



*CUSTOMS ACT 1901 - PART XVB*

**TERMINATION REPORT  
NO 628A**

**ALLEGED DUMPING OF  
FOOD SERVICE AND INDUSTRIAL PINEAPPLE  
EXPORTED TO AUSTRALIA FROM  
THE KINGDOM OF THAILAND**

**10 January 2025**

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**ABBREVIATIONS**

AUD	Australian dollars
ABF	Australian Border Force
the Act	<i>Customs Act 1901</i>
ADA	<i>Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994</i>
AND	Anti-Dumping Notice
the applicant	Golden Circle Limited
Bidfood	Bidfood Australia Pty Ltd
the commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
COGS	cost of goods sold
CTM	cost to make
CTMS	cost to make and sell
the Customs Direction	<i>Customs (Extensions of Time and Non-cooperation) Direction 2015</i>
CY	Calendar year, 1 January to 31 December
DDP	delivered duty paid
DTL	Dole Thailand Limited
DAH	Dole Asia Holdings Pte. Ltd.
EPR	electronic public record
EXW	ex-works
FAS	free alongside ship
FG	finished goods
FOB	free on board
FSI pineapple	food service and industrial pineapple, as defined in section 2.3.1
FTA	FTA Food Solutions Pty Ltd
FY	Financial year, 1 July to 30 June
GCL	Golden Circle Limited
GGP	PT Great Giant Pineapple
the goods	the goods the subject of the application
HJH	H.J. Heinz Company Australia Limited
Indonesia	Republic of Indonesia
injury analysis period	from 1 July 2019
investigation period	1 July 2022 to 30 June 2023
Juremont	Juremont Pty Ltd
KFC	Kuiburi Fruit Canning Co., Ltd
KHC	Kraft Heinz Australia Pty Ltd
Kg	Kilogram

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L	Litre
the Manual	<i>Dumping and Subsidy Manual</i> , December 2021
MCC	model control code
the Minister	the Minister for Industry and Science
Material Injury Direction	<i>Ministerial Direction on Material Injury 2012</i>
Natural Fruit	Natural Fruit Co., Ltd
NIP	non-injurious price
OCOT	ordinary course of trade
PAD	preliminary affirmative determination
PAD Direction	<i>Customs (Preliminary Affirmative Determinations) Direction 2015</i>
PPI	Prime Products Industry Co., Ltd
QSR	quick service restaurant
RAQ	response to Australian industry questionnaire
the Regulation	<i>Customs (International Obligations) Regulation 2015</i>
REQ	response to the exporter questionnaire
RIQ	response to the importer questionnaire
ROI	return on investment
SEF	statement of essential facts
SEF 628	<i>Statement of Essential Facts No 628</i>
SG&A	selling, general and administration (expenses)
Siam (2513)	Siam Food (2513) Company Limited
TAF	Thai-American Food Co., Ltd
Thailand	Kingdom of Thailand
THB	Thai baht
USP	unsuppressed selling price

## 1 SUMMARY AND FINDINGS

### 1.1 Summary

This report outlines the reasons for the Commissioner of the Anti-Dumping Commission (Commissioner)<sup>1</sup> terminating the investigation into food service and industrial pineapple (FSI pineapple, or the goods)<sup>2</sup> exported to Australia from the Kingdom of Thailand (Thailand).

The Commissioner finds that:

- there is negligible dumping in the investigation period (1 July 2022 to 30 June 2023) by 2 exporters of the goods from Thailand. Dole Thailand Ltd (DTL) and Prime Products Industry Co Ltd (PPI) have dumping margins that are less than 2% (defined in section 269TDA(1)(b)(ii) of the *Customs Act 1901* (the Act)<sup>3</sup>).
- the injury to the Australian industry, if any, that has been, or may be, caused by exports of FSI pineapple from Thailand is negligible.

The Commissioner is terminating the investigation with respect to:

- DTL and PPI in accordance with section 269TDA(1)
- Thailand in accordance with section 269TDA(13).

### 1.2 Introduction

The Anti-Dumping Commission (the commission) has prepared this report for the Commissioner. It sets out the Commissioner's reasons for terminating this investigation into FSI pineapple exported to Australia from Thailand.<sup>4</sup>

The Commissioner initiated this investigation to examine exports of the goods from the Republic of Indonesia (Indonesia) and Thailand. On 5 September 2024, the commission published a separate report<sup>5</sup> and notice<sup>6</sup> that explained the Commissioner's reasons for terminating part of the investigation in relation to exports of the goods from Great Giant Pineapple (GGP) and Indonesia.

This report relates to the termination of the investigation in relation to exports of the goods from Thailand only. In effect, the investigation is terminated entirely.

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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 goods are fully defined at chapter 2.3.1 of this report.

<sup>3</sup> All legislative references in this report are to the *Customs Act 1901* (Cth) unless otherwise specified.

<sup>4</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>5</sup> Electronic Public Record (EPR) 628 – [document 21](#). Relevant reports and information for this investigation are available on EPR 628 via the commission's website at [www.adcommission.gov.au](http://www.adcommission.gov.au)

<sup>6</sup> EPR 628 – [document 22](#).

### 1.3 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).

Section 269TDA sets out the circumstances where the Commissioner must terminate an investigation. Relevant to this report:

- section 269TDA(1) sets out the circumstances where the Commissioner must terminate an investigation in relation to an exporter if there is no or negligible dumping.
- section 269TDA(13) sets out the circumstances where the Commissioner must terminate an investigation in relation to a country if satisfied that the injury, if any, to an Australian industry that has been, or may be, caused by that export is negligible.

### 1.4 Conduct of the investigation

#### 1.4.1 Application

Golden Circle Limited (GCL, the applicant) lodged the application for a dumping duty notice in accordance with section 269TB(1).<sup>7</sup> GCL is the Australian industry that manufactures like goods.<sup>8</sup>

#### 1.4.2 Initiation of the investigation

Having considered the application, the Commissioner decided not to reject the application and initiated the investigation on 4 August 2023. Anti-Dumping Notice (ADN) No 2023/047 (the initiation notice) and *Consideration Report No 628* (CON 628) provide further details of the Commissioner's consideration of the application and initiation of this investigation.<sup>9</sup>

#### 1.4.3 Investigation period

The Commissioner set the investigation period as 1 July 2022 to 30 June 2023.<sup>10</sup> The commission examined exports of the goods to Australia during this period to determine if dumping has occurred and if the dumping has caused material injury to the Australian industry.

The Commissioner gave public notice of the investigation period in the initiation notice.

#### 1.4.4 Injury analysis period

The Commissioner set the injury analysis period from 1 July 2019.<sup>11</sup> The commission examined the economic condition of the Australian industry from this date to examine broader trends within the Australian market, for the purpose of analysing whether dumping caused material injury to

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<sup>7</sup> EPR 628 – [document 1](#). The commission's consideration of the application is in CON 628 at EPR 628 – [document 2](#).

<sup>8</sup> The commission also notes that GCL lodged an application for an investigation in relation to consumer pineapple from Indonesia, [EPR 627](#) refers. The Commissioner terminated the investigation in relation to consumer pineapple on 5 September 2024.

<sup>9</sup> EPR 628 – [document 2](#) and [document 3](#).

<sup>10</sup> EPR 628 – [document 3](#).

<sup>11</sup> *Ibid* (10).

the Australian industry (chapter 13). The injury analysis period also informed the commission's examination of whether there is a threat of material injury (chapter 14).

The Commissioner gave public notice of the injury analysis period in the initiation notice.

#### **1.4.5 Australian industry verification**

Following initiation of the investigation, the commission sent an Australian industry questionnaire to GCL. This questionnaire sought additional information from GCL for the injury analysis period. GCL submitted a response to the Australian industry questionnaire (RAQ). The commission verified most of the information GCL provided in the RAQ and application at onsite verification visits to GCL premises.

The commission published its verification findings in a verification report.<sup>12</sup>

#### **1.4.6 Exporter questionnaires and verification**

At the initiation of this investigation, the commission invited exporters to complete an exporter questionnaire.<sup>13</sup>

Four exporters of the goods from Thailand submitted complete responses to the exporter questionnaire (REQ):

- DTL<sup>14</sup>
- Kuiburi Fruit Canning Co., Ltd (KFC)<sup>15</sup>
- Siam Food (2513) Company Limited (Siam (2513))<sup>16</sup>
- PPI.<sup>17</sup>

KFC is the largest exporter of the goods from Thailand by volume. The commission verified KFC's REQ onsite in Thailand and outlined findings in a verification report.<sup>18</sup>

The commission assessed the REQs of DTL, Siam (2513) and PPI remotely, following the verification principles explained in ADN No 2016/30. A file note explaining the commission's verifications of DTL, Siam (2513) and PPI are available on the EPR.<sup>19</sup>

The Commissioner considers that DTL, KFC, Siam (2513) and PPI are cooperative exporters for this investigation.

All other exporters from Thailand are uncooperative exporters under section 269T(1)(d), because the Commissioner is satisfied that all other exporters did not provide information that

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<sup>12</sup> EPR 628 – [document 17](#).

<sup>13</sup> The commission used data from the Australian Border Force (ABF) import database to identify exporters and importers of the goods. The commission also published a copy of the exporter and importer questionnaires on EPR 628.

<sup>14</sup> EPR 628 – [document 8](#).

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

<sup>16</sup> EPR 628 – [document 10](#).

<sup>17</sup> EPR 628 – [document 11](#).

<sup>18</sup> EPR 628 – [document 14](#).

<sup>19</sup> EPR 628 – [document 19](#), [document 24](#) and [document 23](#), respectively.



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the Commissioner considers to be relevant to the investigation within a period the Commissioner considered to be reasonable.

This includes Natural Fruit Co., Ltd (Natural Fruit) who submitted a partially complete REQ on 7 September 2023. On 11 September 2023, the commission wrote to Natural Fruit advising that there were deficiencies in its REQ. This letter listed the deficiencies and requested a further response that addressed the deficiencies by 18 October 2023. The deficiency letter stated that Natural Fruit's failure to provide a further response may lead to Natural Fruit being an uncooperative exporter for the purpose of the investigation. The commission has not received a further response from Natural Fruit.

The Commissioner considers that the nature and scope of the deficiencies with Natural Fruit's REQ are extensive such that the information provided is not capable of verification. The commission is unable to reliably determine variable factors and an individual dumping margin for Natural Fruit based on the information it has provided.

On 1 November 2024, the Commissioner advised Natural Fruit that, for the purposes of the investigation, it is an uncooperative exporter pursuant to section 269T(1)(d), because the Commissioner is satisfied that Natural Fruit did not provide information that the Commissioner considers to be relevant to the investigation within a period the Commissioner considered to be reasonable.

### 1.4.7 Importer questionnaires and verification

At the initiation of this investigation the commission invited importers to complete an importer questionnaire.

The following importers of the goods from Thailand submitted completed responses to the importer questionnaire (RIQ):

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

The commission verified the RIQs of FTA and Bidfood onsite and published verification reports.<sup>20</sup> The commission elected not to verify the RIQ of Juremont as there was sufficient information from Bidfood and FTA to analyse conditions in the Australian market. A further consideration was to ensure the timely completion of the investigation.

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.

### 1.4.8 Status Report

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.

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<sup>20</sup> EPR 628 – [document 16](#) and [document 18](#) respectively.

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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
- publish a Status Report providing reasons why they have not made a PAD.

At day 60 of this investigation, the Commissioner published a Status Report.<sup>22</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>23</sup>

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 reconsidered making a PAD prior to publishing the SEF, however, has remained satisfied throughout the conduct of this investigation that there are not sufficient grounds for the publication of a PAD.

### 1.4.9 Termination of the investigation (in part) for Indonesia

On 5 September 2024, the commission published *Termination Report No 628* (TER 628)<sup>24</sup> and a notice<sup>25</sup> that explained the Commissioner's reasons for terminating part of the investigation in relation to exports of the goods from Indonesia. The Commissioner was satisfied that:

- the dumping margin for the goods exported to Australia by GGP (the only exporter of the goods from Indonesia in the investigation period) 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)).

There were no applications to the Anti-Dumping Review Panel for review of the Commissioner's decisions to terminate the investigation with respect to GGP and Indonesia.

### 1.4.10 Statement of essential facts

#### Background

The Commissioner must place a SEF on the public record within 110 days after the initiation of an investigation. The Minister may extend this period under section 269ZHI(3).<sup>26</sup>

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

<sup>22</sup> In accordance with the PAD Direction, 60 days after the Commissioner initiates an investigation, the Commissioner must either make a PAD or provide a Status Report outlining the reasons why they have not made a PAD.

<sup>23</sup> EPR 628 – [document 5](#).

<sup>24</sup> EPR 628 – [document 21](#). As this report in relation to Thailand follows TER 628, it has been named TER 628A.

<sup>25</sup> EPR 628 – [document 22](#).

<sup>26</sup> The Minister's powers under section 269ZHI(3) have been delegated to the Commissioner (ADN 2017/010).

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The Commissioner was originally due to place the SEF on the public record by 22 November 2023. During the investigation, the Commissioner approved 4 extensions of time.<sup>27</sup> As a result, the SEF was due to be placed on the public record by 22 November 2024.

### Statement of Essential Facts No 628

On 21 November 2024, the Commissioner published *Statement of Essential Facts No 628* (SEF 628) on the EPR.<sup>28</sup> SEF 628 proposed termination of the investigation in relation to Thailand, consistent with this report.

### Submissions prior to SEF 628

Interested parties made 2 submissions to this investigation prior to SEF 628.<sup>29</sup> However, these 2 submissions did not relate to the goods from Thailand, so the Commissioner did not consider these 2 submissions in SEF 628.<sup>30</sup>

### Submissions in response to SEF 628

The commission received 2 submissions from interested parties in response to SEF 628. The Commissioner has had regard to these submissions in this report.

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<sup>27</sup> ADNs 2023/081, 2024/027, 2024/081 and 2024/094. EPR 628 – [document 6](#), [document 12](#), [document 25](#) and [document 26](#) refers.

<sup>28</sup> EPR 628 – [document 27](#).

<sup>29</sup> EPR 628 – [document 4](#) and [document 15](#).

<sup>30</sup> Both submissions were relevant to GGP, an exporter of the goods from Indonesia, and to the investigation into Indonesia. The submissions were addressed in TER 628, the termination of the investigation (in part) with respect to Indonesia.

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Submission number	Interested party and submission points	EPR item	Date published on EPR	Report chapter
<b>1</b>	<b>Dole Thailand Limited (DTL)</b>	<b>28</b>	<b>12 December 2024</b>	
1.1	DTL accepts its dumping margin calculation			8.1
1.2	DTL supports the proposed termination of the investigation with respect to DTL.			16.3
<b>2</b>	<b>Golden Circle Limited</b>	<b>29</b>	<b>12 December 2024</b>	
2.1	A 'but for' analysis should have been performed to assess how GCL's rate of growth was materially injured by dumping			15.1.1
2.2	GCL would have been more prosperous, but for the dumping			15.1.2
2.3	Dumping margins not considered			15.1.3
2.4	Conclusion of natural flowering event is speculation			13.4.2
				15.1.4
2.5	Reassessment of the commission's statement that "the majority of thin slice was undumped or dumped at negligible levels"			15.1.5
2.6	Certain economic indices dismissed as material injury			15.1.6

**Table 1: Submissions to SEF 628**

## 1.5 Findings

The Commissioner's findings and conclusions are summarised below and are explained further in this report.

### 1.5.1 The goods and like goods (chapter 2)

The goods the subject of the application are defined in chapter 2.3 and cover a range of canned pineapple products in containers exceeding 1 litre (L).

The commission notes that FSI pineapple consists of several different cuts, which includes tidbits, chunks, crushed, sliced and thin slice FSI pineapple.

GCL self-produced a subset of FSI pineapple, being thin slice FSI pineapple during the investigation period.<sup>31</sup> GCL is also an importer of the goods. The commission's analysis focusses on the economic effect of the goods exported from Thailand on GCL's self-produced FSI pineapple. The commission has also had regard to information relating to GCL's imported goods to provide further context regarding injury to its self-produced FSI pineapple.

The Commissioner considers that GCL's self-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 in Australia.

### 1.5.2 The Australian industry (chapter 3)

The Commissioner is satisfied that GCL represents the whole Australian industry producing like goods.

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<sup>31</sup> The commission refers to this as "self-produced" FSI pineapple throughout the report.

**1.5.3 The Australian market (chapter 4)**

The Commissioner finds that there is an Australian market for FSI pineapple. The Australian market is supplied by GCL (the Australian industry) and imports from Thailand and several other countries.

The size of the Australian market for FSI pineapple declined slightly over the injury analysis period.

Key market characteristics include:

- Intermediaries such as distributors and retailers import and resell FSI pineapple to end users.
- GCL sell almost exclusively to distributors.<sup>32</sup>
- End users use FSI pineapple as an ingredient in food products that are ultimately intended for human consumption.
- Most customers purchase a small volume of FSI pineapple, but there are a several large and very large customers that purchase substantial volumes of FSI pineapple.
- In Australia, consumption, and demand for FSI pineapple peaks in the summer season and particularly around the Christmas and New Year period. This demand aligns with the peak harvest season of fresh pineapple in Australia and the winter harvest in Thailand. Imports and sales volume also increase to meet this seasonal demand and fresh fruit availability for canning and distribution. FSI pineapple price can be affected by this seasonality and demand.
- Brand can be an important factor for product selection for some customers but may not be so important for larger customers who buy FSI pineapple in bulk and are more concerned about price. The very large (over 100,000 cans annually) and large (between 1,000 and 100,000 cans annually) purchasers of FSI pineapple can negotiate cheaper prices using their volume requirements, buying power and market influence.

**1.5.4 Dumping investigation - Thailand (chapters 5 to 10)**

The commission's assessment of the dumping margins for exporters from Thailand is at Table 2.

The Commissioner is satisfied that DTL and PPI have negligible dumping margins. The dumping margins for all exporters (other than DTL and PPI from Thailand) is not negligible (being greater than 2%, as defined in section 269TDA(1)(b)(ii)).

Chapter	Exporter	Export price	Normal value	Dumping margin
6	Kuiburi Fruit Canning Co Ltd	s. 269TAB(1)(a) s. 269TAB(1)(c)	s. 269TAC(2)(c)	7.1%
7	Siam Food (2513) Company Ltd	s. 269TAB(1)(a)	s. 269TAC(1)	21.5%
8	Dole Thailand Ltd	s. 269TAB(1)(c)	s. 269TAC(1)	negative 2.7%
9	Prime Products Industry Co Ltd	s. 269TAB(1)(a)	s. 269TAC(2)(c)	1.1%
10	Uncooperative exporters	s. 269TAB(3)	s. 269TAC(6)	30.9%

**Table 2: Dumping margins – Thailand**

<sup>32</sup> GCL sold an immaterial volume to the retail market segment.

The volume of dumped goods from Thailand is not negligible as it is greater than 3% of the total Australian import volume, defined in section 269TDA(4)(a).

### **1.5.5 Unsuppressed selling price and non-injurious price (chapter 11)**

The commission calculated an unsuppressed selling price (USP) and from that, a non-injurious price (NIP). The NIP is the minimum price necessary to prevent the injury, or a recurrence of the injury caused by the dumped goods, the subject of a dumping duty notice.

The Commissioner's recommendation in this report is to terminate the investigation, and not for the Minister to publish a dumping duty notice, and therefore the NIP is not relevant to a dumping duty notice. The commission calculated and used the NIP as an additional tool to assess if material injury has been or is being caused or is threatened to the Australian industry because of the dumped goods from Thailand.

### **1.5.6 The economic condition of the Australian industry (chapter 12)**

The Commissioner is satisfied that certain indices relevant to the Australian industry's economic condition have declined over the injury analysis period, being:

- reduced sales volume
- reduced market share
- reduced sales revenue
- increased stocks and inventories
- reduced cashflow.

The Commissioner is satisfied that other economic indices showed improvement over the injury analysis period, or no injury was identified. These indices are:

- increased prices (not indicative of price depression)
- an increase in value of assets and capital investment
- increased ROI
- employment and wage increases
- productivity.

The Commissioner's finding on the following economic indices is qualified. Certain data sets relevant to the below indices (such as CTM and production quantity) could not be verified due to limitations with the data submitted by GCL.

- the relationship between price and cost (not indicative of price suppression)
- profits and profitability (noting that profitability appears to improve)
- capacity and capacity utilisation (indicative of an improvement in capacity utilisation)

### **1.5.7 Has dumping caused material injury (chapter 13)**

The Commissioner finds that dumping of FSI pineapple from Thailand has caused negligible injury, if any, to the Australian industry.

Although certain economic indices for GCL declined in the investigation period (volume indices and other economic factors), others improved (including in relation to price and profits). The injury trends are partial and inconsistent. The Commissioner finds:

- There is a range of FSI pineapple products that make up the Australian market.
- The Australian market decreased in overall size in the investigation period.

## PUBLIC RECORD

- GCL produced a small subset of FSI pineapple, being thin slice FSI pineapple, in the investigation period.
- GCL's thin slice FSI pineapple can be substituted for imported sliced FSI pineapple.
- GCL's thin slice FSI pineapple is competing against imported sliced FSI pineapple. This includes GCL's own imports of dumped sliced FSI pineapple in the investigation period.
- Prior to the investigation period, GCL's thin slice FSI pineapple sales volume decreased, while its imports of sliced FSI pineapple increased, indicating substitutability.
- GCL's thin slice FSI pineapple does not appear to have been substituted for other FSI pineapple cuts (i.e. chunks, tidbits, or crushed FSI pineapple) that makes up most of the Australian market in the investigation period. Those other pineapple cuts cannot be a cause of injury to GCL.
- Sliced FSI pineapple and thin slice FSI pineapple makes up a small portion of the overall Australian FSI pineapple market.
- Therefore, GCL's thin slice FSI pineapple is competing within a small portion of the overall market.
- GCL's thin slice FSI pineapple is competing predominantly against the dumped goods GCL imports, a small volume of dumped imports from other importers, as well as from undumped sources or sources that had a negligible dumping margin. These imports have not caused material injury to the Australian industry.
- Factors other than dumping that have impacted GCL are undumped and *de minimis* dumped imports from Thailand and other countries, along with the distribution efficiency of GCL's competitors.
- Another event to have occurred was a natural flowering event (of pineapple fruit) in 2023, and this may have affected GCL, but there is no verifiable evidence to demonstrate the impact (if any).

Based on the above summary points and more detailed explanations in this report, the Commissioner concludes that any decline to the Australian industry's economic performance in the investigation period have been caused by factors other than dumped goods.

### **1.5.8 Is there a threat of material injury (chapter 14)**

The Commissioner is not satisfied that there is a change in circumstances that will make material injury foreseeable and imminent unless anti-dumping measures are imposed. Therefore, the Commissioner considers there is no threat of material injury.

## 2 THE GOODS AND LIKE GOODS

### 2.1 Findings

The Commissioner finds that GCL's self-produced FSI pineapple has characteristics closely resembling the goods exported to Australia and is therefore like goods to the goods the subject of the application.

### 2.2 Legislative framework

The Commissioner must reject an application for a dumping and/or countervailing duty notice if, *inter alia*, the Commissioner is not satisfied that there is, or is likely to be established, an Australian industry in respect of like goods. This requirement is set out in section 269TC(1).

The Commissioner's assessment requires a finding 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.

The 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 in Australia.

### 2.3 The goods

#### 2.3.1 Goods description

The goods description provides the authoritative detail regarding the particulars of the goods the subject of this investigation.

The goods the subject of the application is:

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.

#### 2.3.2 Tariff classification

The goods are classified to the tariff subheadings found in Schedule 3 to the *Customs Tariff Act 1995* and described in Table 3.



Tariff code	Description		
<b>2008</b>	<b>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:</b>		
<b>2008.20.00</b>	<b>Pineapples</b>		
		Unit	Description
<b>Statistical code</b>	<b>27</b>	Litre (L)	Canned, in containers exceeding 1 L
	<b>28</b>	kilogram (kg)	Other

**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.

## **2.4 Like goods in Australia**

### **2.4.1 Policy framework for assessing like goods**

The commission has identified that the goods produced and sold by exporters from Thailand are like goods to the goods produced and sold by the Australian industry.<sup>33</sup>

Where the Australian produced goods and the imported goods are not alike in all respects, the Commissioner assesses whether each has characteristics that closely resemble each other.

These characteristics are:

- a. physical likeness
- b. commercial likeness
- c. functional likeness
- d. production likeness

The commission's *Dumping and Subsidy Manual* (December 2021) (the Manual) provides further information about the like goods assessment at chapter 2.<sup>34</sup>

### **2.4.2 Physical likeness**

The goods produced in Thailand and the locally produced like goods consist of:

- cut pineapple fruit in a packing medium, typically of juice or syrup
- in containers exceeding 1 L.

The commission observed that the imported goods from Thailand have the same or similar physical attributes to the FSI pineapple produced by GCL (noting only minor variations in packaging and labelling).

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<sup>33</sup> This investigation has reached the same conclusion as prior investigations into FSI pineapple from Thailand. For example, [Anti-Dumping Commission Report No 573 and 574](#) published on 6 September 2021.

<sup>34</sup> [The Manual](#), p.10

### 2.4.3 Commercial likeness

The goods produced in Thailand and locally produced like goods are sold to distributors or into the same market segments. The commission's analysis has revealed that the locally produced goods and imported goods from Thailand are sold to the same or similar customers.

### 2.4.4 Functional likeness

The imported and locally produced like goods are foodstuffs intended for consumption. The imported and locally produced goods are functionally alike as they have the same end uses and/or are substitutable.

### 2.4.5 Production likeness

The manufacturing process for imported and locally produced goods is similar, as are the raw materials (e.g. fresh pineapple fruit, packing mediums and containers).

## 2.5 Model control code

### 2.5.1 Background

The commission uses a Model Control Code (MCC) structure to identify key physical characteristics of the goods and like goods that are:

- produced and sold in Australia
- exported to Australia and
- sold domestically in the country of export.

The MCC is used to model match the goods and like goods for dumping margin calculations and to compare the goods and like goods exported to, and sold in, Australia<sup>35</sup>.

### 2.5.2 Proposed MCC structure at initiation

The commission proposed an MCC structure at the initiation of this investigation. ADN 2023/047 explains the details of this structure.

### 2.5.3 Changes to the MCC structure

The commission has amended the proposed MCC structure that was published in ADN 2023/047.

These changes were made to the relevant data sets submitted by interested parties to this investigation. The revised MCC structure used in this investigation is described in Table 4.

### Category 2 – Pineapple cut

The commission identified that the MCC category 'pineapple cut' is the most influential physical characteristic of demand in the Australian FSI pineapple market.

The commission has changed MCC category 2 – 'Pineapple cut'. The change removes the distinction between 'tidbits', 'pieces' and 'pizza cut' to describe 'tidbits' only.

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<sup>35</sup> Guidance on the commission's approach to model matching is in the Manual.

## PUBLIC RECORD

The terms ‘tidbits’, ‘pieces’ and ‘pizza cut’ are used interchangeably by exporters and their customers (in Australia and Thailand). The interchangeable use of the terms was observed in product specification documents, brochures, purchase orders, contracts, and invoices (in the same transaction).

The information and evidence show that the pineapple cut size for either description 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 an industry term used by customers and manufacturers and not a description of a particular physical characteristic that influences price.

### Category 3 – Container type

Additional container types have been included in MCC category 3 – ‘Container type’.

Exporters sell like goods in tin cans, but also use the following container types:

- pouch
- aseptic bag (packaged in a carton)
- aseptic bag (packaged in a drum).

### Category 5 – Packing medium

An additional packing medium has been included in MCC category 5 – ‘Packing medium’.

Exporters also use water as a packing medium.

## 2.5.4 Revised MCC structure

Table 3 shows the revised MCC structure used in this investigation.

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		
	Tidbits (incl. pieces and pizza cut)	TB		
	Sliced	SL		
	Thin slice	TH		
<b>Container type</b>	Tin can	T	Mandatory	Mandatory
	Pouch	P		
	Aseptic bag (in a carton)	AB		
	Aseptic bag (in a drum)	ABD		
<b>Container size</b>	Provide container size in net weight (grams)	e.g., ‘1250’	Mandatory	Mandatory

	Water	W		
	Light syrup	LS		
<b>Packing medium</b>	Heavy syrup	HS	Mandatory	Mandatory
	Natural juice (sweetened)	NJS		
	Natural juice (unsweetened)	NJU		

**Table 4: Revised MCC structure**

## 2.6 MCC identified for interested parties

### 2.6.1 Background

The commission used an MCC structure for the interested parties who submitted questionnaire responses for this investigation. This MCC structure was identified via verification of the interested party response and ongoing assessment of the data submitted during the investigation.

Additional changes (other than those explained at chapter 2.5.3) to the MCC structure that was previously published in a verification report have been explained below.

### 2.6.2 GCL – Australian industry

There are no changes to the MCC structure published in GCL’s verification report.<sup>36</sup> GCL self-produced 1 MCC in the investigation period and imported 8 MCCs. This is summarised in Table 5.

Source	Australian sales	Australian CTM <sup>37</sup>
Self-produced	P-TH-T-3200-HS	TH-T-3200-HS
Imported	P-CH-T-3000-LS	P-TB-P-1500-NJU
	P-CR-T-3000-HS	P-TB-T-3000-LS
	P-CR-T-3000-NJU	P-TB-T-3000-NJU
	P-SL-T-3000-LS	
	P-SL-T-3000-NJU	

**Table 5: MCCs sold by GCL**

### 2.6.3 FTA – importer

The commission verified the MCCs sold by FTA. The commission identified some MCC subcategory errors after publication of FTA’s verification report<sup>38</sup> on the EPR. The commission identified that FTA imported and sold thin slice (TH) pineapple cut in the investigation period.

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<sup>36</sup> EPR 628 – [document 17](#).

<sup>37</sup> Cost to make.

<sup>38</sup> EPR 628 – [document 18](#).

**PUBLIC RECORD**

The commission also recategorised the “hand-cut (HC)” pineapple cut as a tidbit (TB), noting that hand-cut is a production process, not a physical characteristic of the goods.

After these amendments, FTA imported 12 MCCs in the investigation period. The revised MCC list for FTA is at Table 6.

Source	Australian sales		
Imported	P-SL-T-3035-LS	P-TB-T-3035-LS	N-TB-T-3035-LS
	P-SL-T-3060-LS	P-TB-T-3050-LS	
	P-CR-T-3060-NJU	P-TB-T-3060-HS	
	*P-TH-T-3060-HS	P-TB-T-3060-LS	
		P-TB-T-3050-NJU	
		P-TB-P-3050-LS	
		P-TB-P-1500-LS	
		P-TB-D-200000-LS	

**Table 6: MCCs sold by FTA (\*TH import MCC added)**

**2.6.4 Bidfood – importer**

The commission verified the MCCs sold by Bidfood. The commission identified an MCC subcategory error after publication of Bidfood’s verification report<sup>39</sup> on the EPR. The commission identified that Bidfood imported and sold chunk (CH) pineapple cut in the investigation period (not pieces (PC) as originally published in the Bidfood verification report).

Bidfood imported 4 MCCs in the investigation period.

Source	Australian sales	
Imported	P-TB-T-3060-LS	*P-CH-T-3060-LS
	P-SL-T-3060-LS	P-TH-T-3060-LS

**Table 7: MCCs sold by Bidfood (\*CH import MCC added)**

**2.6.5 Juremont – importer**

Juremont imported 1 MCC in the investigation period. This MCC is P-TB-T-3062-HS.

**2.6.6 KFC – exporter**

The commission verified the MCCs sold by KFC. An MCC subcategory error was identified after KFC’s verification report<sup>40</sup> was published on the EPR. KFC exported pineapple cut TH to Australia but did not sell this product type domestically in Thailand.

The revised MCC list for KFC is at Table 8. These MCCs were used to calculate KFC’s export price, normal value and dumping margin at chapter 6.

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<sup>39</sup> EPR 628 – [document 16](#).

<sup>40</sup> EPR 628 – [document 14](#).

**PUBLIC RECORD**

Australian Sales	Australian CTM	Domestic Sales	Domestic CTM
P-TB-T-3060-LS	TB-T-3060-LS	P-TB-T-3060-LS	TB-T-3060-LS
P-TB-T-3000-LS	TB-T-3000-LS	P-TB-P-3000-LS	TB-P-3000-LS
P-CR-AB-23000-NJU	CR-AB-23000-NJU	-	CR-AB-23000-NJU
P-SL-T-3060-LS	SL-T-3060-LS	-	SL-T-3060-LS
P-CH-T-3060-LS	CH-T-3060-LS	-	-
P-CR-T-3060-NJU	CR-T-3060-NJU	-	-
P-CR-ABD-210000-NJU	CR-ABD-210000-NJU	-	-
*P-TH-T-3060-LS	*TH-T-3060-LS		
-	-	P-CR-T-3010-NJU	CR-T-3010-NJU
-	-	P-CH-T-3000-W	CH-T-3000-W
-	-	P-SL-T-3035-HS	SL-T-3035-HS
-	-	N-TB-T-3060-HS	TB-T-3060-HS

**Table 8: MCCs sold by KFC (\*TH export MCC added)**

**2.6.7 Siam (2513) – exporter**

The commission verified the MCCs sold by Siam (2513) at Table 9. These MCCs were used to calculate Siam (2513)'s export price, normal value and dumping margin at chapter 7.

No changes were made to the MCC structure published in the verification file note<sup>41</sup> for Siam (2513).

Australian Sales	Australian CTM	Domestic Sales	Domestic CTM
P-CH-T-3060-LS	CH-T-3060-LS	<i>Nil – Siam (2513) did not make and sell the goods domestically in the investigation period.</i>	
P-SL-T-3060-LS	SL-T-3060-LS		

**Table 9: MCCs sold by Siam (2513)**

**2.6.8 DTL – exporter**

The commission verified the MCCs sold by DTL at Table 10. These MCCs were used to calculate DTL's export price, normal value and dumping margin at chapter 8.

No changes were made to the MCC structure published in the verification file note<sup>42</sup> for DTL.

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<sup>41</sup> EPR 628 – [document 24](#).

<sup>42</sup> EPR 628 – [document 19](#).

**PUBLIC RECORD**

<b>Australian Sales</b> Dole → DAH <sup>43</sup> → Australian importer	<b>Australian CTM</b>	<b>Domestic Sales</b> Dole → TAF	<b>Domestic CTM</b>	<b>Domestic Sales</b> TAF → market
P-TB-T-3062-HS	TB-T-3062-HS	P-TB-T-3062-HS	TB-T-3062-HS	
-	-	P-CH-T-3062-W	CH-T-3062-W	P-CH-T-3062-W
-	-	P-TB-T-3062-LS	TB-T-3062-LS	P-TB-T-3062-LS
-	-	P-TB-P-2835-LS	-	-
-	-	P-TB-P-10000-LS	-	-
-	-	P-CR-AB-22712-NJU	-	-

**Table 10: MCCs sold by DTL**

### 2.6.9 PPI – exporter

The commission verified the MCCs sold by PPI at Table 11. These MCCs were used to calculate PPI's export price, normal value and dumping margin at chapter 9.

No changes were made to the MCC structure published in the verification file note<sup>44</sup> for PPI.

<b>Australian Sales</b>	<b>Australian CTM</b>	<b>Domestic Sales</b>	<b>Domestic CTM</b>
P-TB-T-3060-LS	TB-T-3060-LS	P-TB-T-3060-LS	T-3060-LS/HS
P-TB-T-3060-NJU	T-3060-NJU	-	-
P-TB-ABD-200000-LS	TB-ABD-200000-LS		
P-SL-T-3060-LS	T-3060-LS/HS	-	-
P-TB-T-3060-HS	T-3060-LS/HS	-	-
P-TH-T-3060-HS	T-3060-LS/HS	-	-
P-TH-T-3060-LS	T-3060-LS/HS	-	-

**Table 11: MCCs sold by PPI**

<sup>43</sup> Dole Asia Holdings Pte. Ltd, a related party intermediary.

<sup>44</sup> EPR 628 – [document 23](#).

## 3 THE AUSTRALIAN INDUSTRY

### 3.1 Findings

The Commissioner is satisfied that there is an Australian industry, consisting solely of GCL, producing like goods, and that the like goods are wholly or partly manufactured in Australia.

### 3.2 Legislative framework

The Commissioner must be satisfied that the 'like' goods are produced in Australia. Sections 269T(2) and 269T(3) specify that for goods to be regarded as being produced in Australia, they must be wholly or partly manufactured in Australia. 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.

### 3.3 Australian industry

#### 3.3.1 Summary

The commission verified that GCL's self-produced FSI pineapple is like to the goods subject to the application.<sup>45</sup> For GCL's self-produced FSI pineapple:

- At least one substantial process of manufacture is carried out in Australia.<sup>46</sup>
- The like goods were, therefore, wholly, or partly manufactured in Australia by GCL.<sup>47</sup>
- There is an Australian industry, consisting of GCL, which produces like goods in Australia.<sup>48</sup>

For the avoidance of doubt, the commission does not consider GCL's imported goods as part of the Australian industry for like goods, as these imported goods are not manufactured in Australia.

#### 3.3.2 Corporate structure and history

GCL began as a grower cooperative in the 1940s with the pineapple cannery starting production in Northgate, Queensland (QLD) in 1947. Initially producing around 40,000 tonnes of canned pineapple annually, in addition to some canned fruit salad, tropical fruit chutneys and fruit juice cordials, the Northgate cannery now produces over 150,000 tonnes per year of canned pineapple, fruit juices and cordials.<sup>49</sup>

GCL was acquired in 2008 by what became Kraft Heinz Australia Pty Ltd (KHC).

GCL is a wholly owned subsidiary of H.J. Heinz Company Australia Limited (HJH). HJH is also a part of KHC.

GCL is one of many food and beverage brands sold by KHC in Australia and New Zealand.

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<sup>45</sup> Section 269T(1).

<sup>46</sup> Section 269T(3).

<sup>47</sup> Section 269T(2).

<sup>48</sup> Section 269T(4).

<sup>49</sup> <https://www.goldencircle.com.au/our-story>



### **3.3.3 FSI pineapple manufacture in Australia**

GCL is the sole Australian manufacturer of FSI pineapple in Australia. GCL's self-produced FSI pineapple is manufactured at GCL's factory in Brisbane.

GCL's self-produced FSI pineapple is branded *Golden Circle Australian Pineapple*.

GCL is also an importer of FSI pineapple from Indonesia and Thailand. GCL's imported goods are branded *Golden Circle Tropical Pineapple*.

## **3.4 Production process**

The commission conducted a verification site visit and observed GCL's canned pineapple production.<sup>50</sup>

The commission confirmed the process summarised by GCL in its application<sup>51</sup> which is described below and at Figure 1.

- Pineapple fruit is delivered from Australian pineapple growers to GCL, organised for processing into cut pineapple (slices, pieces, thins, crushed or juice) and assessed for suitability for processing as canned pineapple
- Suitable pineapple fruit is moved onto conveyor belts and then into machinery for skin removal
- The pineapple fruit is grouped into a long cylinder (slug) and processed again to remove any remaining pineapple skin, before it is cut into slices and thins of pineapple
- The fruit retains its core throughout the cutting process
- Pineapple skin offcuts are removed for use as scrap
- The quality of the pineapple slices is confirmed through an examination of the slices as they move out of the machine
- Slices that do not meet the required standard are removed
- Pineapple fruit that is unsuitable for canning is used for further processing as crushed or juiced pineapple products<sup>52</sup>
- FSI pineapple is packed into cans (of a size above 1kg) with a packing medium
- After canning, the tins of pineapple are placed into a pressure cooker and left to cool prior to packaging the tins with GCL branding according to cut, net weight, packing medium and place of production
- The finished goods are placed into pallets and wrapped with plastic film to be stored in the production facility prior to warehousing.

The diagram at Figure 1 explains the process steps explained above.

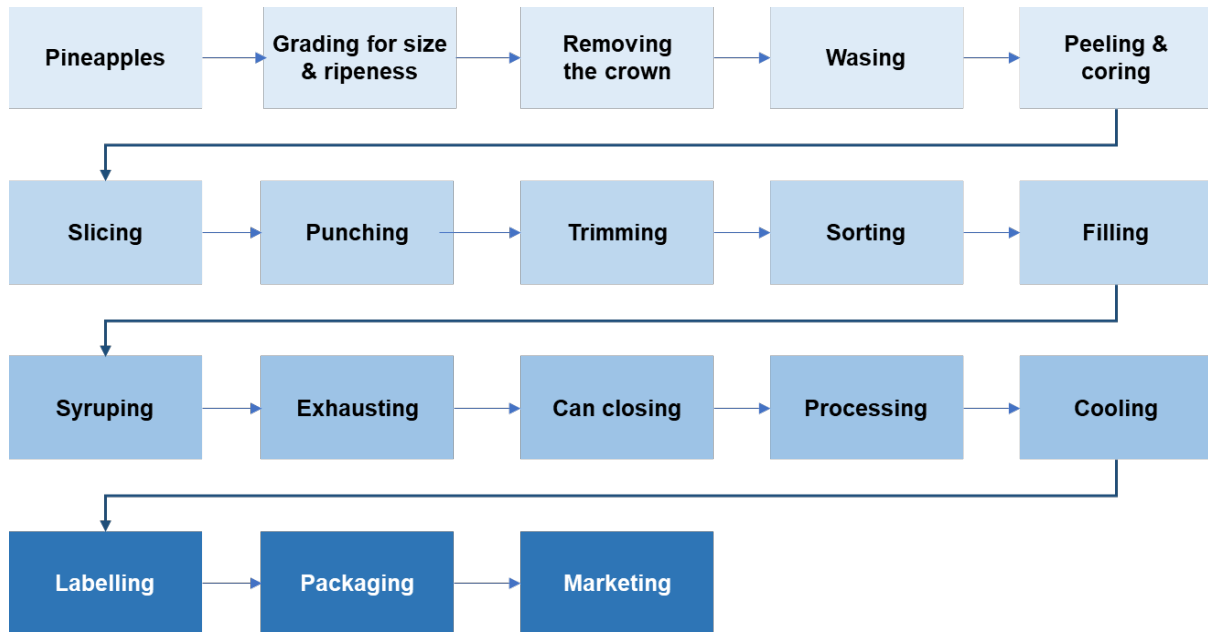
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<sup>50</sup> On the day of the site visit, GCL produced pineapple in containers less than 1L (consumer pineapple) via a similar process.

<sup>51</sup> EPR 628 – [document 1](#).

<sup>52</sup> The commission did not identify any self-produced crushed FSI pineapple in the investigation period.

**PUBLIC RECORD**



**Figure 1: Production process steps for FSI pineapple**

## 4 AUSTRALIAN MARKET

### 4.1 Findings

The Commissioner finds that there is an FSI pineapple market in Australia. The Australian market is supplied by GCL (the Australian industry) and imports from Thailand and several other countries.

GCL sells almost exclusively to distributors in Australia. Therefore, GCL directly competes with importers that also sell to distributors.

These distributors resell the goods to the downstream market of end users. There are importers of the goods that almost exclusively sell to end users. Therefore, GCL's goods compete with imported goods in the downstream market, but GCL does not directly compete with these importers.

### 4.2 Market structure

The commission's assessment of the Australian FSI pineapple market is at **Confidential attachment 1**.

The Australian FSI pineapple market is supplied by GCL and imports from:

- Thailand
- Indonesia
- the Republic of the Philippines
- the Socialist Republic of Vietnam
- other countries.<sup>53</sup>

The commission estimates that approximately half of all FSI pineapple imports to Australia were from importers who participated in this investigation and imported from Indonesia<sup>54</sup> and Thailand. These importers are:

- GCL – importing from Thailand and Indonesia
- FTA – importing from Thailand and Indonesia
- Bidfood – importing from Thailand
- Juremont – importing from Thailand.

Each of these entities are sellers of FSI pineapple in Australia.

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<sup>53</sup> These other countries represent less than 1% of total Australian imports of FSI pineapple in the investigation period.

<sup>54</sup> As previously outlined, Indonesia was a subject country of this investigation, however the Commissioner terminated the investigation due to no or negligible dumping margins and volumes. Refer to chapter 1.4.9.





### Retail

Physical shop front or online sales of the goods direct to end users (either to individuals or the other end user market segments).

e.g. factory sales outlet

### End users

End users consume the pineapple. The end users use FSI pineapple as an ingredient to produce a separate food product that is to be consumed by individuals. The end user market segment can be classified as captive food service, commercial food service and commercial industrial.



### Captive food service

The goods are purchased as an ingredient in meal preparation for consumption by individuals in the same facility/location. The meal is part of a package or service offering.

e.g. aged care facilities, hospitals, boarding schools, or Australian Defence Force post locations. Outsourced catering management companies operate in this sector and service multiple individual locations.



### Commercial food service

The goods are purchased as an ingredient in meal/food preparation for direct consumption by customers, for a fee.

e.g. cafes, restaurants, quick service restaurants (QSRs), shop front bakeries. Outsourced catering management companies operate in this sector and service multiple individual locations.



### Commercial industrial

The goods are purchased as an ingredient in the manufacture of a packaged food product that is sold via retailers or to the captive and commercial food service sectors for consumption.

e.g. manufacturers of frozen pizza and readymade meals, meals on wheels, meal-kit subscription providers or supermarket bakery goods.

Buying groups are also present among these market segments, who operate on behalf of smaller distributors, and end users. These buying groups maximise the combined purchasing power of their smaller members to decrease the price and increase access to FSI pineapple.

### 4.2.2 Market segment size and influence

The commission considers that the distribution market segment has the greatest impact in the Australian market, when compared to the other market segments in the investigation period.

**PUBLIC RECORD**

There are a relatively small number of distributors, but they play a significant role in buying and then reselling FSI pineapple in Australia.

GCL and FTA sell FSI pineapple almost exclusively to distributors.

Bidfood import FSI pineapple and buy the goods from GCL, FTA and other importers. Bidfood sell these goods to each downstream market segment described above at chapter 4.2.1.

Juremont sells FSI pineapple to the commercial industrial market segment only.

The verified sales records of GCL, FTA, Bidfood together with sales data from Juremont account for a large proportion of the Australian FSI pineapple market in the investigation period.<sup>56</sup>

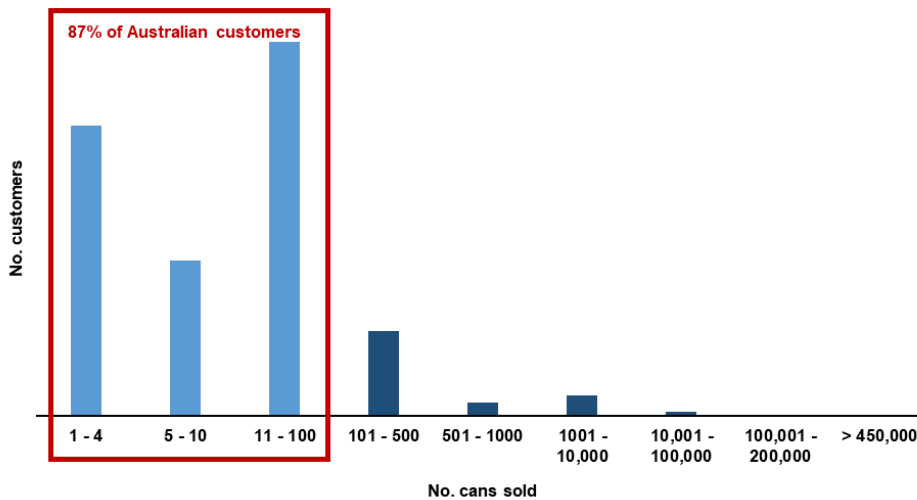
**4.3 Demand**

**4.3.1 Consumption**

The commission examined the sales data provided by GCL and participating importers.<sup>57</sup> Based on this data, the customer base in the Australian FSI pineapple market consists predominantly of small distributors and end users that purchased between 1 and 100 cans in the investigation period.

In approximate consumption terms, these smaller customers consume (or resell) 2 or less cans of FSI pineapple per week, whereas the larger customers consume (or resell) between 2,500 and 8,500 cans per week.

**Customer purchasing distribution**



**Figure 3: Customer purchasing distribution**

Approximately 87% of the customers for FSI pineapple are these small customers that purchase between 1 – 100 cans annually. Most of these small customers are commercial food service

<sup>56</sup> The commission noted at chapter 4.2 that approximately half of all FSI pineapple imports to Australia were from importers who participated in this investigation and imported from Indonesia and Thailand. The Australian sales data also includes sales of FSI pineapple that was imported from non-subject countries.

<sup>57</sup> Confidential attachment 1 – Australian market.

customers. Demand for FSI pineapple for small customers can be characterised as infrequent and sometimes sporadic.

In contrast, Quick Service Restaurants (QSRs) also operate in the commercial food service market segment, but these customers consumed more than 100 cans of FSI pineapple in the investigation period. Demand for FSI pineapple is consistent and for the larger QSR consumers it is highly predictable.

### 4.3.2 Seasonality

In Australia, consumption, and demand for FSI pineapple peaks in the summer season and particularly around the Christmas and New Year period. This demand aligns with the peak harvest season of fresh pineapple in Australia and the winter harvest in Thailand.

Imports and sales volume also increase to meet this seasonal demand and fresh fruit availability for canning and distribution. Figure 4 demonstrates this seasonality.

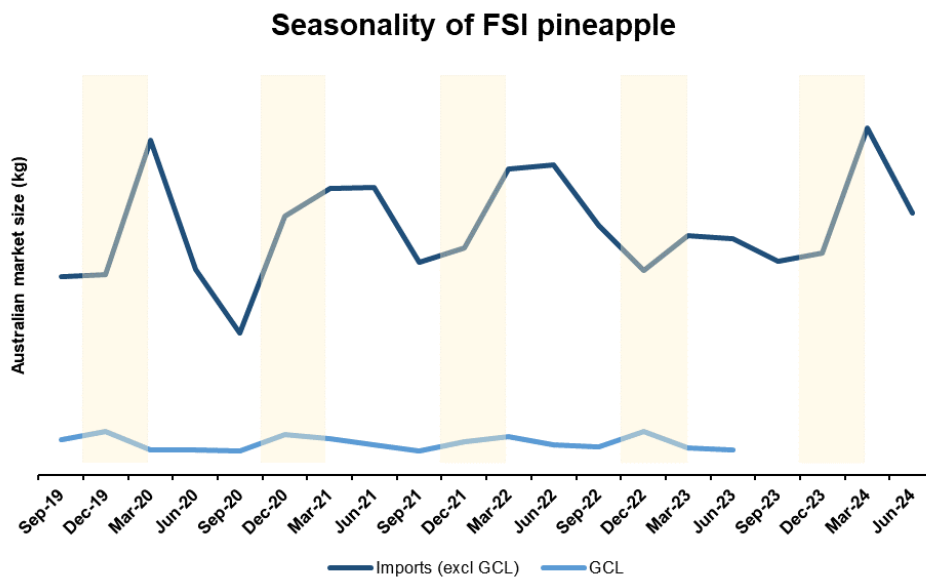


Figure 4: Seasonality of all FSI pineapple

The commission's analysis also indicates that FSI pineapple price is affected by this seasonality of availability and demand. Price tends to peak and trough in the same period.

## 4.4 Competition

### 4.4.1 Supply and distribution = competition

The verified sales records of GCL, FTA, Bidfood and Juremont account for a large proportion of the Australian FSI pineapple market in the investigation period. Using this data, the commission has identified that an important element of competition in the Australian FSI pineapple market is the seller's distribution model. This is relevant to the commission's assessment of whether the dumping of FSI pineapple from Thailand has caused or will cause or threatens to cause injury to GCL (refer Chapters 13 and 14 in this report).

## PUBLIC RECORD

Competition occurs:

- directly between GCL and importers that sell to distributors
- downstream with product competition in the captive food service, commercial food service and commercial industrial segments of the Australian FSI pineapple market.

The seller's distribution model can have an impact on competition.

GCL, FTA, Bidfood and Juremont are themselves distributors of FSI pineapple (see definition at chapter 4.2.1). In this sense, they are competitors that compete for customers in Australia. However, these entities do not have the same distribution model (as outlined below), and this changes the competition dynamic.

GCL's FSI pineapple (self-produced and imported) is sold by KHC (the selling arm for the group) along with a range of Kraft Heinz and Watties brand products (which includes non-subject goods) to distributors. GCL's market segment is almost exclusively distributors.

FTA is an importer and seller of its own private label brand "John Bull/Selesta". FTA does not buy other brands in Australia to resell. FTA primarily sells to distributors, but also sells FSI pineapple directly to a small number of end users in the commercial food service and commercial industrial market segments.

Direct competition with GCL occurs with importers with similar distribution models, such as FTA. GCL and FTA have common distributor customers, as these distributors will typically buy a range of brands to resell in Australia. An example of a distributor of both GCL and FTA is Bidfood.

Bidfood is an importer and seller of its own private label brand "Dewfresh". It also buys other brands (imported and manufactured in Australia) in Australia to resell. Those brands include 'Golden Circle', 'John Bull', 'SPC', 'Riviana' and 'Sandhurst'. Bidfood's primary market segments are the end users in commercial food service and captive food service, accounting for approximately 94% of its sales.

For importers and distributors in Australia that buy and resell multiple brands of FSI pineapple, downstream competition occurs with GCL's products (i.e. Golden Circle brand thin slice competes with Dewfresh or Riviana branded thin slice), but GCL is not directly involved in this competition.

The commission considers that the downstream competition factors that can be influenced by GCL are accounted for in its price to its direct distribution customers. This applies to any seller in the supply chain. For example, price negotiations between GCL and a distributor customer will factor in the distributor's resale price of FSI pineapple to end users.

### 4.4.2 Brand

The commission's analysis of the available sales data shows that brand can be an important factor for customers. While some distributors purchase GCL's brand exclusively, some other distributors will stock multiple brands for selection by end users in the downstream market.

The commission identified that 95% of Australian customers in the investigation period purchased either 1 or 2 brands of FSI pineapple.

Conversely, large, and very large end user customers in the commercial food service and commercial industrial market segments are unlikely to have brand loyalty to the same degree.



These customers will select a supplier with a favourable price (if the product meets the required availability for their high demand, specification, and distribution needs).

#### **4.4.3 Product substitution**

Thin slice FSI pineapple is substitutable with sliced FSI pineapple, therefore thin slice FSI pineapple competes with sliced FSI pineapple. There is no evidence to suggest that other pineapple cuts are substitutable for thin slice or sliced FSI pineapple.

The commission's analysis of the available sales data identified there are 5 FSI pineapple cuts sold in the Australian FSI pineapple market. These are:

- chunks
- tidbits
- crushed
- sliced
- thin slice

In the investigation period, the entire range of 5 FSI pineapple cuts was imported and sold in Australia. These imports originated from Thailand, Indonesia, and non-subject countries. For imports from Thailand, some of these goods are dumped, undumped and some had a negligible dumping margin.

Over the injury analysis period and in the investigation period, GCL self-produced and sold 1 FSI pineapple cut, being thin slice FSI pineapple. GCL also imported and sold chunks, tidbits, crushed and sliced pineapple cuts, which were imported from Thailand and Indonesia.

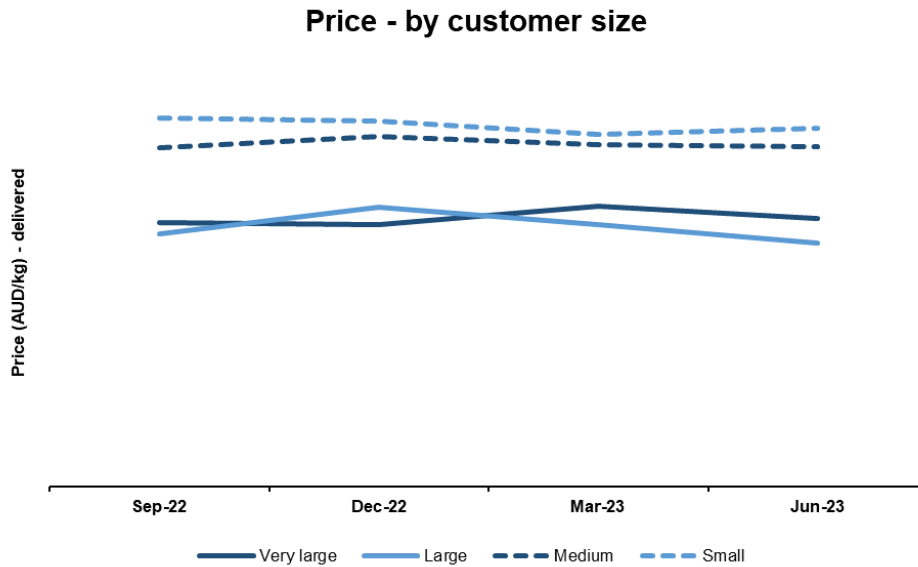
The commission considers that thin slice FSI pineapple can be substituted with sliced FSI pineapple. The commission's analysis at chapter 13.4.4 shows that substitution of thin slice FSI pineapple for sliced FSI pineapple occurred at the start of the injury analysis period for GCL, but not in the investigation period.

GCLs' self-produced thin slice FSI pineapple competes with its own imports of sliced FSI pineapple, and imports of sliced and thin slice FSI pineapple by other importers.

The commission has no evidence before it to suggest that thin slice or sliced FSI pineapple is substitutable for other pineapple cuts.

#### **4.5 Pricing**

FSI pineapple pricing in Australia appears to operate on 2 different levels that are customer size dependent. Figure 5 demonstrates the commission's price analysis, which has been performed on a weighted average basis for all sellers of FSI pineapple and all market segments.



**Figure 5: Price by customer size (all market segments) – all sellers & all FSI pineapple**

The very large and large customers of FSI pineapple can negotiate cheaper prices using their volume requirements, buying power and influence in the market. This is not an unusual scenario in any market.

## 4.6 Market size

The commission estimated the size of the Australian market for FSI pineapple, and the portion of the market for thin slice FSI pineapple (the product that GCL self-produced in the investigation period). Figure 6 was compiled using:

- GCL’s verified sales data for the injury analysis period
- verified exporter data for the investigation period
- data from the ABF import database for the injury analysis period.

The commission’s identification of thin slice pineapple imported in the period July 2019 to June 2022 is somewhat limited due to the different level of detail that importers or their brokers record in the ABF import database. This may affect the reliability of the volume of imports of thin slice FSI pineapple identified for those periods to an extent, however it is unlikely to be material in the context of the overall market for FSI pineapple.

**Market size** (with approximate TH volume)

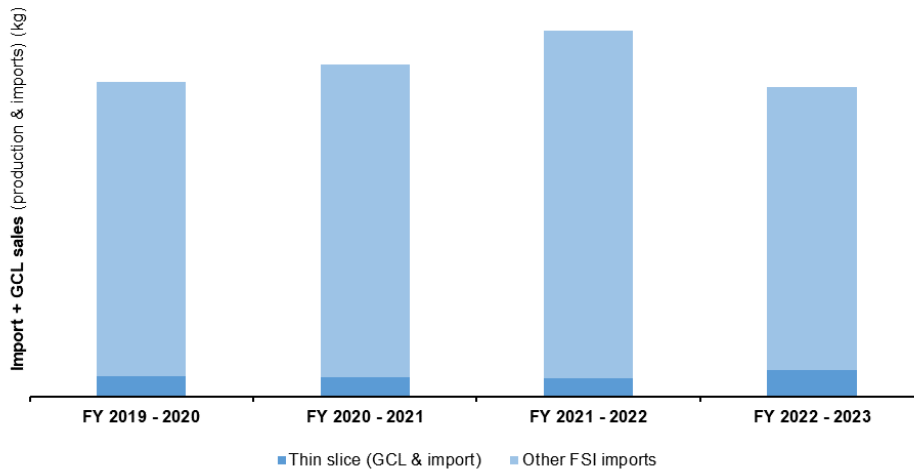


Figure 6: Australian market size<sup>58</sup> (July 2019 – June 2023) – FSI pineapple

Market size index - all FSI (kg)	FY 2019-2020	FY 2020-2021	FY 2021-2022	FY 2022-2023
All sellers	100	105	116	98

Table 12: Market size index – FSI pineapple (kg) – injury analysis period<sup>59</sup>

The size of the Australian market for all FSI pineapple has declined slightly over the injury analysis period (between July 2019 to June 2023), with the biggest decline occurring in the investigation period (FY 2022 - 2023), compared to the previous year.

The increase in the size of the Australian market in FY 2021 - 2022 is unusual when compared to the other FY periods in the injury analysis period. Noting the seasonality demand for FSI pineapple at Figure 4, the commission compared quarterly imports of FSI pineapple to Australia for the FY 2021 – 2022 period (when market size increased) with the prior period July 2020 to June 2021 and the investigation period.

The biggest contributor of the additional volume in Australia was GGP from Indonesia, with imports from Thailand making the second biggest contribution to the Australian market size in the same period.

In the investigation period, import volumes from Indonesia and Thailand returned to approximately the same level as the first year of the injury analysis period in FY 2019 - 2020.

The volume of thin slice FSI pineapple appears to have increased in the investigation period, but overall is a small proportion of the market, at approximately 9%.

The commission’s assessment of the size of the Australian market is at **Confidential attachment 1**.

<sup>58</sup> The commission made a small change to the indices published in GCL’s verification report ([EPR 628 – document 17](#) refers), resulting from an ongoing assessment of the data during the investigation.

<sup>59</sup> A minor change was made to indices in Table 12 following SEF 628. There is no change to Figure 6.

## 5 DUMPING INVESTIGATION FRAMEWORK

### 5.1 Overview of legislative framework

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

In a 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 the goods have been dumped.

### 5.2 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.

#### 5.2.1 Cooperative exporters

The following Thai exporters are considered cooperative exporters. A dumping margin was calculated for each of these exporters using the data each submitted to the commission. Details of the commission's verification and calculations is in the following chapters.

- KFC (Chapter 6)
- Siam (2513) (Chapter 7)
- DTL (Chapter 8)
- PPI (Chapter 9).

#### 5.2.2 Uncooperative exporters

- Natural Fruit
- All other exporters (Chapter 10).

### **5.3 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 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)(i) or (ii) 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, the normal value of the goods cannot be ascertained under section 269TAC(1). 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 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.

### **5.4 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.

### **5.5 Dumping margin – cooperative exporters**

Dumping margins for cooperative exporters 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).

## **5.6 Dumping margin – uncooperative exporters**

Dumping margins for uncooperative exporters are determined under section 269TACAB(1).

This provision specifies that for uncooperative exporters, export prices are calculated according to section 269TAB(3) and normal values are calculated according to section 269TAC(6), being such amounts as is determined by the Minister having regard to all relevant information.

## 6 DUMPING INVESTIGATION – KUIBURI FRUIT CANNING

### 6.1 Findings and determinations

The Commissioner finds that KFC is a cooperative exporter of the goods from Thailand to Australia, during the investigation period.<sup>60</sup>

The Commissioner is satisfied that KFC is the producer of the goods and like goods in Thailand.

The Commissioner has determined KFC's:

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

Table 13 summarises the Commissioner's determinations.

Country	Exporter	Export price	Normal value	Dumping margin
Thailand	Kuiburi Fruit Canning Co Ltd	s. 269TAB(1)(a) s. 269TAB(1)(c)	s. 269TAC(2)(c)	7.1%

**Table 13: Dumping margin and calculation provisions – KFC**

(this is the same information in Table 2)

The Commissioner did not receive submissions from interested parties regarding the commission's data verification and calculation of KFC's dumping margin.

The Commissioner's dumping examination of KFC is set out in this chapter and is the same information published in SEF 628.

### 6.2 Verification

The commission conducted an onsite verification of KFC in Thailand.

The Commissioner found that the information submitted by KFC is complete, accurate and reliable to ascertain the variable factors (export price and normal value) applicable to its exports of like goods from Thailand to Australia.

A report describing the commission's assessment of KFC's REQ, and the verification findings is available on the EPR.<sup>61</sup>

The commission made a change to KFC's dumping margin calculations following publication of its verification report. The commission recategorised KFC's Australian export sales of thin slice in the correct MCC subcategory (see chapter 2.6.6). The revised calculations did not change the dumping margin published in KFC's verification report.

<sup>60</sup> See definition at chapter 5.2.

<sup>61</sup> EPR 628 – [document 14](#).

There are no other changes to the conclusions and variable factor calculations set out in KFC's verification report, and the commission did not receive submissions responding to the assessment of KFC.

## **6.3 Export price**

### **6.3.1 Summary**

The commission identified KFC as the exporter of the goods, and the commission calculated its export price using sections 269TAB(1)(a) and 269TAB(1)(c), at FOB terms.

All of KFC'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 at FOB terms, is at **Confidential attachment 2**.

### **6.3.2 Identifying KFC as the exporter**

The commission identified that KFC was the exporter of the goods, for all its Australian exports from Thailand during the investigation period.<sup>62</sup> KFC:

- is the manufacturer of the goods located in the country of export.
- 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 (for most transactions).

KFC's exports were at free on board (FOB) and free alongside ship (FAS) terms.

### **6.3.3 Arms length assessment**

The commission considers KFC sold the Australian export goods at arms length to its Australian customers.<sup>63</sup>

For KFC'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 evidence demonstrated that KFC:

- sold the Australian export 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.

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<sup>62</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>63</sup> See section 269TAA.



- appeared to genuinely negotiate the price with customers.

#### **6.3.4 Export price calculation**

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

For those export sales that KFC sold directly to Australian importers, the commission has calculated the export price using section 269TAB(1)(a). The export price is the price paid by the importer to the exporter less transport and other costs arising after exportation. The export price was at FOB terms.

For those export sales that KFC sold via an intermediary trader, the commission has calculated the export price using section 269TAB(1)(c). The export price is the price that the Commissioner determined having regard to all the circumstances of the exportation.<sup>64</sup> For these transactions the export price is the price paid by the intermediary trader to KFC. The export price was at FAS terms.

The commission calculated an FOB export price for this transaction by adding an amount for port and handling to the FAS price.

The commission's export price calculation, at FOB terms is at **Confidential attachment 2**.

### **6.4 Normal value**

KFC's normal value was calculated using section 269TAC(2)(c), at FOB terms.

KFC sold like goods domestically to unrelated customers in Thailand. There was an insufficient 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 commission's cost to make and sell (CTMS) calculation is at **Confidential attachment 3**.

The commission's normal value calculation at FOB terms, is at **Confidential attachment 4**.

#### **6.4.1 Domestic arms length assessment**

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

The commission did not identify evidence that demonstrated:

- 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.

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<sup>64</sup> Section 269TE(2) requires the Commissioner (as the decision-maker) to have considerations and make decisions as if the Commissioner were the Minister.

## **6.4.2 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:

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

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

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

The commission tested:

- profitability of KFC'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 KFC had insufficient 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).

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 less than 5% of export sales and therefore was a low volume.

For 6 of the 8 export MCCs, there were no comparable domestic models in OCOT. The domestic MCCs were also not sold consistently in each quarter of the investigation period.

The commission considers that the volume of relevant domestic sales is not large enough to permit a proper comparison (between export and domestic prices) for the purposes of calculating a dumping margin.

The commission's OCOT and sufficiency assessments are at **Confidential attachment 4**.

### **6.4.3 Constructed normal value calculation**

The commission cannot use section 269TAC(1) to calculate KFC's normal value. This is because section 269TAC(2)(a)(i) applies, as KFC does not have a sufficient volume of relevant domestic sales.

In this situation, the commission used section 269TAC(2)(c) to calculate KFC's normal value. This calculation requires an amount for:

- the cost of production of the goods in the country of export
- domestic selling, general and administrative (SG&A) expenses
- domestic profit.

To calculate these amounts, the commission has had regard to the *Customs (International Obligations) Regulation 2015* (Cth) (the Regulation).

#### Australian CTM (packaged goods)

The commission used KFC's Australian CTM as the cost to make the exported goods, because this data satisfied the record keeping requirements of section 43(2) of the Regulation. Specifically, KFC's records:

- are in accordance with generally accepted accounting principles (GAAP) in Thailand, and
- reasonably reflect competitive market costs associated with the production of like goods.

On the assumption that the goods, instead of being exported, were sold for home consumption in the OCOT in the country of export, the commission applied the following amounts.

#### Domestic SG&A expenses

The commission used KFC's domestic SG&A expenses because this data satisfied the record keeping requirements of section 44(2) of the Regulation. Specifically, KFC's records:

- are in accordance with GAAP in Thailand, and
- reasonably reflect the SG&A expenses associated with the sale of the like goods.

#### Domestic profit

KFC had domestic sales in the OCOT, and the commission calculated an amount for profit on these OCOT sales. This profit amount satisfied the requirements of section 45(2) of the Regulation, and it was applied to the KFC normal value calculation.

### **6.4.4 Adjustments**

The commission applied normal value adjustments under section 269TAC(9).

The commission applied the adjustments described in Table 14. These adjustments are necessary to ensure that the normal value, so ascertained, is properly compared with the export price of those goods.

## PUBLIC RECORD

Adjustment Type	Deduction/addition
Export inland transport	Add an amount for export inland transport
Export port and handling charges	Add an amount for port and handling charges
Export credit terms	Add an amount for export credit terms

**Table 14: Summary of adjustments to KFC's normal value**

The commission's normal value calculation at FOB terms, is at **Confidential attachment 4**.

### 6.5 Dumping margin

The dumping margin for the goods exported to Australia by KFC for the investigation period is **7.1%**.

The commission's dumping margin calculation at FOB terms, is at **Confidential attachment 5**.

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

## 7 DUMPING INVESTIGATION – SIAM (2513)

### 7.1 Findings and determinations

The Commissioner finds that Siam (2513) is a cooperative exporter of the goods from Thailand to Australia, during the investigation period.

The Commissioner is satisfied that Siam (2513) did not produce and sell the goods and like goods in Thailand.

The Commissioner has determined Siam (2513)'s:

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

Table 15 summarises the Commissioner's determinations.

Country	Exporter	Export price	Normal value	Dumping margin
Thailand	Siam Food (2513) Company Ltd	s. 269TAB(1)(a)	s. 269TAC(1)	21.5%

**Table 15: Dumping margin and calculation provisions – Siam (2513)**

(this is the same information in Table 2)

The Commissioner did not receive submissions from interested parties regarding the commission's data verification and calculation of Siam (2513)'s dumping margin.

The Commissioner's dumping examination of Siam (2513) is set out in this chapter and is the same information published in SEF 628.

### 7.2 Verification

The Commissioner found that the information submitted by Siam (2513) is complete, accurate and reliable to ascertain the variable factors (export price and normal value) applicable to its exports of like goods from Thailand to Australia.

A file note describing the commission's assessment of Siam (2513)'s REQ, and the verification findings is available on the EPR.<sup>65</sup>

There are no changes to the conclusions and variable factor calculations set out in Siam (2513)'s verification file note and the commission did not receive submissions responding to the assessment of Siam (2513).

### 7.3 Export price

Siam (2513) was identified as the exporter of the goods, and the commission calculated its export price using sections 269TAB(1)(a), at FOB terms.

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<sup>65</sup> EPR 628 – [document 24](#).

## PUBLIC RECORD

All of Siam (2513)'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 6**.

### 7.3.1 Identifying Siam (2513) as the exporter

The commission identified that Siam (2513) was the exporter of the goods, for all its Australian exports from Thailand during the investigation period. Siam (2513):

- is the manufacturer of the goods located in the country of export.
- 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 (for most transactions).

Siam (2513)'s exports were at FOB terms.

### 7.3.2 Arms length assessment

The commission assessed the Australian export transactions between Siam (2513) and its Australian customer are arms length.

The commission examined documents submitted with the REQ and analysed prices, finding that:

- there is no consideration payable other than the price.
- the price is not influenced by a commercial or other relationship.
- there is no reimbursement or compensation paid by the seller or seller's associate to the buyer or buyer's associate.

### 7.3.3 Export price calculation

Siam (2513) exported like goods to an unrelated customer. Exports to Australia were purchased directly by the Australian importer.

The commission used section 269TAB(1)(a) to calculate the export price for Australian exports of the goods by Siam (2513) directly to the Australian importer. The export price is the price paid by the importer to the exporter less transport and other costs arising after exportation.

The commission's export price calculation at FOB terms, is at **Confidential attachment 6**.

## 7.4 Normal value

Siam (2513)'s normal value was calculated using section 269TAC(1), at FOB terms.

Siam (2513) did not make or sell like goods domestically. The commission has identified that there was a sufficient volume of sales of like goods, from other sellers of like goods in Thailand, sold for home consumption in the country of export that were arms length transactions and at prices that were within the OCOT, during the period of investigation.

The commission's CTMS calculation for Siam (2513) is at **Confidential attachment 7**.

The commission's normal value calculation for Siam (2513) is at **Confidential attachment 8**.

### **7.4.1 Domestic arms length assessment**

### **7.4.2 Summary**

Siam (2513) did not sell like goods in the domestic market. An arms length assessment was not performed for Siam (2513).

The commission identified arms length domestic sales by other sellers of like goods in Thailand. The arms length assessment was performed for:

- KFC (chapter 6.4.1)
- DTL (chapter 8.4.2)
- PPI (chapter 9.4.2).

### **7.4.3 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:

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

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

The commission identified that other sellers of like goods in Thailand had arms length domestic sales in the OCOT.

The commission OCOT assessment was performed for:

- KFC (chapter 6.4.2)
- DTL (chapter 8.4.3)
- PPI (chapter 9.4.3).

These domestic arms length sales in the OCOT, by other sellers of like goods in Thailand were used to calculate Siam (2513)'s normal value.

#### Compilation of OCOT sales data

The commission compiled the relevant quarterly OCOT sales of other sellers of like goods in Thailand.

A single MCC was assigned to this data, to preserve the confidentiality of the data submitted by KFC, DTL and PPI, as well as giving Siam (2513) the benefit of reviewing the calculations used to calculate its normal value. The assigned MCC is "P-T-3000-3062" and the sales data included the following information:

- net sales revenue (THB)
- net sales quantity (kg)
- domestic inland transport (THB)
- domestic packaging cost (THB).

**Sufficiency assessment**

The commission identified that there were sufficient domestic OCOT sales from other sellers of like goods in Thailand for comparison with Siam (2513)'s 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 assessing a dumping margin).

The commission assessed the total volume of OCOT 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.

The commission has considered whether each exported MCC was sold on the domestic market and the volume of domestic sales, as shown in Table 16.

<b>Export MCC</b>	<b>OCOT domestic sales?</b>	<b>Treatment of normal value</b>
P-CH-T-3060-LS	N	No domestic sales of P-CH-T-3060-LS. Surrogate model P-T-3000-3062 used, with specification adjustment under section 269TAC(8).
P-SL-T-3060-LS	N	No domestic sales of P-SL-T-3060-LS. Surrogate model P-T-3000-3062 used, with specification adjustment under section 269TAC(8).

**Table 16: Sufficiency or domestic sales volumes and specification adjustments made – Siam (2513)**

**7.4.4 Adjustments**

**Legislative framework**

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

The commission applied the adjustments described in Table 17. These adjustments are necessary to ensure that the normal value, so ascertained, is properly compared with the export price of those goods.

<b>Adjustment Type</b>	<b>Deduction/addition</b>
Domestic inland transport	Deduct an amount for domestic inland transport
Domestic packaging	Deduct an amount for domestic packaging
Domestic credit terms	Deduct an amount for domestic credit
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 17: Summary of adjustments to normal value – Siam (2513)**



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The commission's normal value calculation at FOB terms, is at **Confidential attachment 8**.

### **7.5 Dumping margin**

The dumping margin for the goods exported to Australia by Siam (2513) for the investigation period is **21.5%**.

The commission's dumping margin calculation at FOB terms, is at **Confidential attachment 9**.

The commission calculated Siam (2513)'s dumping margin by comparing weighted average Australian export prices (at FOB terms) to the corresponding weighted average normal values (at FOB terms) for the investigation period under section 269TACB(2)(a).

## 8 DUMPING INVESTIGATION – DOLE THAILAND

### 8.1 Findings and determinations

The Commissioner finds that DTL is a cooperative exporter of the goods from Thailand to Australia, during the investigation period.

The Commissioner is satisfied that DTL is the producer of the goods and like goods in Thailand.

The Commissioner has determined DTL's:

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

Table 18 summarises the Commissioner's determinations.

Country	Exporter	Export price	Normal value	Dumping margin
Thailand	Dole Thailand Ltd	s. 269TAB(1)(c)	s. 269TAC(1)	negative 2.7%

**Table 18: Dumping margin and calculation provisions – DTL**  
(this is the same information in Table 2)

The Commissioner received a submission from DTL, accepting its dumping margin.

The Commissioner's dumping examination of DTL is set out in this chapter and is the same information published in SEF 628.

### 8.2 Verification

The Commissioner found that the information submitted by DTL is complete, accurate and reliable to ascertain the variable factors (export price and normal value) applicable to its exports of like goods from Thailand to Australia.

A file note describing the assessment of DTL's REQ, and the verification findings is available on the EPR.<sup>66</sup>

The commission made a change to DTL's dumping margin calculations following publication of its verification file note. The commission identified that a packaging normal value adjustment was not calculated. The revised dumping margin calculation is published in this report.

There are no other changes to the conclusions and variable factor calculations set out in DTL's verification file note, and the commission did not receive submissions responding to the assessment of DTL.

### 8.3 Export price

DTL was identified as the exporter of the goods, and the commission calculated its export price using section 269TAB(1)(c), at FOB terms.

<sup>66</sup> EPR 628 – [document 19](#).

DTL's exports to Australia were made via a related party intermediary trader, DAH before purchased by the unrelated Australian importer. All transactions in this supply chain in the investigation period were assessed as arms length.

The commission's export price calculation at FOB terms, is at **Confidential attachment 10**.

### **8.3.1 Identifying DTL as the exporter**

The commission identified that DTL was the exporter of the goods, for all its Australian exports from Thailand during the investigation period. DTL:

- is the manufacturer of the goods located in the country of export.
- arranges and pays for export inland transport and port and handling expenses.
- sells the goods to DAH at FOB terms before the goods are on sold by DAH to the Australian importer at FOB terms.
- documents the export supply chain in its sales ledger to recognise both DAH and the Australian importer in the transaction.
- identifies the Australian importer in its invoice to DAH.
- is named as the shipper/exporter on the bill of lading.

DTL's exports were at FOB terms.

### **8.3.2 Arms length assessment**

The commission assessed the Australian export transactions between DTL and DAH (and then DAH to the Australian importer) are arms length.

The commission examined the supply chain and associated documents submitted with the REQ and analysed prices, finding that:

- there is no consideration payable other than the price.
- the price is not influenced by a commercial or other relationship.
- there is no reimbursement or compensation paid by the seller or seller's associate to the buyer or buyer's associate.

### **8.3.3 Export price calculation**

The commission used section 269TAB(1)(c) to calculate the export price for Australian exports of the goods by DTL, via its related intermediary trader, DAH.

The export price is the price that the Commissioner determines having regard to all the circumstances of the exportation. For these transactions the export price is the price paid by DAH to DTL.

The commission's export price calculation at FOB terms, is at **Confidential attachment 10**.

## **8.4 Normal value**

### **8.4.1 Summary**

DTL's normal value was calculated using section 269TAC(1). DTL sold to TAF at ex-works (EXW) terms.

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DTL sold like goods domestically to a related party distributor, Thai-American Food Co., Ltd (TAF). 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 commission's CTMS calculation is at **Confidential attachment 11**.

The commission's normal value calculation at FOB terms, is at **Confidential attachment 12**.

### **8.4.2 Domestic arms length assessment**

The commission identified that domestic sales of like goods by DTL to its related party distributor TAF (and then TAF to unrelated domestic customers) were arms length.

The commission examined the supply chain and associated documents submitted with the REQ and analysed prices, there was 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.

### **8.4.3 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:

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

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

The commission identified that DTL had arms length domestic sales to TAF in the OCOT.

The commission tested:

- profitability of DTL'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 DTL 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

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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 assessing a dumping margin).

The commission assessed the total volume of OCOT 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. The commission compared the volume of each exported MCC was sold on the domestic market and the volume of domestic sales, as shown in Table 19.

Export MCC	OCOT domestic sales?	Treatment of normal value
P-TB-T-3062-HS	Y	Sufficient volume of domestic sales of P-TB-T-3062-HS. No specification adjustments required.

**Table 19: Sufficiency or domestic sales volumes and specification adjustments made - DTL**

**8.4.4 Adjustments**

**Legislative framework**

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

The commission applied the adjustments described in Table 20. These adjustments are necessary to ensure that the normal value, so ascertained, is properly compared with the export price of those goods.

Adjustment Type	Deduction/addition
Domestic credit terms	Deduct an amount for domestic credit
*Domestic packaging	Deduct an amount for domestic packaging
*Export packaging	Add an amount for export packaging
Export inland transport	Add an amount for export inland transport
Export port and handling charges	Add an amount for port and handling charges
Export credit terms	Add an amount for export credit terms
Timing	Add or deduct an amount for timing adjustment

**Table 20: Summary of adjustments to DTL’s normal value**

(\*Packaging adjustment added)

The commission’s OCOT assessment, sufficiency assessment and adjustments are in the normal value calculation at FOB terms, at **Confidential attachment 12**.

**8.5 Dumping margin**

The dumping margin for the goods exported to Australia by DTL for the investigation period is **negative 2.7%**.

The commission’s dumping margin calculation for DTL at FOB terms, is at **Confidential attachment 13**.

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

## 9 DUMPING INVESTIGATION – PRIME PRODUCTS INDUSTRY

### 9.1 Findings

The Commissioner finds that PPI is a cooperative exporter of the goods from Thailand to Australia, during the investigation period.

The Commissioner is satisfied that PPI is the producer of the goods and like goods in Thailand.

The Commissioner has determined PPI's:

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

Table 21 summarises the Commissioner's determinations.

Country	Exporter	Export price	Normal value	Dumping margin
Thailand	Prime Products Industry Co Ltd	s. 269TAB(1)(a)	s. 269TAC(2)(c)	1.1%

**Table 21: Dumping margin and calculation provisions – PPI**  
(this is the same information in Table 2)

The Commissioner did not receive submissions from interested parties regarding the commission's data verification and calculation of PPI's dumping margin.

The Commissioner's dumping examination of PPI is set out in this chapter and is the same information published in SEF 628.

### 9.2 Verification

The Commissioner found that the information submitted by PPI is complete, accurate and reliable to ascertain the variable factors (export price and normal value) applicable to its exports of like goods from Thailand to Australia.

A file note describing the assessment of PPI's REQ, and the verification findings is available on the EPR.<sup>67</sup>

There are no changes to the conclusions and variable factor calculations set out in PPI's verification file note, and the commission did not receive submissions responding to the assessment of PPI.

### 9.3 Export price

PPI was identified as the exporter of the goods, and the commission calculated its export price using sections 269TAB(1)(a), at FOB terms.

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

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<sup>67</sup> EPR 628 – [document 23](#).

The commission's export price calculation at FOB terms, is at **Confidential attachment 14**.

### **9.3.1 Identifying PPI as the exporter**

The commission identified that PPI was the exporter of the goods, for all its Australian exports from Thailand during the investigation period. PPI:

- is the manufacturer of the goods located in the country of export.
- 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 (for most transactions).

PPI's exports were at FOB terms.

### **9.3.2 Arms length assessment**

The commission assessed the Australian export transactions between PPI and its Australian customer are arms length.

The commission examined documents submitted with the REQ and analysed prices, finding that:

- there is no consideration payable other than the price.
- the price is not influenced by a commercial or other relationship.
- there is no reimbursement or compensation paid by the seller or seller's associate to the buyer or buyer's associate.

### **9.3.3 Export price calculation**

PPI exported like goods to an unrelated customer. Exports to Australia were purchased directly by the Australian importer.

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

The commission's export price calculation at FOB terms, is at **Confidential attachment 14**.

## **9.4 Normal value**

### **9.4.1 Summary**

PPI's normal value was calculated using section 269TAC(2)(c), at FOB terms.

PPI sold like goods domestically to unrelated customers in Thailand. There was an insufficient 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 commission's CTMS calculation is at **Confidential attachment 15**.

The commission's normal value calculation at FOB terms, is at **Confidential attachment 16**.

### **9.4.2 Domestic arms length assessment**

The commission identified that the domestic sale of like goods by PPI to an unrelated domestic customer was arms length.

The commission did not identify evidence that demonstrated:

- 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.

### **9.4.3 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:

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

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

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

The commission tested:

- profitability of PPI'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 PPI had insufficient 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 assessing a dumping margin).

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 less than 5% export sales and therefore was a low volume.

The commission considered that the domestic transaction was not comparable to the multiple transactions and MCCs exported to Australia, and that the volume of relevant sales is not large



enough to permit a proper comparison (between export and domestic prices) for calculating a dumping margin.

The commission's OCOT and sufficiency assessments are at **Confidential attachment 16**.

#### **9.4.4 Constructed normal value calculation**

Pursuant to section 269TAC(2)(a)(i), the commission considers that the normal value cannot be ascertained under section 269TAC(1) due to the low volume of relevant domestic sales. Therefore, the commission has calculated PPI's normal value pursuant to 269TAC(2)(c). This calculation requires an amount for:

- the cost of production of the goods in the country of export
- domestic SG&A expenses
- domestic profit.

To calculate these amounts, the commission has had regard to the Regulation.

##### Australian CTM (packaged goods)

The commission used PPI's Australian CTM as the cost to make the exported goods, because this data satisfied the record keeping requirements of section 43(2) of the Regulation. Specifically, PPI's records:

- are in accordance with generally accepted accounting principles (GAAP) in Thailand, and
- reasonably reflect competitive market costs associated with the production of like goods.

On the assumption that the goods, instead of being exported, were sold for home consumption in the OCOT in the country of export, the commission applied the following amounts.

##### Domestic SG&A expenses

The commission used PPI's domestic SG&A expenses because this data satisfied the record keeping requirements of section 44(2) of the Regulation. Specifically, PPI's records:

- are in accordance with generally accepted accounting principles (GAAP) in Thailand, and
- reasonably reflect the administrative, general and selling costs associated with the sale of the like goods.

##### Domestic profit

PPI had a domestic sale in the OCOT, and the commission calculated an amount for profit on that OCOT sale. This profit amount satisfied the requirements of 45(2) of the Regulation and it was applied to PPI's normal value calculation.

#### **9.4.5 Adjustments**

The commission applied normal value adjustments under section 269TAC(9).

The commission applied the adjustments described in Table 22. 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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Adjustment Type	Deduction/addition
Export inland transport	Add an amount for export inland transport
Export port and handling charges	Add an amount for port and handling charges
Export credit terms	Add an amount for export credit terms

Table 22: Summary of adjustments to PPI's normal value

The commission's normal value calculation at FOB terms, is at **Confidential attachment 16**.

### 9.5 Dumping margin

The dumping margin for the goods exported to Australia by PPI for the investigation period is **1.1%**.

The commission's dumping margin calculation at FOB terms, is at **Confidential attachment 17**.

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

## 10 DUMPING CALCULATION – UNCOOPERATIVE EXPORTERS

### 10.1 Findings and determinations

The Commissioner finds that there are other producers of the goods in Thailand, during the investigation period and that these producers are uncooperative exporters because the Commissioner is satisfied that all other exporters did not provide information that the Commissioner considers to be relevant to the investigation within a period the Commissioner considered to be reasonable.

The Commissioner has determined uncooperative exporters':

- export price under section 269TAB(3)
- normal value under section 269TAC(6)
- dumping margin under section 269TACB(2)(a).

Table 23 summarises the Commissioner's determinations.

Country	Exporter	Export price	Normal value	Dumping margin
Thailand	Uncooperative exporters	s. 269TAB(3)	s. 269TAC(6)	30.9%

**Table 23: Dumping margin and calculation provisions – Uncooperative & all other exporters**  
(this is the same information in Table 2)

The Commissioner did not receive submissions from interested parties regarding the dumping margin calculation for uncooperative exporters.

The Commissioner's dumping examination of uncooperative exporters is set out in this chapter and is the same information published in SEF 628.

### 10.2 Identity of other producers of the goods in Thailand

The commission identified:

- other producers of the goods in Thailand, through desktop research.
- other exporters (other than KFC, DTL, Siam (2513), PPI, Natural Fruit) of the goods from Thailand to Australia during the investigation period, using the ABF import database.

The Commissioner has found these other exporters and Natural Fruit are uncooperative exporters.

The commission's assessment is at **Confidential attachment 18**.

### 10.3 Export price

The commission has used section 269TAB(3) to calculate the export price for uncooperative exporters, at FOB terms.

Section 269TACAB(1) states that the export price for uncooperative exporters is to be worked out under section 269TAB(3), having regard to all relevant information.

As uncooperative exporters did not provide relevant data to the commission during this investigation, the commission has had regard to export price information submitted by the cooperating exporters in this investigation.

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There were several MCCs exported to Australia in the investigation period. The commission identified the lowest quarterly export price per MCC, per exporter for the investigation period.

These prices were the inputs to calculate a weighted average export price calculation for the range of MCCs exported to Australia in the investigation period.

The commission considers that this export price demonstrates a price at which an uncooperative exporter may export like goods to Australia, considering the price variations from different MCCs.

The commission's export calculations at FOB terms, are at **Confidential attachment 18**.

### 10.4 Normal value

The commission has used section 269TAC(6) to calculate the normal value for uncooperative exporters, at FOB terms.

Section 269TACAB(1) states that the normal value for uncooperative exporters is to be worked out under section 269TAC(6), having regard to all relevant information.

The commission's preference is to use the relevant normal value information submitted by the cooperating exporters in this investigation.

There were several corresponding normal value MCCs in the investigation period. The commission identified the highest quarterly normal value per MCC, per exporter for the investigation period.

These normal values were the inputs to calculate a weighted average normal value calculation for the investigation period.

The commission's normal value calculations at FOB terms, are at **Confidential attachment 18**.

### 10.5 Dumping margin

The dumping margin for uncooperative exporters from Thailand is **30.9%**.

The commission's dumping margin calculations at FOB terms, are at **Confidential attachment 18**.

The commission calculated the dumping margin for uncooperative exporters from Thailand, by comparing weighted average Australian export prices (at FOB terms) to the corresponding weighted average normal values (at FOB terms) for the investigation period under section 269TACB(2)(a).

## 11 UNSUPPRESSED SELLING AND NON-INJURIOUS PRICE

### 11.1 Non-injurious price

Section 269TACA defines the NIP as ‘the minimum price necessary to prevent the injury, or a recurrence of the injury’ caused by the dumped goods, the subject of a dumping duty notice.

In this investigation, the Commissioner is not recommending that the goods are subject to a dumping duty notice, and so the NIP will not be used to assess if a lesser amount of duty will remedy the injury caused by dumping.

The NIP (and the USP) can also be used by the commission to examine what prices might be possible in a market that is unaffected by dumping (as a counterfactual analysis). Used in this way, the NIP is a tool to assist the commission identify if dumping has caused or will cause material injury to the Australian industry.

The legislation does not prescribe a calculation method for the NIP. The commission generally derives the NIP by first establishing the USP.

The USP is a price that the Australian industry might reasonably sell its product in a market unaffected by dumping.<sup>68</sup> The commission then deducts costs incurred in getting the goods from the export FOB point (or another point if appropriate) to the relevant level of trade in Australia from the USP. The deductions normally include overseas freight, insurance, into store costs and amounts for importer expenses and profit.

### 11.2 USP calculation method

The commission’s preferred approaches for establishing the USP for the goods is one of the following methods, as set out in the manual:

- use industry selling prices at a time unaffected by dumping
- construct an Australian industry price based on the industry’s CTMS, plus an amount for profit (the construction approach), or
- use relevant and comparable selling prices of undumped imports.<sup>69</sup>

There is no hierarchy for the USP calculation methods outlined in the manual and the preferred method used in each instance will be informed by the facts of the individual case.

The commission notes that GCL sold only one MCC of self-produced like goods in the Australian market during the investigation period (thin slice FSI pineapple). The commission has calculated a weighted average USP for those self-produced like goods, using GCL’s price in the investigation period<sup>70</sup> and the undumped price of thin slice FSI pineapple from Thailand. The commission calculated a weighted average USP for other MCC’s imported and sold by GCL and other importers of the goods in Australia.

<sup>68</sup> [The Manual](#), page 137.

<sup>69</sup> [The Manual](#), Chapter 24.

<sup>70</sup> GCL claimed in its application that it has suffered price suppression from dumped goods. The commission did not identify price suppression. See chapter 12.5.

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The commission then calculated a weighted average USP based on the relative product mix and from that amount calculated the NIP as outlined in chapter 11.3.

The commission considers that this is a conservative method for calculating the USP in this investigation and provides another tool to test GCL's claims that it has suffered material injury in the investigation period or is threatened with material injury after the investigation period.

### 11.3 NIP calculation method

Using the USP, the commission then calculated 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.

From the USP calculated at chapter 11.2, the commission has deducted into store costs incurred by the most efficient importer that participated in this investigation. These deductions included amounts for:

- importation, including port and handling, inland transport from port to warehouse
- for selling, including additional manufacturing, SG&A and transport to its customer
- ocean freight and marine insurance costs to calculate a NIP at FOB (cash) terms.

The commission's analysis of the NIP for injury that has been or may be caused by dumping is at Chapters 13 and 14.

The commission's calculation of the NIP and USP is contained in **Confidential attachment 19**.

## 12 ECONOMIC CONDITION OF THE AUSTRALIAN INDUSTRY

### 12.1 Findings

The Commissioner is satisfied that certain indices relevant to the Australian industry's economic condition have declined over the injury analysis period, being:

- reduced sales volume
- reduced market share
- reduced sales revenue
- increased stocks and inventories
- reduced cashflow.

The Commissioner is satisfied that other economic indices showed improvement over the injury analysis period, or no injury was identified. These indices are:

- increased prices (not indicative of price depression)
- an increase in value of assets and capital investment
- increased ROI
- employment and wage increases
- productivity.

The Commissioner's finding on the following economic indices is qualified. Certain data sets relevant to the below indices (such as CTM and production quantity) could not be verified due to limitations with the data submitted by GCL.<sup>71</sup>

- the relationship between price and cost (not indicative of price suppression)
- profits and profitability (noting that profitability appears to improve)
- capacity and capacity utilisation (indicative of an improvement in capacity utilisation)

Overall, GCL's economic condition trends are partial and inconsistent in the investigation period.

The Commissioner did not receive submissions from interested parties regarding the commission's verification and analysis of GCL's application and RAQ data.

The Commissioner's examination of GCL's economic condition is set out in this chapter and is the same information published in SEF 628.

### 12.2 The application

#### 12.2.1 GCL's Injury claims

In its application, GCL claimed that it experienced material injury from dumped goods in the form of:

- lost sales volumes
- reduced market share
- price suppression

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<sup>71</sup> The commission explained this to GCL during its multiple verification visits and documented the finding in GCL's verification report (EPR 628 – [document 17](#) refers). GCL reviewed and cleared this verification report for factual accuracy before it was published.

- loss of profits
- reduced profitability
- reduced sales revenue
- reduced ROI
- reduced capacity utilisation
- reduced employment.

The commission notes that GCL's injury claims in its application relied on unverified data relating to calendar years (CY) January 2017 to December 2022.

### **12.2.2 Data relied on by the commission**

Where possible, the commission's analysis in this chapter was performed using the investigation and injury analysis periods. These periods rely on financial year (FY) July to June, starting in FY 2019-2020.<sup>72</sup> As outlined in GCL's verification report, the commission was unable to verify all aspects of GCL's RAQ or there were reasons for certain indices to remain based on CYs. Therefore, where analysis is conducted other than on FYs, it is noted below.

## **12.3 The economic condition assessment and injury analysis**

This chapter includes the commission's assessment of GCL's injury claims in relation to the economic condition of the Australian industry in the investigation period. This assessment will be used (among other evidence and analysis) to inform the commission's assessment of whether material injury is caused by dumped goods at Chapter 13.

GCL also alleged that threat of material injury to the Australian industry is foreseeable and imminent from the significant volume of dumped imports from Thailand and Indonesia (noting that the investigation has been terminated with respect to Indonesia). The commission's assessment of these claims in relation to the investigation period are in chapter 14.

The focus in this chapter is on whether there is injury to GCL's self-produced goods, however on occasion the commission has included GCL's imported goods in the analysis for context.

The commission's assessment of the economic condition of the Australian industry is at **Confidential attachment 20**.

## **12.4 Volume**

### **12.4.1 Summary**

The commission considers that GCL experienced reduced sales volumes over the injury analysis period. It is noted however, that sales of GCL's self-produced FSI pineapple declined by a minor degree in the investigation period, compared to the prior 2 periods in the injury analysis period.

The commission estimates that GCL experienced reduced market share for its self-produced thin slice FSI pineapple in the investigation period, when compared with the start of the injury analysis period. However, after that first FY period, GCL's market share remained steady, with a minor increase in the investigation period, due to a declining overall market size.

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<sup>72</sup> As noted in CON 628, the period proposed by GCL using CYs, was the period the commission examined to assess the application. However, consistent with the commission's usual practice, the commission chose a different period, being FYs, for the investigation to make sure it had the most contemporaneous data available.



**12.4.2 Sales volumes**

Figure 7 and Table 24 show that GCL’s sales volume (kg) of self-produced thin slice FSI pineapple has declined by approximately a third between the start and end of the injury analysis period. The largest decline occurred in FY 2020–2021 when GCL’s sales volume of self-produced FSI pineapple declined by approximately 30%. Sales of self-produced FSI pineapple continued to decline, but to a lesser degree each subsequent year.

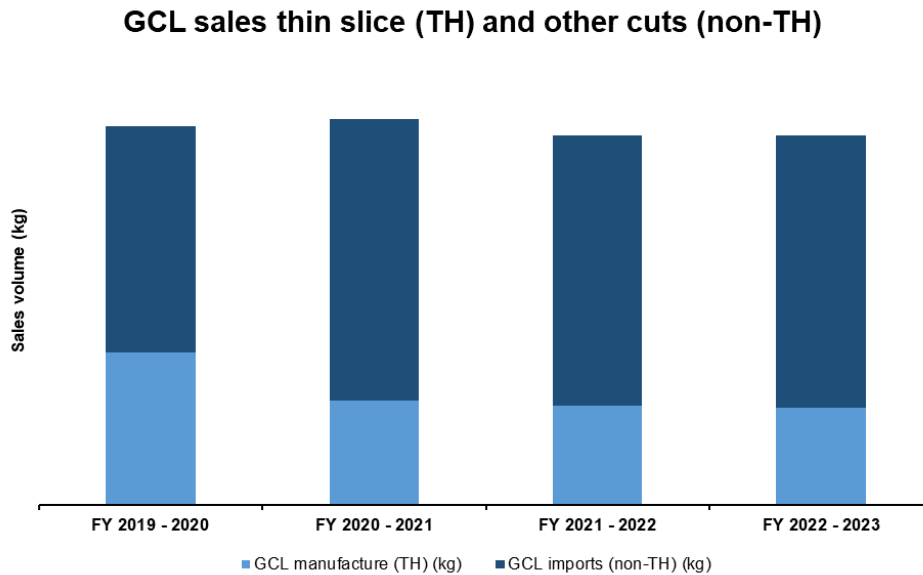


Figure 7: GCL’s domestic sales of FSI pineapple (July 2019 – Jun 2023) – invoice quantity

Sales volume index (kg)	FY 19-20	FY 20-21	FY 21-22	FY 22-23
Self-produced FSI Pineapple (TH)	100	68	65	64
Imports (non-TH)	100	125	119	120

Table 24: GCL domestic sales quantity index – FSI pineapple – injury analysis period

For completeness, the commission has also included GCL’s sales of imported FSI pineapple from Indonesia (investigation terminated) and Thailand in Figure 7 and Table 24.

Noting that there is a small change with GCL’s total sales volume in each FY period, Figure 7 and Table 24 demonstrate that GCL’s sales of imported goods replaced sales of GCL’s self-produced thin slice FSI pineapple in FY 2020-2021 and there was a minor sales volume increase of imported goods in the investigation period.

These findings show that GCL has experienced a minor reduction in sales volume for self-produced FSI pineapple during the investigation period.

**12.4.3 Market share – all FSI pineapple**

The commission identified that GCL experienced a decline in market share from the start of the injury analysis period (FY 2019-2020) to the subsequent period (FY 2020-2021), but its market share has remained stable through to the investigation period.

GCL claimed injury for this economic factor in its application.

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The commission's analysis of Australian market share for GCL's thin slice FSI pineapple relative to all other FSI pineapple (sliced, chunks, tidbits and crushed) is at Figure 8.

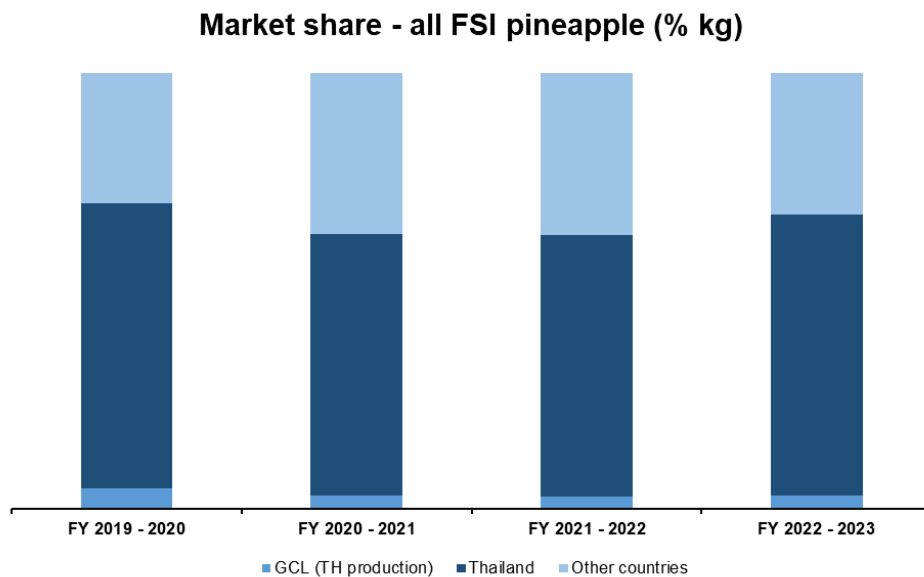
The size of the Australian market for all FSI pineapple (see Figure 6 at chapter 4.6) declined in the investigation period compared with the preceding 3 years of the injury analysis period.

For all FSI pineapple in Australia, both GCL and imports from Thailand (including imports by GCL from Thailand):

- have a lower market share in the investigation period compared to the start of the injury analysis period in FY 2019–2020.
- increased market share in the investigation period compared to the prior period in FY 2021–2022.

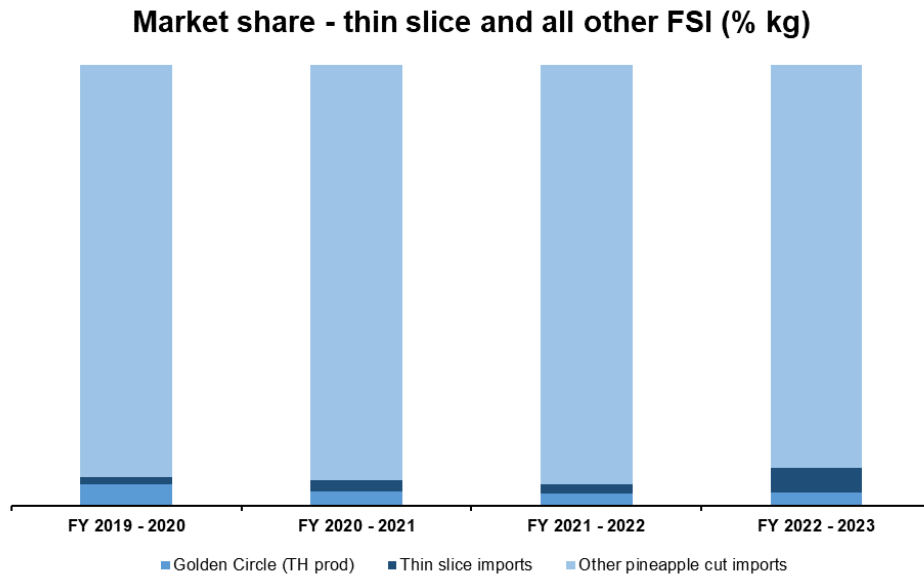
Conversely, imports from other countries (including Indonesia) increased market share in the investigation period compared to the start of the injury analysis period in FY 2019–2020 but declined from the prior period in FY 2021–2022.

GCL's market share for self-produced thin slice FSI pineapple has consistently been small.



**Figure 8: Australian market share – all FSI pineapple (July 2019 – Jun 2023)**

The commission also analysed the market share of GCL's self-produced thin slice FSI pineapple relative to an estimate of thin slice imports and all other FSI pineapple in the Australian market. Figure 9 shows this analysis.



**Figure 9: Market share – thin slice and other FSI pineapple cuts (July 2019 – Jun 2023)**

Despite the market share for thin slice FSI pineapple being relatively small (including GCL’s self-produced and imported from Thailand and non-subject countries), thin slice FSI pineapple appears to have increased market share over the injury analysis period<sup>73</sup>.

#### 12.4.4 Market share – thin slice FSI pineapple

GCL’s market share for thin slice FSI pineapple (relative to the commission’s estimate of thin slice imports) decreased over the injury analysis period, including in the investigation period.

Thin slice FSI pineapple market share increased for Thailand and other countries over the injury analysis period.

GCL does not import thin slice FSI pineapple.

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<sup>73</sup> The commission noted at chapter 4.6 that the import volume of thin slice pineapple in the FY periods 2019 – 2022 is an estimate.

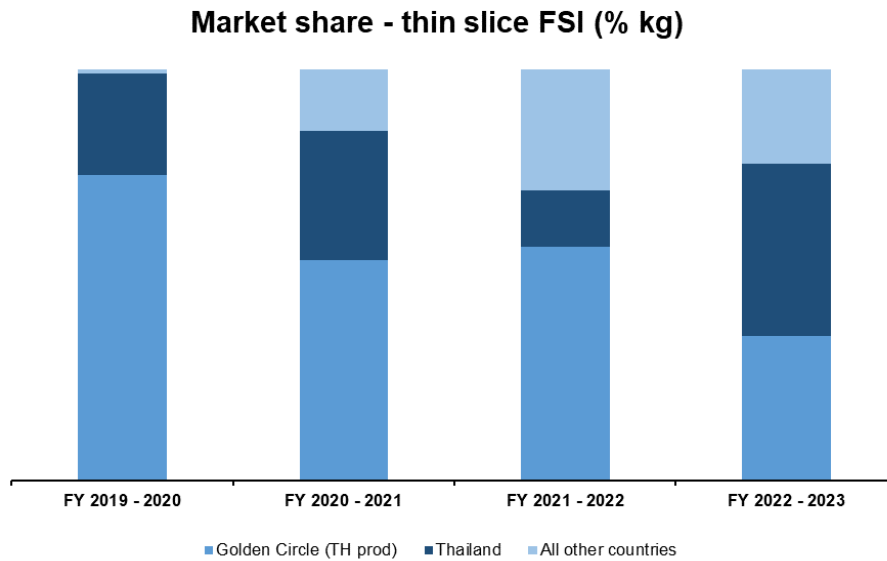


Figure 10: Australian market share – thin slice FSI pineapple (July 2019 – Jun 2023)

## 12.5 Price depression and price suppression

There are limitations to the conclusions that can be drawn on the relationship between cost and price. The commission was unable to verify GCL’s production quantity or verify the accuracy of GCL’s CTMS data to calculate unit CTMS (AUD/kg).

The commission calculated an annual CTM for each year in the injury analysis period, using Cost of Goods Sold (COGS) and the change in semi and finished goods inventories. This calculation demonstrated that GCL did not self-produce FSI pineapple in the FY 2019–2020. Instead, GCL sold self-produced FSI pineapple from carry over inventory. This is the reason for a price (AUD/kg), but not a unit CTMS (AUD/kg) for FSI pineapple in FY 2019–2020.

GCL’s price in this analysis uses verified data and is net of discounts and rebates. This price data is considered complete, relevant, and accurate.

The commission did not identify injury in the form of price suppression and price depression over the injury analysis period.

GCL claimed injury for price suppression but did not claim injury for price depression.

Price depression occurs when a company, for some reason, lowers its prices. Price suppression occurs when price increases, which otherwise might have occurred, have been prevented. An indicator of price suppression may be the margin between prices and costs.

The commission’s analysis of the price effects for GCL’s self-produced FSI pineapple is at Figure 11.

Price effects (AUD/kg) - delivered

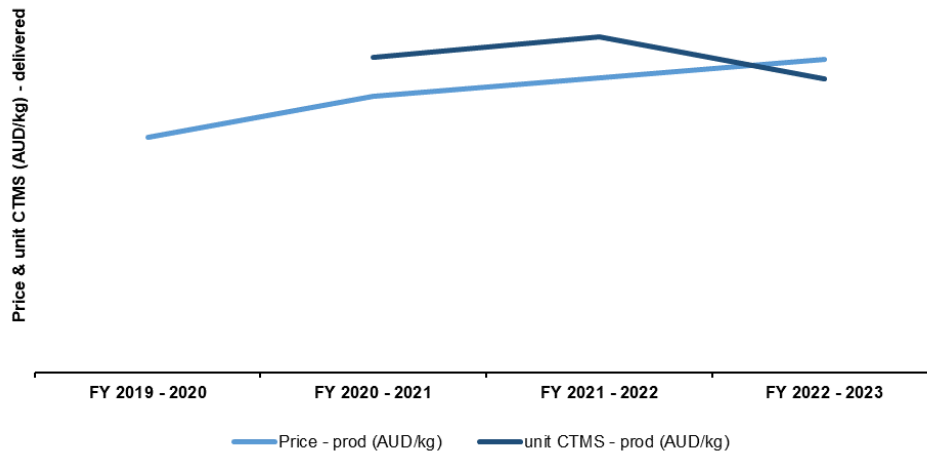


Figure 11: Price effects – thin slice FSI pineapple (July 2019 – Jun 2023)

The commission observes that GCL's:

- prices have increased in each year of the injury analysis and investigation periods (confirming there was no price depression).
- unit CTMS increased between FYs 2020–2022 but declined in the investigation period FY 2022 – 2023.

Between FYs 2020–2022, unit CTMS and price increased at approximately the same rate, with unit CTMS declining at a greater rate than GCL's price increase in the investigation period. The commission does not consider that this is indicative of price suppression.

### 12.6 Profit and profitability

The commission reiterates that it was unable to verify GCL's production quantity and the accuracy of GCL's CTMS for the injury analysis period and consequently was unable to use unit profit (AUD/kg) in this analysis. Like the commission's price suppression analysis at Figure 11, the probity of any findings on GCL's profit and profitability is limited.

GCL may have produced more than it sold in each period, inaccurately decreasing the profit and profitability calculations. It is also worth noting that even if the commission used GCL's unverified production quantity in these calculations, the result appears the same as reported in Figure 12.

The commission did not identify injury in the form of profit and profitability over the injury analysis period or the investigation period.

GCL claimed injury for both economic factors.

Profit & profitability (GCL TH production)

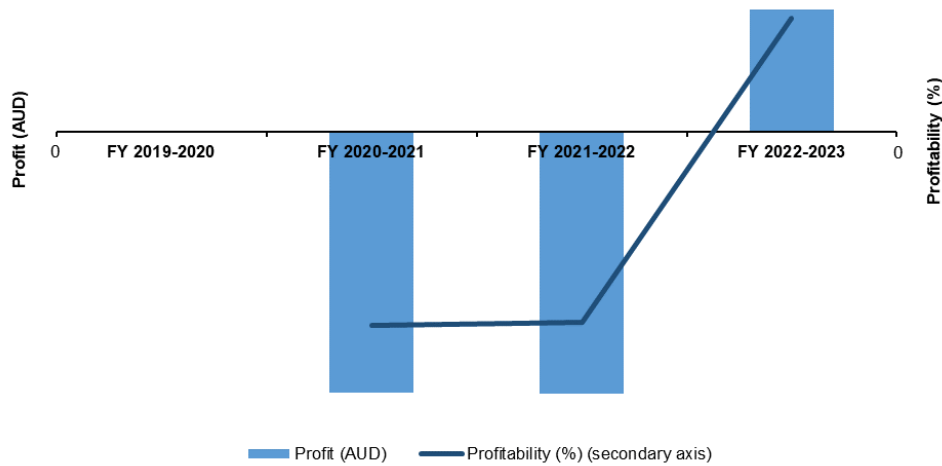


Figure 12: Profit and profitability – self-produced FSI pineapple (July 2019 – Jun 2023)

As noted in chapter 12.5, GCL did not self-produce FSI pineapple in FY 2019–2020. GCL sold its self-produced FSI pineapple from carry over inventory. Accordingly, there is no profit or profitability data for FSI pineapple in FY 2019–2020.

The commission observes from Figure 12 that GCL’s sales of self-produced thin slice FSI pineapple appear to have returned to profitability in the investigation period after being unprofitable in the prior 2 FY periods.

It appears that the improvement in profit and profitability in the investigation period is driven by higher prices (which were verified at chapter 13.5). The commission surmises that the improvement in profit and profitability could also be the result of lower total costs (which based on the available information could be a function of lower input costs or lower production quantity), rather than higher prices alone, noting that GCL sold less FSI pineapple in the investigation period.

**12.7 Other economic factors**

The commission considered the following other economic factors.

**12.7.1 Assets and capital investments**

The commission did not identify any injury to assets and capital investments.

GCL did not claim injury for these economic factors.

The commission’s analysis of assets and capital investments for FSI pineapple is in Table 25. The analysis uses CY periods as the data was not available in FY periods. The commission accepts that it is reasonable to assess GCL’s assets and capital investments on a CY basis to align with GCL’s financial year reporting of assets (in assets registers) and capital expenditure (capex) projects.

The commission assessed GCL’s assets and capital investments in relation to all canned pineapple production (consumer and FSI pineapple). The commission identified that GCL continued to invest in pineapple production assets which grew the asset value each CY. Capital

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expenditures decreased in CY 2022; however, the commission cannot draw any conclusions from the data specific to FSI pineapple.

Assets and capex index (AUD)	CY 2019	CY 2020	CY 2021	CY 2022
Original cost (consumer and FSI pineapple)	100	110	124	132
Capex projects (consumer and FSI pineapple)	100	29	115	28

Table 25: Assets and capex index – calendar year (consumer and FSI pineapple)

### 12.7.2 Revenue

The commission identified a decrease in GCL's revenue.

GCL claimed injury for this economic factor.

The analysis uses the FY periods that align with the injury analysis periods.

Table 26 shows that GCL received approximately 14% less revenue for FSI pineapple in the investigation period than it did at the start of the injury analysis period, although there was a slight increase in the investigation period.

Net revenue index (AUD)	FY 2019-2020	FY 2020-2021	FY 2021-2022	FY 2022-2023
Self-produced FSI pineapple	100	82	84	86

Table 26: Revenue index (FSI pineapple) – injury analysis and investigation periods

### 12.7.3 Return on investment

The commission did not identify any injury to the Australian industry's ROI and GCL did not claim injury for this economic factor.

The commission calculated ROI using the following formula:

$$\text{Return on investment} = \frac{\text{Contribution margin of production (AUD)}}{\text{GCL asset value} - \text{all production (AUD)}}$$

Where:

- the contribution margin of production is net revenue minus COGS
- GCL asset value includes capital investment.

ROI was assessed on a CY basis (at Table 27) to align with GCL's financial year reporting of assets.

ROI index (AUD)	CY 2019	CY 2020	CY 2021	CY 2022
Self-produced FSI pineapple	0	100	146	191

Table 27: ROI index (FSI pineapple) – calendar year periods

GCL's ROI increased in the investigation period.

### 12.7.4 Capacity

The commission did not identify any injury for capacity.

GCL did not claim injury for this economic factor.

### **12.7.5 Capacity utilisation**

There was no injury identified for capacity utilisation.

GCL claimed injury for this economic factor, using CY 2017 as the base year for assessing changes in capacity utilisation over time.

The index submitted by GCL in its application was an index of annual changes in production volume and not an index of capacity utilisation.

The commission was unable to verify GCL's production volume (refer chapter 12.5) and could not assess the change in production volume in each year of the injury analysis period.

Additionally, the total production capacity that GCL submitted for FSI pineapple was inaccurate. The capacity was allocated using the respective unverified production volumes (of consumer and FSI pineapple) as a portion of the total capacity for canned pineapple.

The commission's preference for determining capacity would be to assess GCL's actual capability to produce FSI pineapple, noting the number of lines in operation, labour-hours, and production schedules.

In the absence of the preferred data to calculate capacity utilisation, the commission has used the data and methodology submitted by GCL in its application (but with 2019 as the base year for assessing injury).

Table 28 shows these index results.

<b>Capacity utilisation index</b>	<b>CY 2019</b>	<b>CY 2020</b>	<b>CY 2021</b>	<b>CY 2022</b>
<b>Self-produced FSI pineapple</b>	100	91	129	129

**Table 28: Capacity utilisation index – calendar year periods**

### **12.7.6 Stocks and inventories**

The commission identified some injury for finished goods and raw materials inventories (stocks and inventories), i.e. they increased in the investigation period.

GCL did not claim injury for this economic factor.

The commission's analysis of:

- GCL's FG inventory is at Table 29 and uses the FY periods that align with the years of the injury analysis periods.
- GCL's materials inventory is at Table 30 and uses CY periods.

The value of GCL's closing FG inventory increased each year of the injury analysis period.

The commission used the FY 2020-2021 period as the baseline year for calculating the index. This is because the closing inventory value for the start of the injury analysis period in FY 2019-2020 was low. This made the production and FG inventory indices in FY 2020–2021 (and the following periods) appear more significant (relatively) than it was.



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Closing inventory (FG) index (AUD)	FY 2019-2020	FY 2020-2021	FY 2021-2022	FY 2022-2023
Self-produced FSI pineapple		100	202	204

**Table 29: Closing inventory index (FSI pineapple) – injury analysis periods**

The can and packaging units used for FSI pineapple, held by GCL, increased over the injury analysis periods.

Can and packaging index (units)	CY 2019	CY 2020	CY 2021	CY 2022	CY 2023
Can	100	219	11	308	523
Can end	100	140	58	228	374
Label	100	653	439	1048	926
Packaging (trays/cartons)	100	190	178	399	254

**Table 30: Can and packaging index (FSI pineapple) – calendar year periods**

### 12.7.7 Cashflow

The commission identified a reduction to the Australian industry's cashflow.

GCL did not claim injury for this economic factor.

The commission's analysis at Table 31 uses the FY periods that align with the years of the injury analysis period. Inventory turnover days (for GCL produced like goods) was calculated using the formula:

$$\text{Inventory turnover days} = \left( \frac{\text{Average inventory value (AUD)}}{\text{COGS (AUD)}} \right) \times 365$$

The commission observed that GCL held inventory longer in the investigation period than it did at the start of in the injury analysis period in FY 2019-2020.

Cash flow index (FG inventory turnover)	FY 2019-2020	FY 2020-2021	FY 2021-2022	FY 2022-2023
Self-produced FSI pineapple	100	418	1309	1711

**Table 31: Cash flow index (FSI pineapple) – injury analysis periods**

### 12.7.8 Employment

The commission did not identify any injury employment (number of persons).

GCL claimed injury for this economic factor, using CY 2017 as the base year for assessing changes in staff employed over time.

The commission used the employment numbers submitted by GCL in its application and baselined the injury assessment at CY 2019. Table 32 shows these results.

The commission team did not allocate staff numbers to the production of consumer and FSI pineapple, because GCL does not employ 2 separate teams to manufacture different size cans. GCL require the full staff complement to manufacture both.

<b>Employment index</b>	<b>CY 2019</b>	<b>CY 2020</b>	<b>CY 2021</b>	<b>CY 2022</b>
<b>Persons employed</b>	100	100	102	107
<b>Hours worked</b>	100	103	125	139

**Table 32: Employment index (consumer and FSI pineapple) – calendar year periods**

### **12.7.9 Wages**

The commission did not identify any injury for wages.

GCL did not claim injury for this economic factor, using CY 2017 as the base year for assessing changes in staff employed over time.

The commission’s analysis of wages for FSI pineapple is at Table 33. The analysis uses calendar year periods and starts at CY 2019.

<b>Wage index</b>	<b>CY 2019</b>	<b>CY 2020</b>	<b>CY 2021</b>	<b>CY 2022</b>
<b>Total wages</b>	100	102	164	162
<b>Average wages</b>	100	102	160	139

**Table 33: Wage index (consumer and FSI pineapple) – calendar year periods**

### **12.7.10 Productivity**

The commission did not identify injury to the Australian industry’s productivity.

GCL did not claim injury for this economic factor.

## 13 HAS DUMPING CAUSED MATERIAL INJURY?

### 13.1 Findings

The Commissioner finds that dumping of FSI pineapple from Thailand has caused negligible injury, if any, to the Australian industry for like goods.

Although certain economic indices for GCL declined in the investigation period (volume indices and other economic factors), others improved (including in relation to price and profits). The injury trends are partial and inconsistent. The Commissioner finds:

- There is a range of FSI pineapple products that make up the Australian market.
- The Australian market decreased in overall size in the investigation period.
- GCL produced a small subset of FSI pineapple, being thin slice FSI pineapple, in the investigation period.
- GCL's thin slice FSI pineapple can be substituted for imported sliced FSI pineapple.
- GCL's thin slice FSI pineapple is competing against imported sliced FSI pineapple. This includes GCL's own imports of dumped sliced FSI pineapple in the investigation period.
- Prior to the investigation period, GCL's thin slice FSI pineapple sales volume decreased, while its imports of sliced FSI pineapple increased, indicating substitutability.
- GCL's thin slice FSI pineapple does not appear to have been substituted for other FSI pineapple cuts (i.e. chunks, tidbits, or crushed FSI pineapple) that makes up most of the Australian market in the investigation period. Those other pineapple cuts cannot be a cause of injury to GCL.
- Sliced FSI pineapple and thin slice FSI pineapple makes up a small portion of the overall Australian FSI pineapple market.
- Therefore, GCL's thin slice FSI pineapple is competing within a small portion of the overall market.
- GCL's thin slice FSI pineapple is competing predominantly against the dumped goods GCL imports as well, a small volume of dumped imports from other importers, as from undumped sources or sources that had a negligible dumping margin. These imports have not caused material injury to the Australian industry.
- Factors other than dumping that have impacted GCL are undumped and *de minimis* dumped imports from Thailand and other countries, along with the distribution efficiency of GCL's competitors.
- Another event to have occurred was a natural flowering event (of pineapple fruit) in 2023, and this may have affected GCL, but there is no verifiable evidence to demonstrate the impact (if any).

Based on the above summary points and more detailed explanations in this chapter, the Commissioner concludes that any decline of the Australian industry's economic performance in the investigation period have been caused by factors other than dumped goods.

The Commissioner received a submission from GCL in relation to the interpretation of its economic condition and the preliminary findings in SEF 628.

Additional analysis and information that supports the Commissioner's preliminary findings in SEF 628 have been added in this report in response to GCL's submission.

The Commissioner's consideration of GCL's submission is contained at Chapter 15.

## 13.2 Legislative framework

Under section 269TG, one of the matters that the Minister must be satisfied of, to publish a dumping duty notice is that, because of dumping, material injury has been, or is being caused, or is threatened to the Australian industry producing like goods.

Section 269TAE(1) outlines the factors, which the Commissioner has had regard, and that may be considered when determining whether material injury to an Australian industry has been, or is being, caused or threatened.

Section 269TAE(2A) requires that regard be had to the question as to whether any injury to an industry is being caused by a factor other than the exportation of the goods and provides examples of such factors.

The material injury assessment also includes regard to the *Ministerial Direction on Material Injury 2012* (Material Injury Direction).<sup>74</sup>

## 13.3 The commission's general approach to causation analysis

The Act envisages that a causation analysis examines the links between the volume of dumped goods and their effect on prices in the Australian market and the consequent impact on the Australian industry. Certain analytical tools are available to the commission to perform causation analysis. The Act does not prescribe any particular methodology for performing a causation analysis, which is inherently a qualitative assessment based on all available evidence.

Chapter 22 of the Manual states that the most common way to perform causation analysis is by using a 'coincidence analysis'. Where there is a coincidence in timing between injury factors and the volume and price trends of dumped imports, this may be taken to mean there is a causal link. The commission's causation analysis examines the existence, relevance and implications of any coincidence, or lack thereof, against the background of the conditions of competition in the market, particularly when viewed against broader market dynamics and trends over the injury analysis period. The commission further seeks to separate the effects of any other known factors from that attributable to the dumped imports.

The degree of coincidence between the presence of dumped imports during the investigation period and the downward trends in certain indices of the Australian industry's economic condition in this investigation is not significant. This is highlighted by the commission's observations about GCL's product offerings and the market characteristics over the injury analysis period. The commission has therefore examined GCL's trends in the investigation period considering the broader market dynamics and competitive environment over the injury analysis period. This assessment assists the commission in identifying whether there is any causal link between dumping and injury.

The commission's causal link assessment is at **Confidential attachment 21**.

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<sup>74</sup> Available on the [commission's website](#).

## 13.4 Volume effects

### 13.4.1 Summary

The commission verified that GCL's sales volume declined for self-produced thin slice FSI pineapple over the injury analysis period (see chapter 12.4.2).

The reason for the sales volume decline over the injury analysis period was substitution of GCL's thin slice FSI pineapple with GCL's imported sliced FSI pineapple prior to the investigation period. Since that substitution occurred, GCL's sales volume has declined by a small amount each year, but its market share (for thin slice self-produced FSI pineapple) has remained steady and increased slightly in the investigation period from the previous year (due to a decline in the total FSI Australian market size).

In the investigation period, the volume of dumped thin slice and sliced FSI pineapple was small (relative to the total size of the Australian FSI pineapple market). The small sales volume decline after the substitution event is not attributable to dumping because GCL predominately competes with importers that sell undumped and *de minimis* dumped goods. The impact of dumping on GCL's sales volume is negligible.

### 13.4.2 Effect of product range on competition and injury in the Australian market

The product range of FSI pineapple sold in Australia and the volume of imported goods that are substitutable with GCL's manufactured good is relevant to the commission's causation analysis. The type of pineapple cut is an intentional purchase decision made by Australian customers to suit the customer's intended end use. For example, customers who make and sell pizza (commercial food service or commercial industrial market segments) will buy tidbits and will not buy crushed pineapple. Therefore, some goods in the FSI pineapple range are not substitutable, however some goods are. Imported goods that are substitutable with GCL's manufactured good are directly competitive goods that influence competition and GCL's ability to sell its self-manufactured good.

GCL manufactured one product in the range of FSI pineapple sold in Australia in the investigation period. GCL also imported and sold dumped FSI pineapple in the investigation period.

The commission identified that there is a small volume of dumped substitutable goods in the Australian market. The effect of these goods is the commission's focus for the causation analysis.

Imported goods that are not substitutable with GCL's manufactured good are not directly competitive goods and are considered to not cause injury to GCL.

The commission identified 30 MCCs sold in the investigation period, with the MCC category 'pineapple cut' as the most influential physical characteristic of demand and price in the Australian market (this was previously noted at chapter 2.5.)

There were 5 FSI pineapple cuts sold in the Australian market during the investigation period – chunks, tidbits, crushed, sliced and thin slice. Importers and GCL sold the entire range of 5 FSI pineapple cuts in the investigation period. Imports (including GCL's imports of the goods) originated from Thailand, Indonesia, and non-subject countries.

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GCL self-produced and sold a subset of the MCC category 'pineapple cut', being thin slice FSI pineapple. GCL also imported and sold chunks, tidbits, crushed and sliced FSI pineapple from Thailand and Indonesia during the investigation period.

The analysis at chapter 13.4.4 demonstrates that thin slice FSI pineapple is substitutable for sliced FSI pineapple. This means that at a product level, there may be competition in the Australian market between:

- GCL's self-produced thin slice FSI pineapple
- GCL's imported sliced FSI pineapple
- imports of thin slice FSI pineapple
- imports of sliced FSI pineapple.

Analysis of imports from the ABF import database and verified data from importers and exporters show that Australian importers switched between suppliers over the injury analysis period but did not substitute thin slice and sliced FSI pineapple for other pineapple cuts.

Imports of the other pineapple cuts (chunks, tidbits, and crushed pineapple) therefore cannot be a cause of injury to the Australian industry, as those cuts are not manufactured by GCL, are not substitutable for thin slice FSI pineapple and do not compete with GCL's self-produced thin slice FSI pineapple.

The commission's volume analysis in this chapter specifically focuses on thin slice FSI pineapple (as this is the only product that GCL self-produces) and sliced FSI pineapple (which is substitutable for thin slice FSI pineapple).

The commission estimates that thin slice and sliced FSI pineapple comprised approximately 16%<sup>75</sup> of the Australian FSI pineapple market (by net weight) in the investigation period. Thin slice FSI pineapple comprised approximately 9% of Australian FSI pineapple sales.<sup>76</sup>

The Australian sales in the investigation period, included thin slice and sliced FSI pineapple that was:

- produced and sold by GCL (thin slice)
- dumped, imported, and sold by GCL (sliced)
- undumped, imported, and sold by GCL (sliced)
- dumped, imported, and sold by other importers (thin slice and sliced)
- *de minimis* dumped, imported, and sold by other importers (thin slice and sliced)
- not dumped, imported, and sold by other importers (thin slice and sliced).

Although the dumping margins for some exporters from Thailand are above negligible levels,<sup>77</sup> the commission did not identify significant volumes of dumped thin slice or sliced FSI pineapple in the total FSI pineapple in Australia.<sup>78</sup>

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<sup>75</sup> Small correction from 18% to 16% following SEF 628 resulting from a change in units measured from number of cans sold to net weight (kg).

<sup>76</sup> Tidbits are the most common pineapple cut sold in Australia and comprised approximately 75% of the market in the investigation period.

<sup>77</sup> Specifically, KFC, Siam, and uncooperative exporters.

<sup>78</sup> It is possible that this group of exporters exported some thin slice FSI pineapple, but there are limitations with identifying this information in the ABF database. There has been no indication from GCL or other interested parties that exporters other than the cooperative exporters are supplying large volumes of thin slice FSI pineapple.

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For example, dumped and *de minimis* dumped thin slice FSI pineapple from Thailand is approximately 4% of the total Australian FSI pineapple market in the investigation period, with dumped thin slice FSI pineapple comprising 1% of the total Australian FSI pineapple market in the investigation period.<sup>79</sup>

Dumped sliced pineapple is approximately 3% of the Australian market in the investigation period, with GCL importing a significant portion of the dumped volume.

The commission also examined dumped thin slice FSI pineapple as a portion of all thin slice FSI pineapple in the Australian market in the investigation period. Dumped thin slice FSI pineapple from Thailand is around 12% of the market for thin slice FSI pineapple, with approximately half of the Australian thin slice FSI pineapple market imported from undumped and *de minimis* dumped origins.

Approximately 60% of the thin slice and sliced FSI pineapple imports from Thailand in the investigation period were dumped at margins above 2%<sup>80</sup>. However, these dumped imports had a negligible effect on Australian industry volumes because half of that dumped volume was imported by GCL, and the rest was imported into the end user market segment, where GCL does not compete (discussed further below in section 13.4.3).

### 13.4.3 Effect of distribution on competition and injury in the Australian market

As discussed at chapter 13.4.2 above, the portion of the market that GCL competes in (with substitutable goods) is small, relative to the total size of the Australian FSI pineapple market. The importer's distribution model affects this competition. The following analysis relies on the verified sales information before the commission.

GCL almost exclusively sells FSI pineapple to distributors in Australia. Importers that also sell directly to distributors are GCL's direct competition for FSI pineapple sales in Australia (refer chapter 4.4). The verified sales data shows that GCL has common distributor customers with the importer (FTA).

In the investigation period, GCL's thin slice FSI Australian sales were in competition with GCL's own dumped imports of sliced FSI pineapple and imports of thin slice and sliced FSI pineapple that were undumped and *de minimis* dumped.

The remainder of Australian sales that GCL was in direct competition with were dumped and comprised approximately 1% of thin slice and sliced FSI pineapple distributor sales in the investigation period.

All other sales in the data set before the commission, of thin slice and sliced FSI pineapple were made to end users in the commercial food service, captive food service, and commercial industrial market segments. The goods sold to these market segments are imported and sold directly by the importer along with goods that were already purchased in Australia from GCL and other importers.

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<sup>79</sup> PPI's dumping margin (refer chapter 9.5) is less than the *de minimis* threshold of 2%. This threshold is considered negligible dumping under section 269TDA(1) and the Commissioner is terminating the investigation with respect to PPI (refer chapter 15.2.1). Notwithstanding, even with PPI's *de minimis* dumped exports included in the causation analysis, the commission considers that the *de minimis* dumping margin will result in minimal injury, if any, to the Australian industry.

<sup>80</sup> SEF 628 (p.76) stated "The majority of thin slice or sliced FSI pineapple from Thailand was undumped or was dumped at negligible levels." The commission has amended this finding in response to GCL's submission – see also chapter 15.1.5.



The distinction of this distribution model is relevant because GCL itself does not sell to end users and it does not directly compete with the importer that sells the goods to end users (Bidfood). Bidfood is a customer of both GCL and FTA and most of the dumped thin slice and sliced FSI pineapple was imported by Bidfood and then sold directly to end users. Therefore, GCL did not compete with the majority of dumped thin slice and sliced FSI pineapple in the Australian market in the investigation period.

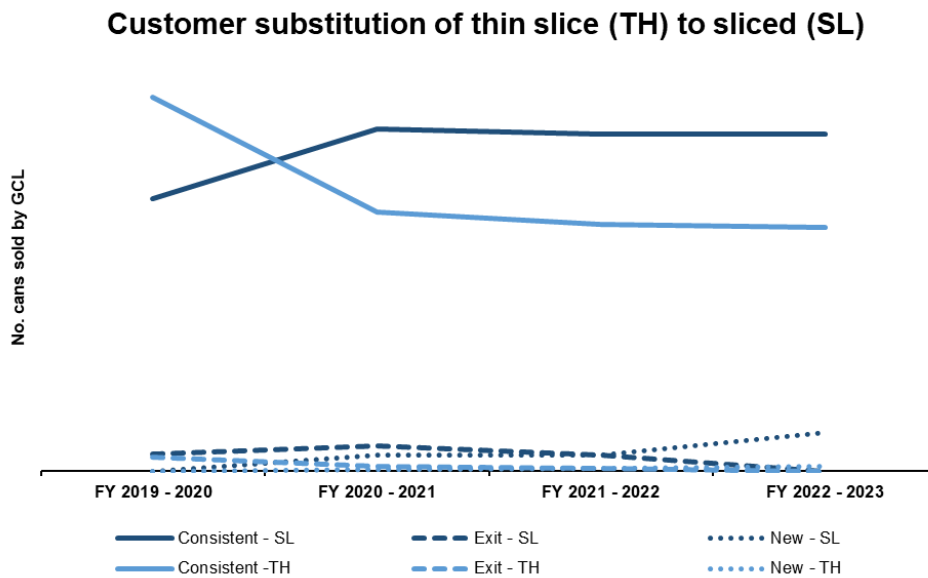
**13.4.4 Substitution of GCL thin slice FSI pineapple for GCL sliced FSI pineapple**

GCL’s sales volume injury for thin slice FSI pineapple (identified at chapter 12.4.2) was caused by GCL’s distributor customers substituting thin slice FSI pineapple for GCL’s imports of sliced FSI pineapple during the injury analysis period.

GCL did not lose a material volume due to direct competition with other importers of dumped, undumped or *de minis* dumped thin slice or sliced FSI pineapple. Volume was lost because GCL’s distributor customers selected a different product in the Golden Circle brand range. The commission identified that the substitution occurred when GCL increased its price for thin slice FSI pineapple (refer to Figure 11), when the price of its imported sliced FSI pineapple did not increase by the same amount.

The commission’s analysis at Figure 13 demonstrates that sliced FSI pineapple and thin slice FSI pineapple are substitutable. The substitutability of thin slice with sliced FSI pineapple was observed during the injury analysis period and was limited to GCL’s thin slice FSI pineapple being substituted with GCL’s imports of sliced FSI pineapple. This substitution occurred prior to the investigation period in FY 2020-2021.

Any further substitution after this period and in the investigation period is immaterial.



**Figure 13: GCL’s customers substituting thin slice FSI pineapple for GCL’s imported sliced FSI pineapple<sup>81</sup>**

**Consistent customers** = customers who bought from GCL in every period, **New** = new customers, **Exit** = customers who stopped buying from GCL.

<sup>81</sup> The analysis at Figure 13 formed the evidence for the Commissioner’s preliminary finding on volume injury in SEF 628 (EPR 628 - [document 27](#) refers), but the figure was not originally published. It is included here to demonstrate the evidence relied on in SEF 628 and this report.



Figure 13 also shows that some of GCL's distributor customers stopped buying both thin slice and sliced FSI pineapple over the injury analysis period. The lost volume of thin slice FSI pineapple in the investigation period was immaterial at approximately 1% of GCL's sales of thin slice and sliced FSI pineapple in the investigation period.

Other factors include that a small number of customers stopped purchasing from GCL (all FSI products and specifically thin slice FSI pineapple) in the injury analysis period. There is some evidence that customers changed to imported FSI pineapple because of a cheaper price. But the volume lost was negligible and was also counteracted by new customers for GCL (purchasing all FSI products and specifically thin slice FSI pineapple) over the injury analysis period.

When all the information available is considered in context, including consideration of the market dynamics and competitive environment over the injury analysis period, the commission finds that dumped FSI pineapple from Thailand does not appear to have been the cause of GCL's small declines in sales volumes in the investigation period.

### **13.5 Price and profit effects**

As outlined in chapter 12, the commission did not identify price or profit injury for the investigation period.<sup>82</sup>

The analysis using the available information submitted by GCL, shows an improvement for these economic indices.

In support of this observation, the commission assessed the evidence submitted by GCL in relation to its price injury. GCL claimed in its application<sup>83</sup> that the dumping caused price suppression because it was unable to increase price (for the investigation period) to the amount needed to recover increasing costs.

GCL submitted background costing data<sup>84</sup> for various costs that related to the import, production, and sale of FSI pineapple in Australia. These various costs included ocean freight, tinsplate, and pineapple fruit. Some of these costs were not relevant to domestic production of FSI pineapple.

The commission assessed the cost input factors and the cost increase claimed by GCL that were relevant to domestic production. The commission identified that the price increase GCL obtained for the investigation period, was sufficient to cover the claimed domestic cost increases.

There is no other evidence to suggest a link between import price for thin slice and sliced FSI pineapple and GCL's price for those same goods in the investigation period.

The available evidence does not demonstrate that dumping has caused price or profit injury to the Australian industry.

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<sup>82</sup> The commission noted at chapter 12.6 that limitations exist with the probity of any findings in relation to price and profit injury because relevant data sets (such as GCL's CTMS and production quantity) were not verified.

<sup>83</sup> [EPR 628 – document 1.](#)

<sup>84</sup> GCL used third-party subscription data, over a period to identify and calculate changes in cost.

## 13.6 Other economic factor effects

As outlined in chapter 12, the commission identified that GCL had experienced:

- reduced sales revenue
- increased stocks and inventories
- reduced cashflow.

Sales revenue relies on volume and price as inputs. As explained in chapters 12.5 and 13.5, GCL increased its prices in the investigation period. GCL experienced a revenue decline over the injury analysis period that resulted from volume loss for thin slice FSI pineapple substituted for GCL's imports of sliced FSI pineapple (see chapter 13.4.4). Therefore, the revenue injury identified over the injury analysis period resulted from that substitution event and any revenue injury caused by the small volume of dumped goods in the investigation period is immaterial.

There is also no evidence before the commission of a link between increased stocks and inventories or reduced cashflow due to dumped goods. This is because the commission was unable to verify GCL's production (quantity and CTMS), and GCL did not submit evidence demonstrating lost sales or an inability to sell more goods because of dumping in the investigation period. Therefore, the information from GCL is incomplete and a finding cannot be made on whether dumping has caused this injury.

## 13.7 Factors other than dumping causing injury

The Commissioner considers that there are factors other than dumping are the cause of any injury to the Australian industry in the investigation period, and that dumped goods from Thailand caused negligible, if any, injury to the Australian industry.

### 13.7.1 Undumped and dumped imports at negligible dumping margins

At chapter 13.4, the commission identified that undumped and dumped imports at negligible dumping margins affected GCL's economic condition in the investigation period. The volume of dumped goods from Thailand at above negligible levels was not significant in comparison.

### 13.7.2 Natural flowering event

The commission is aware that a 'natural flowering event' occurred in early 2023, resulting in unplanned, excess pineapple fruit in the market. This may have caused GCL to increase the production of canned pineapple and other fruit products, increasing inventories for products for which it did not have sales. The commission was unable to verify GCL's production (quantity and CTMS) to qualify the impact of this event, meaning there is no verifiable evidence to demonstrate the impact (if any).<sup>85</sup>

### 13.7.3 Distribution efficiency of GCL's competitors

The commission notes that GCL is both an importer and Australian manufacturer in relation to FSI pineapple.

The commission considers that importing and distribution efficiency of GCL's competitors provided a price advantage and therefore a volume advantage in the investigation period. These

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<sup>85</sup> In response to GCL's submission on this point (refer chapter 15.1.4), the commission has clarified its assessment of the impact of the natural flowering event on GCL's production.

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importing and distribution efficiencies reduced the costs that GCL's competitors factored into their prices and the price of subsequent resale in the supply chain.

The price paid for a can of FSI pineapple increases each time the same goods are resold. This is because each time the goods are resold, additional costs and profit are included in the price. The price is therefore a result of the number of sellers and resellers in the supply chain for the same good.

For importers that sell imports direct to end users, the price factors in the fully landed cost of the goods (including the export price), warehousing in Australia, SG&A, freight, and an amount for profit.

Resale of imported goods or GCL goods in Australia include the importer costs described above and the importer's/GCL's CTMS and profit, but also the seller's SG&A, freight costs and profit.

The supply chain in Australia is more efficient for imports that are sold directly to end users and depending on the export price and cost efficacy of the importer, can result in cheaper prices.

The dumped goods from Thailand are priced differently than resale goods from other sources. GCL and other importers are not the seller in this market segment and do not directly influence the resale price paid for their goods by end users. This means that distributors who directly sell imports and resell thin slice FSI pineapple use different pricing strategies to end users, thereby creating selective demand for dumped thin slice FSI pineapple from Thailand.

The price mark up on dumped thin slice FSI pineapple is lower than the price mark up on resale thin slice FSI pineapple. The smaller mark up on dumped thin slice FSI pineapple makes a material contribution to the price differential and therefore the reason that end users choose the dumped thin slice FSI pineapple over other sources.

The evidence is that the dumping had a negligible price impact, if any, in the Australian market, in the investigation period, noting that the mark up and resale price of GCL's self-produced thin slice FSI pineapple and other import sources (undumped and dumped at negligible levels) exceeds any price advantage.

## 14 WILL THE DUMPING THREATEN MATERIAL INJURY?

### 14.1 Findings

The Commissioner finds that there is not a change in circumstances whereby material injury is foreseeable and imminent unless dumping measures are imposed.

Therefore, the Commissioner finds that the dumping of FSI pineapple from Thailand does not threaten material injury.

### 14.2 Legislative framework

Section 269TAE(2B) provides that in determining whether or not material injury is threatened to an Australian industry, the Minister must only take into account changes in circumstances that would make that injury foreseeable and imminent unless dumping measures were imposed.

The manual states that a threat of material injury assessment requires consideration of a non-exhaustive list of factors described in Articles 3.4 and 3.7 of the *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* (ADA) in totality.<sup>86</sup>

These non-exhaustive factors in the ADA are:

- a significant rate of increase of dumped imports into the domestic market indicating the likelihood of substantially increased importation
- sufficient freely disposable, or an imminent, substantial increase in, capacity of the exporter indicating the likelihood of substantially increased dumped exports to the market, taking into account the availability of any other export markets to absorb any additional exports
- whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports
- inventories of the product being investigated.

### 14.3 The application

In its application, GCL submitted that the dumped goods exported from Indonesia and Thailand have caused it actual and realised material injury. However, it also claimed that, further, or in the alternative, if material injury to the Australian industry is not yet evident, then the increase in the volume of the dumped imports from Indonesia and Thailand, at increasingly higher rates of dumping, will create a situation where the threat of material injury to the Australian industry is foreseeable and imminent.<sup>87</sup>

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<sup>86</sup> [The Manual](#), page 19.

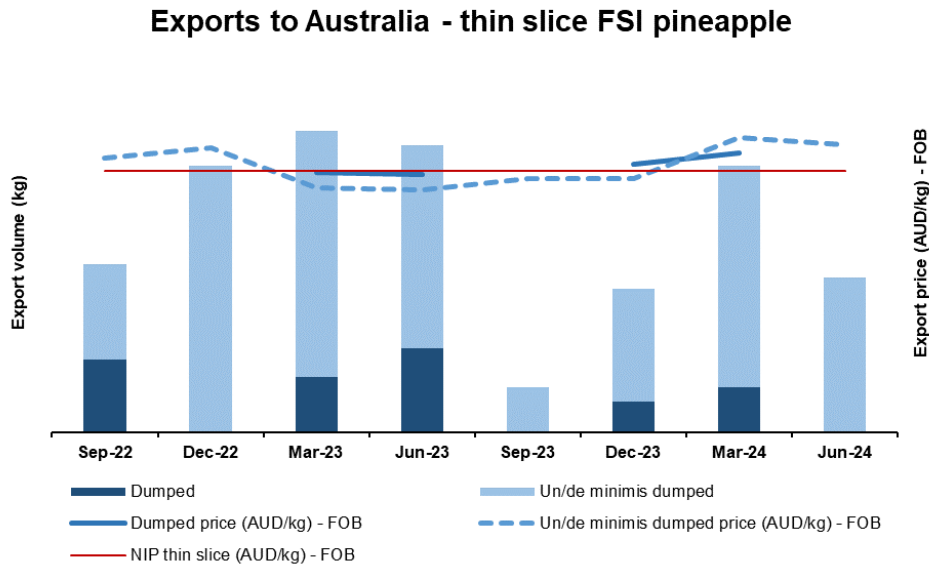
<sup>87</sup> EPR 628 - [document 1](#), at page 49.

## 14.4 The Commission’s assessment

### 14.4.1 Exports to Australia of FSI pineapple

The commission assessed if there was significant rate of increase of dumped volumes of FSI pineapple, in particular thin slice FSI pineapple (as the only product produced by GCL) exported from Thailand and the export price of those dumped exports.

The commission’s analysis of the volume and price of exports of thin slice FSI pineapple from Thailand in the investigation period and the 12-month period after, is at Figure 13.



**Figure 13: Exports to Australia – thin slice FSI pineapple (after the investigation period)**

The commission identified that the volume of thin slice FSI pineapple from undumped or negligible dumped sources remains is the dominant source of thin slice FSI pineapple exported to Australia from Thailand.

The commission also observes that the export price of dumped thin slice FSI pineapple in the investigation period and the year after the investigation period is either the same price or more expensive than the NIP calculated for the investigation period. This indicates that the export price of thin slice FSI imports is causing or may cause negligible injury to GCL for these periods.

The commission obtained evidence that demonstrated the price impact of drought in South-East Asia in the same periods analysed at Figure 13. The evidence shows traders and suppliers of FSI pineapple from Thailand increasing the price of FSI pineapple due to the shortage of fresh pineapple that meets Australian customer requirements. Some evidence showed the price increased between 5% and 10% after the purchase order was agreed to, but before production started.

Based on the available evidence, the Commissioner is satisfied that there is no change in circumstance for the source and price of imports to Australia that would threaten material injury to GCL.

#### **14.4.2 Capacity and capacity utilisation**

The commission considers that exporters from Thailand are unlikely to have the capacity to substantially increase the volume of dumped exports into the Australian market in the foreseeable future.

While the commission observes that, during the investigation period, the cooperative exporters had some excess capacity to produce FSI pineapple, the ability to utilise this capacity is limited by the availability of fresh pineapple, which is the main raw material input of FSI pineapple.

Drought in South-East Asia in the investigation period has had a material effect on the availability of fresh pineapple that meets the quality requirements for FSI pineapple sold to Australia. The conditions continued after the investigation period.<sup>88</sup>

This means that exporters from Thailand are currently unable to increase their FSI pineapple production.

The commission received evidence that one large Thai exporter was unable to meet the purchase order conditions for thin slice FSI pineapple due to a shortage of the fruit quality needed for the Australian customer. The advice from the exporter was sent to the importer in September 2023 – 3 months after the end of the investigation period.

Desktop research also identified that Tipco Foods Public Company Limited (an uncooperative exporter from Thailand) will cease manufacturing canned pineapple.<sup>89</sup>

Based on the commission's analysis, the Commissioner is satisfied that there is no change in circumstance for the source and price of imports to Australia that would threaten material injury to GCL.

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<sup>88</sup> <https://www.saico.co.th/home/index.php/news-event/saico-report/383-el-ni%C3%B1o-watch.html>

<sup>89</sup> <https://moneyandbanking.co.th/en/2024/131586/>

## 15 CONSIDERATION OF GCL'S SUBMISSION

### 15.1.1 A 'but for' analysis should have been performed to assess how GCL's rate of growth was materially injured by dumping

GCL submits that the commission's coincidence analysis for establishing the causal link between dumping and injury contravenes the Material Injury Direction. In GCL's opinion, the commission should perform a 'but for' analysis on GCL's declining rate of growth. In GCL's view, such a 'but for' analysis would demonstrate that 'but for' the dumping, GCL would have maintained or increased its profit, profitability, and market share.

In addition, GCL submits that the commission's price suppression analysis is flawed because the commission focused on the investigation period and did not assess trends over the injury analysis period using a 'but for' analysis.

#### The Commissioner's consideration

There is no prescribed form of analysis in the legislation, Material Injury Direction or Manual for assessing a causal link between dumping and injury. The form of analysis used is dependent on the information and evidence before the commission during the investigation.

As per the Manual<sup>90</sup>, where no coincidence has been found, or a 'coincidence analysis' has not been possible, the Commission may accept an alternate analytical method—such as a 'but for' analysis—when examining causation. Any alternate method must be evidence based and require a 'compelling explanation' as to why causation exists notwithstanding the absence of any coincidence. Parties submitting information to demonstrate injury based on 'but for' grounds must provide, and explain, the evidence on which this claim rests. For example, how they estimated the effects of the dumping by using suitable accounting methods and counterfactual analysis. It is not sufficient to simply assert such an effect as this will not meet the evidentiary requirement.

In this matter, the commission was able to conduct a coincidence analysis based on the available evidence. The commission considered a range of relevant injury indicators. To supplement this analysis, the commission examined the broader conditions of competition and areas where GCL had the potential to be affected by dumped imports. The commission also excluded factors other than dumping from its causation analysis. The commission considers its approach was sufficient and does not contravene the Material Injury Direction, noting that GCL did not present the commission with any counterfactual scenario, supported by evidence to permit any other form of 'but for' analysis. In other words, GCL did not provide the commission with evidence, consistent with the claims in its submission to demonstrate what growth it anticipated, planned for, or achieved and why the existence of dumping caused GCL to forgo profit, profitability, and market share, i.e. affecting growth.

Additionally, the relevant economic indicia for assessing growth aligned to a future state could not be verified for the injury analysis period (production quantity, CTMS, price suppression, profit, and profitability).<sup>91</sup> Verifying these economic indices may have assisted a relevant counterfactual scenario, however absent verified information the commission is of the view that

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<sup>90</sup> [The Manual](#), p. 110.

<sup>91</sup> Refer chapters 12.5; 12.6 and 12.7.5.



using a 'but for' analysis would be less preferable, as it would need to rely upon GCL's unverified claims.<sup>92</sup>

### **15.1.2 GCL would have been more prosperous, but for the dumping**

GCL submitted that the commission's profit and profitability analysis does not consider the amount of profit foregone by GCL, because of dumping in the investigation period.

#### The Commissioner's consideration

The commission's analysis of profit and profitability over the injury analysis period compares profit and profitability at the start of the injury analysis period to profit and profitability at the end of the injury analysis period (in the investigation period).

The commission observes that GCL experienced negative profit (losses) and profitability in FY 2020-2021 and FY 2021-2022 and positive profit and profitability in the investigation period (FY 2022-2023).

Comparing GCL's profit and profitability in the FYs 2020-2022 with GCL's profit in the investigation period, the commission finds that the Australian industry's profit and profitability improved.

The commission therefore finds that the Australian industry did not experience injury in the form of lost profit and profitability in the investigation period. As for GCL's claim that profit was foregone due to dumping in the investigation period, profit foregone is a counterfactual scenario (refer to chapter 15.1.1) without evidence from GCL, either during the conduct of the investigation or with its submission.

And, as noted in chapter 12.6 above, the probity of any findings on GCL's profit and profitability is limited because the commission was unable to verify GCL's production quantity and CTMS for the injury analysis period.

### **15.1.3 Dumping margins not considered**

GCL submitted that the commission has not considered section 269TAE(1)(aa) and therefore, there is an error in the causal link reasoning by ignoring the size of the dumping margins calculated.

#### The Commissioner's consideration

Under section 269TAE(1)(aa) the Minister may have regard to the size of the dumping margins if a determination is being made for the purposes of section 269TG. In this investigation, the dumping margins ranged from negative 2.7% to positive 30.9%. The commission (and in turn the Commissioner) has considered the size of dumping margins in its broader assessment of whether there is a causal link between dumping and injury to the Australian industry. Notably, and as outlined in more detail in chapter 13, the commission verified that GCL imported dumped sliced FSI pineapple in the investigation period and that it directly competed against *de minimis* dumped thin slice and slice FSI pineapple from Thailand.

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<sup>92</sup> Op cit (74), p.1.



#### **15.1.4 Conclusion on natural flowering event is speculation**

GCL claimed that the commission speculated on the impact of the natural flowering event and requested that any conclusions from SEF 628 are excluded from the Commissioner's findings.

##### The Commissioner's consideration

In response to GCL's submission on this point, the commission has clarified its assessment of the impact of the natural flowering event on GCL's production.

The commission documented the natural flowering event as an event that occurred and is related to GCL's main raw material relevant for production. The commission could not assess the impact on production, as GCL's production quantity and CTMS could not be verified, meaning there is no verifiable evidence to demonstrate the impact (if any).

The Commissioner notes that GCL claimed in its submission that there was no effect on production as the early-ripened fruit was not taken by GCL for canning, however this information is not verifiable, despite reference to the verified indices for cans and packaging in GCL's submission.

#### **15.1.5 Reassessment of the commission's statement that "the majority of thin slice was undumped or dumped at negligible levels"**

GCL asked the commission to reassess the statement in SEF 628 that "[t]he majority of thin slice or sliced FSI pineapple from Thailand was undumped or was dumped at negligible levels."<sup>93</sup> GCL cited Siam (2513) as an example of a Thai exporter that was dumping sliced FSI pineapple in the investigation period.

##### The Commissioner's consideration

The commission has reassessed this statement and has made an amendment at chapter 13.4.2.

As stated in the revised chapter 13.4.2 approximately 60% of the thin slice and sliced FSI pineapple imports from Thailand in the investigation period were dumped at margins above 2%. However, these dumped imports had a negligible effect on Australian industry volumes because half of that dumped volume was imported by GCL, and the rest was imported into the end user market segment, where GCL does not compete.

#### **15.1.6 Certain economic indices dismissed as material injury**

GCL submitted that the commission dismissed the following other economic factors being materially injured by dumping from Thailand:

- Revenue – GCL refuted by extension of the commission's coincidence analysis for price and volume
- Cashflow and Stocks and inventories – reflects the actual lost sales volume, market share, price suppression, profits, and profitability

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<sup>93</sup> EPR 628 – [document 27](#), p.76.

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### The Commissioner's consideration

As stated above at chapter 15.1.1, GCL did not submit evidence to support a counterfactual scenario that volume and price were foregone in the investigation period because of dumping. Therefore, there is no available evidence to find that revenue was foregone because of dumping.

In relation to cashflow and stocks and inventories, the commission has undertaken an additional assessment at chapter 13.6.

There is also no evidence before the commission of a link between increased stocks and inventories or reduced cashflow due to dumped goods. This is because the commission was unable to verify GCL's production (quantity and CTMS), and GCL did not submit evidence demonstrating lost sales or an inability to sell more goods because of dumping in the investigation period.

## 16 TERMINATION FOR THAILAND

### 16.1 Findings

The Commissioner finds that with respect to DTL and PPI, 2 exporters of the goods from Thailand, the dumping margin is less than 2% (a negligible amount under section 269TDA(1)(b)(ii)).

The Commissioner is terminating this investigation for DTL and PPI.

Country	Exporter	Export price	Normal value	Dumping margin
Thailand	Dole Thailand Limited	s 269TAB(1)(c)	s 269TAC(1)	negative 2.7%
Thailand	Prime Products Industry Co Ltd	s 269TAB(1)(a)	s 269TAC(2)(c)	1.1%

**Table 34: Dumping margin for DTL and PPI and calculation provisions**

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

The Commissioner also finds that with respect to Thailand:

- the injury to the Australian industry, if any, that has been (chapter 13), or may be (chapter 14) caused by goods exported from Thailand is negligible.

The Commissioner is terminating this investigation for Thailand.

### 16.2 Legislative and policy framework

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

#### 16.2.1 Negligible dumping for an exporter

Section 269TDA(1) sets out the circumstances where the Commissioner must terminate the investigation, as far as it relates to an exporter. The Commissioner 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%.

#### 16.2.2 Negligible volumes of dumped goods for a country

Section 269TDA(3) sets out a circumstance 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 may be dumped, is negligible.

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%.

Section 269TDA(6) specifies that negligible dumping margins of an exporter are not prevented from being counted in a determination of the volume of dumped goods from a country.

### 16.2.3 Negligible injury

Section 269TDA(13) provides that if the Commissioner is satisfied that the injury, if any, to an Australian industry, that has been, or may be, caused by export goods the subject of the application that have been, or may be, exported to Australia from a particular country of export, is negligible then the Commissioner must terminate the investigation in relation to that country.

## 16.3 Termination of the investigation for DTL and PPI

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

Chapter 8 describes the commission's inquiry of DTL's data, information, and the resulting confidential calculations.

Chapter 9 describes the commission's inquiry of PPI's data, information, and the resulting confidential calculations.

There was some dumping of the goods by DTL and PPI in the investigation period. But the dumping margin calculated under section 269TACB(2)(a) for each exporter, resulted in a dumping margin that is less than 2%.

The Commissioner received a submission from DTL<sup>94</sup> agreeing with the preliminary recommendation in SEF 628 to terminate the investigation in respect of DTL. Other than this submission, no interested parties made submissions on the preliminary recommendation to terminate the investigation in relation to DTL and PPI.

Accordingly, the Commissioner is terminating the investigation with respect DTL and PPI under section 269TDA(1)(b)(ii).

The commission's assessment of DTL's dumping is at **Confidential attachment 13**.

The commission's assessment of PPI's dumping is at **Confidential attachment 17**.

## 16.4 Volume of dumped goods from Thailand is not negligible

The Commissioner is not satisfied there is a negligible volume of dumped goods exported to Australia from Thailand. These dumped goods include all FSI pineapple exported from Thailand.

There was dumping of the goods by KFC and Siam (2513) and uncooperative exporters at margins above 2%. Due to section 269TDA(6), the commission has also included PPI's volumes in its assessment of the volume of dumped goods from Thailand.

The commission calculates that there was not a negligible volume of dumped goods exported to Australia from Thailand. Therefore, the Commissioner is not required to terminate the investigation with respect to Thailand as section 269TDA(3) is not enlivened.

The commission's assessment of dumping volumes from Thailand is at **Confidential attachment 22**.

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<sup>94</sup> EPR 628 – [document 28](#).

## **16.5 Termination of the investigation for Thailand – negligible injury**

For the reasons outlined in chapters 13 and 14, the Commissioner is satisfied that negligible injury has been, or may be, caused by goods exported to Australia from Thailand.

Accordingly, the Commissioner is terminating the investigation with respect of Thailand under section 269TDA(13).

<b>17 ATTACHMENTS</b>
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<b>Confidential attachment 1:</b> The Australian FSI pineapple market
<b>Confidential attachment 2:</b> KFC – Export price calculation
<b>Confidential attachment 3:</b> KFC – CTMS calculation
<b>Confidential attachment 4:</b> KFC – Normal value calculation
<b>Confidential attachment 5:</b> KFC – Dumping margin calculation
<b>Confidential attachment 6:</b> Siam (2513) – Export price calculation
<b>Confidential attachment 7:</b> Siam (2513) – CTMS calculation
<b>Confidential attachment 8:</b> Siam (2513) – Normal value calculation
<b>Confidential attachment 9:</b> Siam (2513) – Dumping margin calculation
<b>Confidential attachment 10:</b> DTL – Export price calculation
<b>Confidential attachment 11:</b> DTL – CTMS calculation
<b>Confidential attachment 12:</b> DTL – Normal value calculation
<b>Confidential attachment 13:</b> DTL – Dumping margin calculation
<b>Confidential attachment 14:</b> PPI – Export price calculation
<b>Confidential attachment 15:</b> PPI – CTMS calculation
<b>Confidential attachment 16:</b> PPI – Normal value calculation
<b>Confidential attachment 17:</b> PPI – Dumping margin calculation
<b>Confidential attachment 18:</b> Uncooperative & all other exporters – Dumping margin calculation
<b>Confidential attachment 19:</b> USP & NIP calculation
<b>Confidential attachment 20:</b> Economic condition of the Australian industry
<b>Confidential attachment 21:</b> Causal link assessment and threat of material injury
<b>Confidential attachment 22:</b> Thai dumped volume