determined using a constructed method, as permitted under subsection 269TAC(2)(c).

As required by subsections 269TAC(5A) and 269TAC(5B), in ascertaining the normal value of the goods under subsection 269TAC(2)(c), the costs of production or manufacture, the SG&A costs and profit were established in accordance with sections 43, 44 and 45 of the Regulation, respectively.

The cost of production was calculated under subsection 43(2) of the Regulation, using the exporter's records. SG&A costs were generally calculated under subsection 44(2) of the Regulation, using the exporter's records. However, where necessary, SG&A cost elements were supplemented in accordance with subsection 45(3)(c) of the Regulation.

The amount of profit was worked out under subsection 45(2) of the Regulation.

Adjustments

To ensure the comparability of normal values to export prices, the Commission made adjustments pursuant to subsection 269TAC(9).

Preliminary dumping margin

A dumping margin has been calculated for FSI pineapple exported by Vita Food over the review period based upon a comparison of the quarterly normal values and the export prices. The dumping margin calculated for Vita Food was 46.8 per cent.

8.4.6 Uncooperative and all other exporters - Thailand

The Commission is treating all exporters of the goods from Thailand other than Kuiburi, SAICO, Prime Products, Dole, and Vita Food as uncooperative exporters as defined in subsection 269T(1).

The Commission has therefore determined an export price pursuant to subsection 269TAB(3) after having regard to all relevant information. Specifically, the Commission has used the lowest weighted average export price of those established for cooperating exporters from Thailand in the review period.

PUBLIC RECORD

The Commission has determined normal value for the uncooperative exporters pursuant to subsection 269TAC(6) after having regard to all relevant information. Specifically, the Commission has used the highest of the weighted average normal values established for the cooperating exporters from Thailand in the review period. The Commission has excluded Vita Foods' data from this comparison.

The Commission has calculated a dumping margin for uncooperative and all other exporters of FSI pineapple from Thailand of 36.2 per cent.

9 NON-INJURIOUS PRICE

9.1 Introduction

The NIP is defined in section 269TACA as “the minimum price necessary to prevent the injury, or a recurrence of the injury, or to remove the hindrance [to the Australian industry]” caused by the dumped goods the subject of a notice under section 269TG.

The calculation of the NIP is relevant for the purposes of the lesser duty rule as set out under the *Customs Tariff (Anti-Dumping) Act 1975* (Dumping Duty Act).²⁸ The level of dumping duty imposed by the Parliamentary Secretary cannot exceed the margin of dumping, but, where the NIP of the goods is less than the normal value of the goods, the Parliamentary Secretary must (unless certain circumstances apply) also have regard to the desirability of fixing a lesser amount of duty.

9.2 USP and NIP

The Commission generally derives the NIP by first establishing a price at which the applicant might reasonably sell its product in the Australian market unaffected by dumping. This price is referred to as the USP.

The Commission’s preferred approach to establishing an USP observes the following hierarchy:

- Australian industry selling prices at a time unaffected by dumping;
- constructed Australian industry prices – based on the Australian industry’s CTMS plus a profit (if appropriate); or
- selling prices of un-dumped 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.

9.2.1 Submission by Golden Circle

Golden Circle²⁹ submitted that the USP should be updated using its CTMS and a profit.

9.2.2 Commission’s assessment

As dumping was found during the previous continuation inquiry, and occurred throughout the review period for this continuation inquiry, the Commission is unable to use contemporaneous Australian industry selling prices at a time unaffected by dumping.

Therefore, the Commission has calculated an USP by constructing Australian industry prices based on its CTMS and a profit.

²⁸ Subsection 8(5B) of the Dumping Duty Act.

²⁹ No 15 of EPR 334

PUBLIC RECORD

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 accordingly, the Commissioner proposes to recommend that dumping duties be based on the full margins of dumping.

10 FORM OF MEASURES

The form of measures currently applicable to FSI pineapple from the Philippines and Thailand is the combination fixed and variable duty method, which consists of:

- an amount equal to the interim dumping duty rate per kilogram; plus
- the amount, if any, by which the actual export price is lower than the ascertained export price.

With the exception of Prime Products, the Commission proposes to leave the form of measures unchanged. For Prime Products, the Commission proposes to change the form of measures from the floor price duty method established as part of an accelerated review to the combination fixed and variable duty method, consistent with other exporters subject to measures.

11 PRELIMINARY RECOMMENDATION

Subject to submissions received in relation to this SEF, the Commissioner proposes to recommend to the Parliamentary Secretary that:

- she take steps to secure the continuation of the anti-dumping measures relating to exports of FSI pineapple from the Philippines and Thailand (except by MSP) from the respective expiry dates;
- in continuing the anti-dumping measures, she alter the dumping duty notice as if different variable factors had been fixed for all exporters generally;
- the combination fixed and variable duty method continue is applied for all exporters in relation any interim dumping duty that may become payable; and
- the full dumping margins determined in sections 8.3 and 8.4 be applied to any fixed component of interim dumping duty that may become payable.

12 APPENDICES AND ATTACHMENTS

Confidential Attachment 1	Market Analysis
Confidential Attachment 2	Injury Analysis
Confidential Attachment 3	Philippines All Exporters Dumping Margin
Confidential Attachment 4	Kuiburi Dumping Margin
Confidential Attachment 5	SAICO Dumping Margin
Confidential Attachment 6	Dole Dumping Margin
Confidential Attachment 7	Prime Products Dumping Margin
Confidential Attachment 8	Vita Food Dumping Margin
Confidential Attachment 9	Thailand All Other Dumping Margin
Confidential Attachment 10	USP and NIP calculations