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

**Anti-Dumping  
Commission**

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CUSTOMS ACT 1901 - PART XVB

# **TERMINATION REPORT**

## **NO 628**

**ALLEGED DUMPING OF  
FOOD SERVICE & INDUSTRIAL PINEAPPLE  
EXPORTED TO AUSTRALIA FROM  
THE REPUBLIC OF INDONESIA**

**5 September 2024**

**TER 628 – Food service and industrial pineapple – Indonesia**

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**ABBREVIATIONS**

ABF	Australian Border Force
the Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
the applicant	Golden Circle Limited
the commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
CTMS	cost to make and sell
EPR	electronic public record
GGP	PT Great Giant Pineapple
Golden Circle Limited	GCL
the goods	the goods the subject of the application (also referred to as the goods under consideration, as per chapter 3.2)
Indonesia	Republic of Indonesia
investigation period	1 July 2022 to 30 June 2023
kg	kilogram
L	Litre
the manual	<i>Dumping and Subsidy Manual, December 2021</i>
MCC	Model Control Code
the Minister	the Minister for Industry and Science
OCOT	ordinary course of trade
PAD	preliminary affirmative determination
PAD Direction	<i>Customs (Preliminary Affirmative Determinations) Direction 2015</i>
Philippines	Republic of the Philippines
RAQ	response to the Australian industry questionnaire
REQ	response to the exporter questionnaire
RIQ	response to the importer questionnaire
SEF	statement of essential facts
SPI	Sewu Primatama Indonesia
SSN	Sewu Segar Nusantara
Thailand	Kingdom of Thailand

# 1 SUMMARY AND RECOMMENDATIONS

## 1.1 Introduction

The Commissioner of the Anti-Dumping Commission (the Commissioner)<sup>1</sup> has terminated part of an investigation into food service and industrial (FSI) pineapple (the goods) exported to Australia from the Republic of Indonesia (Indonesia) and the Kingdom of Thailand (Thailand). Specifically, the investigation has been terminated in respect of the goods exported to Australia from Indonesia.

The Anti-Dumping Commission (the commission) has prepared this termination report, setting out the Commissioner's reasons for terminating part of this investigation.<sup>2</sup> This report covers exports of the goods from Indonesia only. The Commissioner will make a separate report covering exports of the goods from Thailand.

The commission established an electronic public record (EPR), EPR No 628 for this investigation on the commission's website.<sup>3</sup> Relevant reports and information for this investigation are available on the EPR.

## 1.2 Authority to make decision

Division 2 of Part XVB describes, among other things, the procedures to be followed and the matters to be considered by the Commissioner when conducting investigations in relation to goods covered by an application under section 269TB(1) of the *Customs Act 1901* (the Act).<sup>4</sup>

Section 269TDA sets out the circumstances in which the Commissioner must terminate an investigation. Relevant to this report, section 269TDA(1) sets out that the Commissioner must terminate an investigation where there is no dumping of the goods, or the weighted average dumping margin is negligible (less than 2%). Section 269TDA(3) sets out that the Commissioner must terminate an investigation where the volume of dumped goods from a country is negligible.

## 1.3 Findings and conclusions

### 1.3.1 Summary

The Commissioner's findings and conclusions are summarised in this chapter and are set out in further detail in this report.

The Commissioner is terminating part of this investigation, as it relates to Indonesia, under section 269TDA.

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<sup>1</sup> References in this report to the Commissioner relates to whoever occupies the position at the time. This includes when the position is held in an acting capacity.

<sup>2</sup> The commission has prepared this report to support the Commissioner in their consideration of the application, pursuant to the commission's function specified in section 269SMD.

<sup>3</sup> Available at [www.adcommission.gov.au](http://www.adcommission.gov.au)

<sup>4</sup> All legislative references in this report are to the *Customs Act 1901* (Cth) unless otherwise specified.

### **1.3.2 The application and conduct of the investigation (chapter 2)**

#### Application

Golden Circle Limited (GCL or the applicant) lodged an application for a dumping duty notice, in accordance with section 269TB(1).<sup>5</sup>

#### Investigation period

The Commissioner set the investigation period as 1 July 2022 to 30 June 2023.<sup>6</sup> The commission examined exports of the goods to Australia during this period to determine whether dumping has occurred.

#### Australian industry

The Commissioner finds that the applicant is the sole Australian manufacturer of FSI pineapple and represents the entire Australian industry for FSI pineapple.

#### Status Report

At day 60 of this investigation, the Commissioner published a Status Report.<sup>7</sup> The Commissioner considered that, at that time, there did not appear to be sufficient grounds for the publication of a dumping duty notice.<sup>8</sup> The Commissioner remains satisfied that there are not sufficient grounds for the publication of a PAD.

#### Submissions

Interested parties have made 2 submissions to this investigation.<sup>9</sup> The Commissioner's consideration of these submissions is outlined in this report (see chapter 5.4.4).

### **1.3.3 The goods and like goods (chapter 3)**

The goods are defined at chapter 3.2 of this report. The Commissioner considers that locally produced FSI pineapple is 'like' to the goods the subject of the application and is satisfied that there is an Australian industry, being GCL, producing like goods.

### **1.3.4 Dumping investigation (chapters 4 and 5)**

The Commissioner is satisfied that the dumping margin is negligible for FSI pineapple exported to Australia by PT Great Giant Pineapple (GGP) from Indonesia.

The Commissioner's assessment of GGP's dumping margin is at Table 1.

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<sup>5</sup> The application is at EPR 628 – [document 1](#). The commission's consideration of the application is outlined in *Consideration Report No 628 (CON 628)*, EPR 628 – [document 2](#).

<sup>6</sup> EPR 628 – [document 3](#) (Initiation notice).

<sup>7</sup> In accordance with the *Customs (Preliminary Affirmative Determinations) Direction 2015* (the PAD Direction), 60 days after the Commissioner initiates an investigation, the Commissioner must either make a preliminary affirmative determination (PAD) or provide a Status Report outlining the reasons why they have not made a PAD.

<sup>8</sup> EPR 628 – [document 5](#).

<sup>9</sup> EPR 628 – [document 4](#) and [document 15](#).

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The Commissioner is also satisfied that GGP is the only exporter of the goods to Australia from Indonesia during the investigation period. This means that the volume of dumped goods from Indonesia is negligible.

Country	Exporter	Export price	Normal value	Dumping margin
Indonesia	PT. Great Giant Pineapple	s 269TAB(1)(a) s 269TAB(1)(c)	s 269TAC(1)	<i>negative</i> 16.6%

**Table 1: Dumping margin and calculation provisions**

The dumping investigation of exports of the goods to Australia from Thailand will be covered in a separate report.

### 1.3.5 Termination of the investigation (chapter 6)

The Commissioner is satisfied that:

- the dumping margin for the like goods exported to Australia by GGP is less than 2% (section 269TDA(1)(b)(ii)).
- there is a negligible volume of dumped goods exported to Australia from Indonesia (section 269TDA(3)(b)).

The Commissioner must terminate this investigation in relation to GGP and Indonesia.

The investigation for exporters of the goods from Thailand will continue.

Public notice of this termination is at **non-confidential attachment 1**<sup>10</sup> and is published on the commission's website.

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<sup>10</sup> The Commissioner has published an Anti-Dumping Notice (ADN) on the same day as this report. The ADN should be read in conjunction with this report. The ADN specifies that the investigation has been terminated (with respect to GGP and Indonesia) in accordance with section 269TDA.

## 2 BACKGROUND

### 2.1 Application

On 3 July 2023, GCL lodged an application alleging that the Australian industry for FSI pineapple had experienced material injury caused by exports of the goods to Australia from Indonesia and Thailand at dumped prices.<sup>11</sup>

In the application, GCL specifically claimed that the Australian industry had experienced material injury in the form of:

- lost sales volumes
- reduced market share
- price suppression
- loss of profits
- reduced profitability
- reduced revenue
- reduced employment
- reduced capacity utilisation
- reduced return on investment.

GCL also allege that threat of material injury to the Australian industry is foreseeable and imminent from the significant volume of dumped imports from Indonesia and Thailand.

### 2.2 Initiation

#### 2.2.1 Commissioner's consideration of the application

Having considered the application, the Commissioner decided not to reject the application and initiated the investigation on 4 August 2023.

ADN 2023/047 and CON 628 provide further details of the Commissioner's initiation of this investigation.<sup>12</sup>

#### 2.2.2 Investigation period and injury analysis period

The Commissioner specified an investigation period from 1 July 2022 to 30 June 2023.

The injury analysis period, for the purpose of the Commissioner's determination of whether material injury to the Australian industry has been, or may be, caused by exports of dumped goods to Australia, is from 1 July 2019.<sup>13</sup>

The Commissioner gave public notice of these periods in the initiation notice, ADN 2023/047.<sup>14</sup>

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<sup>11</sup> EPR 628 – [document 1](#).

<sup>12</sup> EPR 628 – [document 2](#) and [document 3](#).

<sup>13</sup> As this report addresses termination of part of the investigation on the basis that there is negligible dumping and a negligible volume of dumped goods, the Commissioner is not required to determine whether material injury to the Australian industry has been, or may be, caused by exports of dumped goods in this report. Similarly, this report does not examine GCL's claims that there is a threat of material injury.

<sup>14</sup> *Op cit* (6)

## 2.3 Conduct of the investigation

### 2.3.1 The Australian industry

The Commissioner is satisfied that GCL represents the Australian industry producing like goods to the goods the subject of the investigation.

The commission prepared and sent an Australian Industry Questionnaire that sought additional information from GCL for the investigation period. GCL submitted a response to the questionnaire (RAQ). The commission verified the information GCL provided in the RAQ and application at onsite verification visits to GCL premises.

The commission published the GCL verification findings in a verification report.<sup>15</sup> The commission was satisfied that GCL produced and sold FSI pineapple in Australia.

### 2.3.2 Importers

The commission identified several importers of the goods from Indonesia during the investigation period. The commission used data from the Australian Border Force (ABF) import database for this purpose.

The commission prepared and sent importer questionnaires to the identified importers, seeking participation in the investigation. The commission also published a copy of the importer questionnaire on the EPR.<sup>16</sup>

The commission received 3 completed responses to the importer questionnaire (RIQ) from:

- FTA Food Solutions Pty Ltd (FTA)
- Bidfood Australia Pty Ltd (Bidfood)
- Juremont Pty Ltd (Juremont).

The commission conducted 2 onsite verifications of the information submitted by FTA and Bidfood. The commission published verification reports on the EPR.<sup>17</sup>

The commission found that GCL also imported the goods during the investigation period. Accordingly, the commission's Australian industry verification extended to GCL's imports of the goods.

### 2.3.3 Exporters

The commission identified one exporter of the goods from Indonesia (using the ABF import database) during the investigation period. This exporter was GGP. The commission sent an exporter questionnaire to GGP and placed a copy of the questionnaire on the EPR for this investigation.<sup>18</sup>

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<sup>15</sup> EPR 628 – [document 17](#).

<sup>16</sup> [EPR 628](#).

<sup>17</sup> EPR 628 – refer Bidfood [document 14](#) and FTA [document 18](#).

<sup>18</sup> *Op cit* (16)



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GGP submitted a response to the exporter questionnaire (REQ). The commission published GGP's REQ on the EPR.<sup>19</sup> The commission verified GGP's REQ at an onsite verification visit and published a verification report on the EPR.<sup>20</sup>

### 2.3.4 Preliminary affirmative determination

In accordance with section 269TD(1), the Commissioner may make a preliminary affirmative determination (PAD), if satisfied that there appears to be sufficient grounds for the publication of a dumping duty notice (or it appears that there will be). The Commissioner may make a PAD at any time, no earlier than 60 days after the date of the initiation of the investigation.

The *Customs (Preliminary Affirmative Determinations) Direction 2015* (PAD Direction) specifies that, not earlier than 60 days after the initiation of an investigation,<sup>21</sup> the Commissioner must either:

- make a PAD under section 269TD(1)
- publish a Status Report providing reasons why they have not made a PAD, in accordance with the PAD Direction.

The Commissioner did not make a PAD at day 60, and instead, published a Status Report on 3 October 2023.

The Status Report explained that the Commissioner was not satisfied that, at that stage of the investigation, there appeared to be sufficient grounds for the publication of a dumping duty notice.<sup>22</sup>

The Commissioner may make a PAD if satisfied that there appears to be (or it appears that there will be) sufficient grounds for the publication of a dumping duty notice. The PAD Direction also requires the Commissioner to reconsider making a PAD after the publication of a status report, at least once prior to the publication of the statement of essential facts (SEF).

The Commissioner is terminating part of this investigation regarding GGP and Indonesia before publication of the SEF. Accordingly, no PAD will be made in respect of exports of the goods from Indonesia.

### 2.3.5 Statement of essential facts

The Commissioner is terminating part of this investigation with respect to GGP and Indonesia before the SEF is published.

The Commissioner was originally due to place the SEF on the public record by 22 November 2023. During the conduct of this investigation, the Commissioner approved 3 extensions of time.<sup>23</sup>

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<sup>19</sup> EPR 628 – [document 7](#).

<sup>20</sup> EPR 628 - [document 13](#).

<sup>21</sup> Day 60 for this investigation was 3 October 2023.

<sup>22</sup> *Op cit* (8)

<sup>23</sup> ADNs 2023/081; 2024/027 and 2024/063. EPR 628 – [document 6](#); [document 12](#) and [document 20](#) refers.

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The SEF is currently due to be placed on the public record by 21 October 2024. As the Commissioner is terminating part of this investigation for GGP and Indonesia only, the SEF is only relevant to exports of the goods from Thailand.

### 2.3.6 Submissions from interested parties

The commission received 2 submissions from interested parties. The Commissioner considered these submissions in this report (see chapter 5.4.4).

Submission number	Interested party and submission points	EPR item	Date published on EPR	Report chapter
<b>1</b>	<b>Government of Indonesia (GOI)</b>	<b>4</b>	<b>14 September 2023</b>	
1.1	CON 627 did not explain certain domestic sales adjustments incurred by the Indonesian exporter. The GOI requested that such adjustments are considered for fair comparison of the normal value to export price.			5.4.4
1.2	The GOI requested that transport cost adjustments used in the normal value are accurate and that all relevant evidence is examined.			5.4.4
<b>2</b>	<b>GCL</b>	<b>15</b>	<b>6 June 2024</b>	
2.1	There was no consideration/assessment made of arms length for GGP's related party freight provider and the effect on normal value adjustments.			5.4.4
2.2	Request to clarify the relationship between GGP's related parties.			5.4.4

Table 2: Submissions from interested parties

## 2.4 Previous cases

The commission has previously investigated FSI pineapple exported to Australia from Indonesia, Thailand, and the Republic of the Philippines (Philippines). There are no anti-dumping measures currently in operation for the goods.

A concurrent *Investigation No 627* into consumer pineapple from Indonesia was initiated at the same time as this investigation.

### 3 THE GOODS AND LIKE GOODS

#### 3.1 Findings

The Commissioner finds that FSI pineapple produced locally are ‘like goods’ to the goods under consideration.

#### 3.2 The goods

The goods the subject of the application (the goods under consideration) are:

Pineapple, prepared or preserved in containers exceeding one litre (FSI pineapple) in various forms, including (but not limited to) chunks, pieces, pizza cut, sliced, thick sliced, tidbits and crushed pineapple. The goods are packaged with liquid added.

Further information on the goods description was submitted by GCL in its application.

Excluded from this goods description are glace and/or dehydrated pineapple.

The applicable unit of quantity for customs duty is litres. However, for the purposes of this application, the applicable unit of quantity is kilograms. Kilograms can be converted to litres by dividing the number of kilograms by 1.043174.

#### 3.3 Tariff classification

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

Tariff code	Description			
2008	Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included:			
2008.20.00	Pineapples			
Statistical code	Unit	Description	MFN <sup>24</sup> duty rate	Indonesia duty rate
27	Litre (L)	Canned, in containers exceeding 1 L	5%	0%
28	kilogram (kg)	Other	5%	0%

Table 3: Tariff classification for the goods

The tariff classification and statistical codes may include goods that are both subject and not subject to this investigation. The listing of the tariff classification and statistical codes are for convenience or reference only and do not form part of the goods description set out above. Please refer to the goods description for authoritative detail regarding the particulars of the goods the subject of this investigation.

<sup>24</sup> Most Favoured Nation (MFN) is the tariff typically applied to imports from WTO member countries where reduced tariffs under an FTA are not available. See the [Free Trade Portal](#) at the Department of Foreign Affairs website.

## 3.4 Model control code

### 3.4.1 Revision to proposed model control code at initiation

The commission revised the proposed model control (MCC) structure described in the initiation notice, ADN 2023/047.

The proposed MCC structure included categories for quality, pineapple cut, container type, container size and packing medium. GCL, GGP and FTA submitted sales and cost data (GCL and GGP only) in accordance with the commission's proposed MCC structure.

The commission revised the proposed MCC structure in response to verification activities that are described in verification reports. The revised MCC structure is at Table 4 and still includes the MCC categories proposed at initiation. The revisions were made to the MCC sub-categories.

The commission used the revised MCC structure to identify key characteristics of the goods. The MCC is used for model matching and comparing the export price with the normal value.

The commission's policy and practice for using an MCC structure is explained in the commission's *Dumping and Subsidy Manual, December 2021* (the manual).<sup>25</sup>

### 3.4.2 MCC revision – pineapple cut subcategories

The commission has changed MCC category 2 – 'Pineapple cut'. The change removes the distinction between some subcategories of the goods, being 'tidbits', 'pieces' and 'pizza cut' to describe these collectively as 'tidbits' only.<sup>26</sup>

The amendment to the MCC structure does not affect the dumping calculation for GGP as it does not make a distinction between 'tidbits', 'pieces' and 'pizza cut' when selling the goods.

During the investigation, the commission identified that the terms 'tidbits', 'pieces' and 'pizza cut' are used interchangeably by some exporters and their customers (in Australia and overseas). The commission identified the interchangeable use of the terms in product specification documents, brochures, purchase orders, contracts, and invoices (which included the interchangeable use of such products in the same transaction).

The information and evidence shows that the pineapple cut size for 'tidbits', 'pieces' and 'pizza cut' is in the range of  $\frac{1}{14}$  to  $\frac{1}{16}$  of a pineapple slice. The other cut size dimensions such as the thickness and arc are either identical or have the same nominal measurements.

It is the commission's view that the cut size description 'tidbits', 'pieces' and 'pizza cut' is a term of art used by customers and manufacturers and not a description of a particular physical characteristic that influences price such that it needs to be distinguished separately in the MCC structure. For this reason, the commission has combined 'tidbits', 'pieces' and 'pizza cut' in the MCC structure.

### 3.4.3 MCC revision – container type subcategories

The commission identified additional container types for the goods and added these to MCC category 3 – 'Container type'. The commission found that the goods were also sold in containers

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<sup>25</sup> [The manual](#), p 48.

<sup>26</sup> The commission has also relied on evidence submitted in this investigation and a concurrent dumping *Investigation No 627 – consumer pineapple* exported from Indonesia.

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such as a pouch or aseptic bag. Depending on the size of the aseptic bag, the bag was packaged in a carton or drum.

The commission is satisfied that the additional container type is a physical characteristic that affects price.

### 3.4.4 Revised MCC structure

The commission's revised MCC structure applicable to the goods is outlined in Table 4.

Category	Sub-category	Identifier	Sales data	Cost data
<b>Quality</b>	Prime	P	Mandatory	NA
	Non-prime (e.g. damaged can)	N		
<b>Pineapple cut</b>	Chunks	CH	Mandatory	Mandatory
	Crushed	CR		
	Sliced	SL		
	Tidbits (includes pieces and pizza cut)	TB		
	Thin sliced	TS		
<b>Container type</b>	Tin can	T	Mandatory	Mandatory
	Pouch	P		
	Aseptic bag in carton	AB		
	Aseptic bag in drum	ABD		
<b>Container size</b>	Container size in net weight (grams)	e.g. '850'	Mandatory	Mandatory
<b>Packing medium</b>	Water	W	Mandatory	Mandatory
	Light syrup	LS		
	Heavy syrup	HS		
	Natural juice (sweetened)	NJS		
	Natural juice (unsweetened)	NJU		

**Table 4: Revised MCC structure for the goods**

## 3.5 Legislative framework

Section 269TC(1) states that the Commissioner must, within 20 days of receiving an application under section 269TB, reject an application for a dumping duty notice if, among other things, the Commissioner is not satisfied that there is, or is likely to be established, an Australian industry in respect of like goods.

In making this assessment, the Commissioner must firstly determine that 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.*

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An Australian industry can apply for relief from injury caused by dumped or subsidised imports, even if the goods it produces are not identical to those imported. The industry must however, produce goods that are 'like' to the imported goods.

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
- iv. production likeness.

### **3.6 Like goods assessment**

#### **3.6.1 Finding**

The Commissioner is satisfied that the:

- Australian industry for FSI pineapple produces like goods to the goods the subject of the application, as defined in section 269T(1)
- exported goods from Indonesia are like to the like goods produced by GCL.

The commission's assessment is that the locally produced goods by GCL are identical to, or closely resemble, the goods under consideration and are therefore, 'like goods'. GCL's FSI pineapple is also like to the goods exported to Australia by GGP in the investigation period. GGP's goods are also like goods.

The like goods assessment below relies on information obtained from the Australian industry verification and verified information from GGP and is consistent with the framework outlined in Chapter 2 of the manual.

#### **3.6.2 Physical likeness**

The characteristics of the goods, the exported goods and locally produced goods are similar. Both the imported and locally produced goods are made of cut pineapple fruit preserved in a packing medium and in a container that is greater than 1L.

#### **3.6.3 Production likeness**

The goods and like goods are produced using the same or similar raw material inputs. The like goods are produced using similar equipment and similar manufacturing processes.

#### **3.6.4 Commercial likeness**

The like goods are sold in similar market segments and can be sold via distributors. The domestic and exported goods are substitutable.

#### **3.6.5 Functional likeness**

The like goods can be considered functionally alike, as they have similar or identical end uses.

### **3.6.6 Like goods assessment**

FSI pineapple manufactured by the Australian industry has characteristics closely resembling the goods exported to Australia, because the evidence before the commission demonstrates that:

- physical characteristics of the goods and locally produced goods are similar
- the exported goods and locally produced goods are made from similar raw materials, using similar manufacturing equipment and processes
- exported goods and locally produced goods are commercially alike as they are sold to common customers, are substitutable and directly compete in similar market segments
- exported goods and locally produced goods are functionally alike as they have similar end uses.

## 4 DUMPING FRAMEWORK

### 4.1 Overview of legislative framework

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

In any report to the Minister under section 269TEA(1), the Commissioner must recommend whether the Minister ought to be satisfied as to the grounds for publishing a dumping duty notice under section 269TG.

Under section 269TG, one of the matters the Minister must be satisfied of to publish a dumping duty notice is that exporters exported dumped goods to Australia.

### 4.2 Cooperative and uncooperative exporters

In a dumping investigation, section 269T(1) defines a **cooperative exporter** to mean:

an exporter of goods that are the subject of the investigation...or an exporter of like goods, where:

- (d) the exporter's exports were examined as part of the investigation... and
- (e) the exporter was not an uncooperative exporter in relation to the investigation.

Section 269T(1) defines an **uncooperative exporter** to mean, in the context of an investigation:

an exporter of goods that are the subject of the investigation... or an exporter of like goods, where:

- (d) the Commissioner was satisfied that the exporter did not give the Commissioner information the Commissioner considered to be relevant to the investigation... within a period the Commissioner considered to be reasonable; or
- (e) the Commissioner was satisfied that the exporter significantly impeded the investigation.

### 4.3 Export price

The export price is determined under section 269TAB.

Section 269TAB(1)(a) generally provides that, subject to certain conditions, the export price of any goods exported to Australia is the price paid (or payable) for the goods by the importer, where the goods have been exported to Australia otherwise than by the importer and have been purchased by the importer from the exporter in arms length transactions. Arms length transactions are described in section 269TAA.

Where the conditions in section 269TAB(1)(a) are not met, such as when the export transactions are not arms length or the importer(s) have not purchased the goods from the exporter, the export price is determined under sections 269TAB(1)(b) or (c).

Section 269TAB(3) provides that, where the export price cannot be established under the preceding provisions, the export price is determined by having regard to all relevant information.



## **4.4 Normal value**

The normal value is determined under section 269TAC.

Section 269TAC(1) provides that the normal value of any goods exported to Australia is the price paid (or payable) for like goods sold in the ordinary course of trade (OCOT) for home consumption in the country of export in sales that are arms length transactions by the exporter or, if like goods are not so sold by the exporter, by other sellers of like goods. Establishing domestic sales in OCOT is set out in section 269TAAD.

If one of the circumstances set out in sections 269TAC(2)(a) or (b) is present, such as where there is an absence or low volume of relevant sales of like goods in the market of the country of export, or there is a particular market situation, section 269TAC(1) may not be used. In this instance, the normal value of the goods is calculated using either a constructed normal value under section 269TAC(2)(c) or using prices of like goods exported to a third country under section 269TAC(2)(d).

Under section 269TAC(14), an exporter's domestic sales of like goods are taken to be in a low volume where the total volume of sales of like goods for home consumption in the country of export by the exporter is less than 5% of the total volume of the goods under consideration that are exported to Australia by the exporter (unless the Minister is satisfied that the volume is still large enough to permit a proper comparison for the purposes of assessing a dumping margin).

Section 269TAC(6) provides that, where the normal value cannot be established under the preceding provisions, the normal value is determined by having regard to all relevant information.

## **4.5 Dumping margin**

Dumping margins are determined under section 269TACB.

The commission will typically compare weighted average Australian export prices with the corresponding quarterly weighted average normal values for the investigation period in accordance with section 269TACB(2)(a).

## 5 DUMPING ASSESSMENT OF GREAT GIANT PINEAPPLE

### 5.1 Finding and determination

The Commissioner finds that GGP is a cooperative exporter of the goods from Indonesia to Australia, during the investigation period.<sup>27</sup>

The Commissioner has determined GGP's:

- export price under section 269TAB(1)(a) and section 269TAB(1)(c)
- normal value under section 269TAC(1)
- dumping margin under section 269TACB(2)(a).

Table 5 summarises the Commissioner's determinations.

Country	Exporter	Export price	Normal value	Dumping margin
Indonesia	PT Great Giant Pineapple	s 269TAB(1)(a) s 269TAB(1)(c)	s 269TAC(1)	<i>negative</i> 16.6%

**Table 5: Dumping margin and calculation provisions**

*This information in this table is the same as the information in Table 1 and Table 8.*

The Commissioner's dumping examination of GGP is set out in this chapter. There are no changes to the conclusions and confidential calculations which the commission preliminarily set out in GGP's verification report.<sup>28</sup>

The Commissioner also finds that GGP is the sole producer of the goods in Indonesia. GGP is also the sole exporter of the goods from Indonesia to Australia. Accordingly, there are no uncooperative exporters in this investigation.<sup>29</sup>

### 5.2 Verification

The commission is satisfied that the information submitted by GGP is complete, accurate and reliable to ascertain the variable factors (export price and normal value) applicable to its exports of like goods from Indonesia to Australia.

The commission conducted an onsite verification of GGP.

A report describing the assessment of GGP's REQ, and the verification findings, is available on the EPR.<sup>30</sup>

The commission is satisfied that GGP is the producer of the goods and like goods in Indonesia.

<sup>27</sup> See definition at chapter 4.2 above.

<sup>28</sup> *Op cit* (20)

<sup>29</sup> See Confidential attachment 5 to this report.

<sup>30</sup> *Op cit* (20)

## 5.3 Export price

GGP was identified as the exporter of the goods, and the commission calculated its export price using sections 269TAB(1)(a) and 269TAB(1)(c).

All of GGP's exports to Australia in the investigation period were to unrelated customers and were found to be arms length.

The commission's export price calculation is at **Confidential attachment 1**.

### 5.3.1 Identifying GGP as the exporter

The commission identified that GGP was the exporter of the goods, for all its Australian exports from Indonesia during the investigation period.<sup>31</sup> The commission found that GGP:

- produced the Australian export goods
- is named as the supplier on the commercial invoice
- is named as consignor on the bill of lading
- arranged and paid for inland transport to the port of export
- arranged and paid for port handling charges at the port of export
- arranged for ocean freight (for relevant transactions).

### 5.3.2 Arms length assessment

The commission considers GGP sold the Australian export goods at arms length to its Australian customers.<sup>32</sup>

For GGP's Australian sales of the goods, the commission found no evidence of:

- any consideration payable for, or in respect of, the goods other than its price
- the price appearing 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
- the buyer, or an associate of the buyer, directly or indirectly reimbursed, compensated, or otherwise received a benefit for, or in respect of, the whole or any part of the price.

The commission found that GGP:

- sold goods at similar prices to all customers
- used a market price index and other market intelligence to benchmark and negotiate prices with its Australian customers
- appeared to genuinely negotiate the price with customers.

### 5.3.3 Export price calculation

GGP exported like goods to unrelated customers. Exports to Australia were purchased directly by Australian importers or via an intermediary trader.

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<sup>31</sup> The commission generally identifies the exporter as a principal in the transaction, located in the country of export from where the goods were shipped, that gave up responsibility by knowingly placing the goods in the hands of a carrier, courier, forwarding company, or its own vehicle for delivery to Australia; or a principal in the transaction, located in the country of export, that owns, or previously owned, the goods but need not be the owner at the time the goods were shipped ([the manual](#), p 23).

<sup>32</sup> See section 269TAA.

The commission used section 269TAB(1)(a) to calculate the export price for Australian exports of the goods by GGP directly to the Australian importers. The export price is the price paid by the importer to the exporter less transport and other costs arising after exportation.

The commission used section 269TAB(1)(c) to calculate the export price for Australian exports of the goods by GGP, via an intermediary trader. The export price is the price that the Commissioner determines having regard to all the circumstances of the exportation.<sup>33</sup> For these transactions the export price is the price paid by the intermediary trader to GGP.

The commission's export price calculation is at **Confidential attachment 1**.

## **5.4 Normal value**

GGP's normal value was calculated using section 269TAC(1).

GGP sold like goods domestically to a related party distributor, Sewu Segar Nusantara (SSN) and unrelated customers. There was a sufficient volume of sales of these goods, sold for home consumption in the country of export that were arms length transactions and at prices that were within the OCOT.

The Commissioner has had regard to submissions from interested parties in this chapter.

The commission's CTMS calculation is at **Confidential attachment 2**.

The commission's normal value calculation is at **Confidential attachment 3**.

### **5.4.1 Domestic arms length assessment – unrelated customers**

The commission identified that domestic sales of like goods to unrelated domestic customers were arms length.

In respect of GGP's domestic sales of like goods to its unrelated customers during the investigation period, the commission found no evidence that:

- there was consideration payable for, or in respect of, the goods other than its price
- 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
- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise received a benefit for, or in respect of, the whole or any part of the price.

For these sales, the commission noted that GGP:

- sold domestic like goods at similar prices to all unrelated customers
- appeared to genuinely negotiate the price with unrelated customers.

The commission therefore considers that for all unrelated customer domestic sales, GGP sold at arms length.<sup>34</sup>

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<sup>33</sup> Section 269TE(2) requires the Commissioner (as the decision-maker) to have considerations and make decisions as if the Commissioner were the Minister.

<sup>34</sup> *Op cit* (32)

### **5.4.2 Domestic arms length assessment – related customers**

The commission identified that domestic sales of like goods to its related party distributor (SSN) were arms length.

For all domestic sales to a related party distributor SSN, the commission found no evidence that:

- there was consideration payable for, or in respect of, the goods other than its price
- 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
- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise received a benefit for, or in respect of, the whole or any part of the price.

For these sales, the commission noted that GGP:

- sold similar like goods domestically at similar prices to unrelated and related customers
- appeared to genuinely negotiate the price with SSN.

The commission therefore considers that, for all domestic sales to SSN, GGP sold at arms length.

### **5.4.3 Ordinary course of trade and sufficiency of domestic sales**

#### **Legislative framework**

Section 269TAAD states that domestic sales of like goods are not in the OCOT if arms length transactions in substantial quantities are both of the following:

- unprofitable in substantial quantities over an extended period
- unlikely to be recoverable within a reasonable period.

#### **Commission's OCOT assessment**

The commission identified that GGP had arms length domestic sales in the OCOT.

The commission tested:

- profitability of GGP's sales by comparing the net invoice price against the relevant cost for each domestic sales transaction.
- whether the unprofitable sales were in substantial quantities (not less than 20%) by comparing the volume of unprofitable sales to the total sales volume, for each MCC over the inquiry period.
- recoverability by comparing the net invoice price against the relevant weighted average cost over the inquiry period for each domestic sales transaction.

#### **Sufficiency assessment**

The commission identified that GGP had sufficient domestic OCOT sales for comparison with its export sales to Australia.

Section 269TAC(14) indicates that an exporter's domestic sales of like goods are taken to be in a low volume where the total volume of sales of like goods for home consumption in the country of export by the exporter is less than 5% of the total volume of the goods under consideration that are exported to Australia by the exporter (unless the Minister is satisfied that the volume is still large enough to permit a proper comparison for the purposes of assessing a dumping margin).

**PUBLIC RECORD**

The commission assessed the total volume of relevant sales of like goods as a percentage of the goods exported to Australia and found that the volume of domestic sales was 5% or greater and therefore was not a low volume.

When calculating a normal value under section 269TAC(1), in order to ensure a proper comparison between the goods exported to Australia and the goods sold on the domestic market, the commission considers the volume of sales of each exported MCC on the domestic market.

Where the volume of domestic sales of an exported MCC is less than 5% of the volume exported, the commission will consider whether it can make a proper comparison at the MCC level. In these situations, the commission may consider whether it should use a surrogate domestic MCC to calculate normal value for the exported MCC.

The commission has considered whether each exported MCC was sold on the domestic market and the volume of domestic sales, as shown in Table 6.

<b>Export MCC</b>	<b>OCOT domestic sales volume &gt; export sales volume 5% or greater?</b>	<b>Treatment of normal value</b>
CH-T-3030-LS	N	No domestic sales of CH-T-3030-LS. Surrogate model TB-T-3030-HS used, with specification adjustment under section 269TAC(8).
CH-T-3030-NJU	N	No domestic sales of CH-T-3030-NJU. Surrogate model TB-T-3030-HS used, with specification adjustment under section 269TAC(8).
SL-T-3030-LS	N	No domestic sales of SL-T-3030-LS. Surrogate model SL-T-3030-HS used, with specification adjustment under section 269TAC(8).
SL-T-3030-NJU	N	No domestic sales of SL-T-3030-NJU. Surrogate model SL-T-3030-HS used, with specification adjustment under section 269TAC(8).
TB-P-1500-LS	N	No domestic sales of TB-P-1500-LS. Surrogate model TB-T-3030-HS used, with specification adjustment under section 269TAC(8).
TB-P-3000-LS	N	No domestic sales of TB-P-3000-LS. Surrogate model TB-T-3030-HS used, with specification adjustment under section 269TAC(8).
TB-T-3030-LS	N	No domestic sales of TB-T-3030-LS. Surrogate model TB-T-3030-HS used, with specification adjustment under section 269TAC(8).
TB-T-3030-NJU	N	No domestic sales of TB-T-3030-NJU. Surrogate model TB-T-3030-HS used, with specification adjustment under section 269TAC(8).
CR-T-3030-LS	Y	Domestic sales of CR-T-3030-LS permit a proper comparison to exported goods.
CR-T-3030-NJU	Y	Domestic sales of CR-T-3030-NJU permit a proper comparison to exported goods.

Export MCC	OCOT domestic sales volume > export sales volume 5% or greater?	Treatment of normal value
TB-T-3030-HS	Y	Domestic sales of TB-T-3030-HS permit a proper comparison to exported goods.

**Table 6: Sufficiency of domestic sales volumes and specification adjustments made**

#### **5.4.4 Adjustments**

##### **Legislative framework**

The commission applied normal value adjustments under section 269TAC(8).

##### Consideration of submission 2 (GCL) on related party freight provider, SKT - points 2.1 and 2.2

The commission concluded that freight services provided by related party freight provider, SKT to GGP were arms length.

GCL stated that an arms length assessment of GGP's related party freight services was missing from the GGP verification report. GCL queried the effect of these freight services from SKT on GGP's normal value, as well as seeking clarity on the relationship between GGP's related parties SKT and SSN.

SKT is GGP's related party freight provider. It is described in GGP's verification report as 'Confidential (subsidiary inland transport company)'. SKT provides freight for export sales between GGP's factory and the Indonesian port of export, as well as domestic sales. It is one of several freight providers used by GGP for transporting the goods in Indonesia.

The commission confirms that it assessed the relationship of related party suppliers and customers in GGP's verification report<sup>35</sup> (at chapter 1.2 of that report). However, a conclusion on the arms length assessment for GGP's related parties (other than SSN and SPI) is missing from that chapter. The following assessment addresses the points that GCL raised.

The commission found that the price of freight services provided by SKT to GGP were arms length.<sup>36</sup> GGP submitted evidence of the annual price agreement between it and SKT and the commission compared the prices for SKT's services with the price paid to unrelated freight providers. The commission's price analysis and verification did not identify evidence of:

- consideration payable for, or in respect of, the service other than its price
- that 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
- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise received a benefit for, or in respect of, the whole or any part of the price.

Therefore, the commission used the verified freight costs submitted by GGP (comprising services by SKT and other unrelated providers) as adjustments to GGP's normal value.

The commission applied the adjustments described in Table 7. These adjustments are necessary to ensure that the normal value, so ascertained, is properly compared with the export price of those goods.

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<sup>35</sup> *Op cit* (20)

<sup>36</sup> The commission made an arms length assessment of SKT's freight services in the confidential work program for GGP.

## PUBLIC RECORD

Adjustment Type	Deduction/addition
Domestic inland transport	Deduct an amount for domestic inland transport
Commission on domestic sales	Deduct an amount for commission on domestic sales
Domestic packaging	Deduct an amount for domestic packaging
Domestic credit terms	Deduct an amount for domestic credit
Export bank charges	Add an amount for export bank charges
Export inland transport	Add an amount for export inland transport
Export packaging	Add an amount for domestic packaging
Export port and handling charges	Add an amount for port and handling charges
Export credit terms	Add an amount for export credit terms
Specification	Add or deduct an amount for specification
Timing	Add or deduct an amount for timing adjustment

**Table 7: Summary of adjustments to GGP's normal value**

### Consideration of submission 1 (GOI) on adjustments - points 1.1 and 1.2

The GOI requested the commission to examine certain domestic sales and inland transport adjustments for fair comparison of the normal value to the export price.

The commission confirms that the adjustments described in Table 7 were calculated using GGP's verified information. GGP reviewed the commission's methodology and calculations prior to the publication of the verification report and dumping margin. No further submissions have been made by GGP in this investigation.

## 5.5 Dumping margin

The dumping margin for the goods exported to Australia by GGP for the investigation period is **negative 16.6%**.

The commission's dumping margin calculation is at **Confidential attachment 4**.

The commission calculated GGP's dumping margin by comparing weighted average Australian export prices to the corresponding weighted average normal values for the investigation period under section 269TACB(2)(a).



## 6 TERMINATION OF THE INVESTIGATION

### 6.1 Finding

The Commissioner finds that:

- GGP was the sole exporter of the goods from Indonesia to Australia
- the dumping margin for the goods exported to Australia by GGP is less than 2% (section 269TDA(1)(b)(ii)); and
- there is a negligible volume of dumped goods exported to Australia from Indonesia (section 269TDA(3)(b)).

The Commissioner must terminate this investigation insofar as it relates to GGP and Indonesia.

Country	Exporter	Export price	Normal value	Dumping margin
Indonesia	PT Great Giant Pineapple	s 269TAB(1)(a) s 269TAB(1)(c)	s 269TAC(1)	<i>negative</i> 16.6%

**Table 8: Dumping margin and calculation provisions**

*This information in this table is the same as the information in Table 1 and Table 5.*

### 6.2 Legislative and policy framework

Section 269TDA sets out the circumstances in which the Commissioner must terminate an investigation.

Section 269TDA(1) sets out the circumstances where the Commissioner must terminate the investigation, as far as it relates to an exporter. The Commission must be satisfied that the dumping margins for the exporter are negligible. Negligible dumping margins occur where there has been no dumping by the exporter of any of the goods, or there has been dumping by the exporter, but the dumping margin is less than 2%.

Section 269TDA(3) sets out the circumstances where the Commissioner must terminate the investigation, in so far as it relates to a country. The Commissioner must be satisfied that during the investigation period, the total volume of the goods exported to Australia from that country that have been, or maybe dumped, is negligible.

### 6.3 Termination of the investigation with respect to GGP

The Commissioner is satisfied that the dumping margin for the goods exported to Australia by GGP is negligible and is less than 2%.

Chapter 5 describes the commission's inquiry of GGP's data and information and the subsequent confidential calculations.

There was some dumping of the goods by GGP in the investigation period. But the dumping margin calculated under section 269TACB(2)(a) resulted in a dumping margin that is less than 2%.

Accordingly, the Commissioner must terminate the investigation with respect to GGP under section 269TDA(1)(b)(ii).

The commission's assessment of GGP's dumping is at **Confidential attachment 5**.

#### **6.4 Termination of the investigation with respect to Indonesia**

The Commissioner is satisfied there is a negligible volume of dumped goods exported to Australia from Indonesia.

The commission did not identify other producers of the goods in Indonesia or other exporters of the goods from Indonesia to Australia in the investigation period. GGP was the sole producer and exporter of the goods. Therefore, the volume of goods that have been or may have been exported and dumped from Indonesia has been assessed using the volume of dumped goods from GGP (as the sole producer and exporter of the goods from Indonesia).

For this assessment, section 269TDA(4) provides that the volume of dumped goods from a country, when expressed as a percentage of the total volume of imports from all countries is less than 3%.

There was some dumping of the goods by GGP in the investigation period, therefore there was some dumping of the goods from Indonesia in the investigation period. The commission assessed that the volume of goods exported to Australia from Indonesia that have been or may be dumped is less than 3% of the total imports of the goods (from all countries exporting to Australia) in the investigation period.

There is a negligible volume of dumped goods exported to Australia from Indonesia. Therefore, the Commissioner must terminate the investigation with respect to Indonesia in accordance with section 269TDA(3)(b).

The commission's assessment of dumping from Indonesia is at **Confidential attachment 5**.

**7 APPENDICES AND ATTACHMENTS**

<b>Confidential attachment 1:</b>	Export price calculation - GGP
<b>Confidential attachment 2:</b>	CTMS calculation - GGP
<b>Confidential attachment 3:</b>	Normal value calculation - GGP
<b>Confidential attachment 4:</b>	Dumping margin calculation - GGP
<b>Confidential attachment 5:</b>	Termination assessment - GGP
<b>Non-confidential attachment 1:</b>	Public notice of investigation termination (in part)