



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

**Anti-Dumping
Commission**

CUSTOMS ACT 1901 - PART XVB

REPORT
571 & 572

**INQUIRY INTO THE CONTINUATION OF
ANTI-DUMPING MEASURES APPLYING TO
CONSUMER PINEAPPLE
EXPORTED TO AUSTRALIA FROM THE REPUBLIC OF THE
PHILIPPINES AND THE KINGDOM OF THAILAND**

6 September 2021

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ABBREVIATIONS

ABF	Australian Border Force
the Act	<i>Customs Act 1901 (Cth)</i>
ADN	Anti-Dumping Notice
the applicant or Golden Circle	Golden Circle Limited
the commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
CTM	Cost to make
CTMS	Cost to make and sell
Dole	Dole Philippines Inc.
the Direction	<i>Customs (Extensions of Time and Non-cooperation) Direction 2015</i>
Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975 (Cth)</i>
EPR	Electronic public record
FOB	Free on board
FSI	Food Service and Industrial
the goods	the goods the subject of the application (also referred to as the goods under consideration or GUC)
Kuiburi	Kuiburi Fruit Cup Co Ltd and Kuiburi Fruit Canning Co., Ltd
the Manual	<i>Dumping and Subsidy Manual</i>
NIP	Non-Injurious Price
the Parliamentary Secretary	the Assistant Minister for Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science
Pave	Pave Brands Limited
the Philippines	the Republic of the Philippines
Prime Products	Prime Products Industry Co. Ltd
the Regulation	<i>Customs (International Obligations) Regulation 2015 (Cth)</i>
REP 41	<i>Trade Measures Report No. 41</i>
REP 110	<i>Trade Measures Report No. 110</i>
REP 111	<i>Trade Measures Report No. 111</i>
REP 112	<i>Trade Measures Report No. 112</i>
REP 171b	<i>Trade Measures Branch Report No. 171b</i>
REP 171d	<i>Trade Measures Branch Report No. 171d</i>
REP 172b	<i>Trade Measures Branch Report No. 172b</i>
REP 172d	<i>Trade Measures Branch Report No. 172d</i>
SEF	Statement of Essential Facts
SG&A	Selling, general and administrative
Siam Food	Siam Food Products Public Co Ltd
Thailand	the Kingdom of Thailand
TPC	Thai Pineapple Canning Industry Corp Ltd
USP	Unsuppressed selling price
Woolworths	Woolworths Ltd

1 SUMMARY AND RECOMMENDATIONS

1.1 Introduction

The anti-dumping measures currently applicable to exports of consumer pineapple (the goods) to Australia from the Kingdom of Thailand (Thailand) and the Republic of the Philippines (the Philippines) (collectively, the subject countries) are due to expire on 10 October 2021 and 17 October 2021 respectively.¹

On 25 January 2021 the Commissioner initiated these inquiries following an application from Golden Circle Limited (Golden Circle or the applicant) seeking the continuation of the anti-dumping measures.² The Commissioner established an inquiry period of 1 January 2020 to 31 December 2020 (the inquiry period) for the present inquiries.

This report sets out the findings and conclusions on which the Commissioner has based his recommendations to the Minister for Industry, Science and Technology (the Minister).

1.2 Legislative framework

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

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

The Commissioner is not obliged to have regard to any submissions made in response to the SEF that are received by the Commissioner after the end of the 20 day period referred to in section 269ZHF(3)(a)(iv) if to do so would, in the Commissioner's opinion, prevent the timely preparation of this report to the Minister.⁴

Section 269ZHF(1)(a) requires the Commissioner, after conducting an inquiry, to give the Minister a report which recommends:

- that the notice remain unaltered⁵
- that the notice cease to apply to a particular exporter or to a particular kind of goods⁶

¹ Under section 269TM, dumping duty notices expire five years after the date on which they were published, unless they are revoked earlier. The dumping duty notice relevant to consumer pineapple exported to Australia from the Philippines is Anti-Dumping Notice No. 2016/81. The dumping duty notice relevant to consumer pineapple exported to Australia from Thailand is Anti-Dumping Notice No. 2016/82.

² Refer to Golden Circle's application for the continuation of the measures on the electronic public record (EPR) for inquiries 571 and 572, document no. 1 refers.

³ All legislative references in this report are to the *Customs Act 1901* (Cth) unless otherwise stated.

⁴ Section 269ZHF(4).

⁵ Section 269ZHF(1)(a)(i).

⁶ Section 269ZHF(1)(a)(ii).

- that the notice have effect in relation to a particular exporter or to exporters generally, as if different variable factors had been ascertained⁷ or
- that the notice expire on the specified expiry day.⁸

The Commissioner must not recommend that the Minister secure the continuation of the anti-dumping measures unless the Commissioner is satisfied that the expiration of the anti-dumping measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping or subsidisation and the material injury that the anti-dumping measure is intended to prevent.⁹

1.3 Statement of Essential Facts

The Commissioner published *Statement of Essential Facts No. 571 and 572* (SEF 571 and 572) on 19 July 2021.¹⁰ SEF 571 and 572 set out the findings of the Commissioner and the recommendations he proposed to make to the Minister based on the information before him at the time.

1.4 Findings

The Commissioner is not satisfied that the expiration of the anti-dumping measures in respect of exports of consumer pineapple from the Philippines and Thailand would lead, or would be likely to lead, to a continuation of, or a recurrence of, dumping and the material injury that the anti-dumping measures are intended to prevent.

Specifically, the inquiries have found that:

- There is market segmentation within the broader consumer pineapple market in Australia. The commission compared Golden Circle's sales data with FOB pricing of the imported goods (from subject countries and other countries not subject to the measures). The commission also considered data from a leading supermarket, which compared the selling prices of Golden Circle's product with the selling prices of imported product. In both sets of data the commission observed a price premium for Golden Circle product. Golden Circle maintains a consistently higher selling price which does not fluctuate in response to movement in the prices of imported products. In contrast, the imported goods compete in a different segment, priced at lower price points. This analysis is contained in section 4.5.3 of this report.
- The commission has not identified any evidence of Golden Circle facing pricing pressure from dumped imports from Thailand and the Philippines. The commission did not identify examples of tender processes (or other negotiation processes) referencing imports from the subject countries, or where the prices of these imports had been raised. The examples of price negotiation the commission observed indicate that the key driver of the prices Golden Circle achieve is the price of raw pineapple sourced within Australia. The commission has not identified evidence to suggest that imports of the goods from the subject countries impacts on the price of raw pineapple sourced within Australia. Section 7.7.1 of this report explains this analysis.

⁷ Section 269ZHF(1)(a)(iii).

⁸ Section 269ZHF(1)(a)(iv).

⁹ Section 269ZHF(2)

¹⁰ Available on the Electronic Public Record (EPR).

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- The commission has not identified any evidence indicating that Golden Circle has lost sales volume due to imports from the subject countries. Golden Circle advised it is able to process all of the raw pineapple it acquires. The limiting factor with regard to sales volumes is the availability of raw pineapple. The analysis regarding sales volumes is in section 7.7.2 of this report.

1.5 Recommendation

Based on the above findings, the Commissioner recommends to the Minister that the notices in respect of the goods exported to Australia from the Philippines and Thailand expire on the specific day.¹¹

¹¹ The specified day for consumer pineapple from the Philippines is 10 October 2021. The specified day for consumer pineapple from Thailand is 17 October 2021.

2 BACKGROUND

2.1 Application and initiation

In accordance with section 269ZHB(1), the Commissioner published a notice on 6 November 2020 on the commission's website inviting the following persons to apply for the continuation of the anti-dumping measures:

- the person whose application under section 269TB resulted in the anti-dumping measures (section 269ZHB(1)(b)(i)) or
- persons representing the whole or a portion of the Australian industry producing like goods to the goods covered by the anti-dumping measures (section 269ZHB(1)(b)(ii)).¹²

On 4 January 2021, the commission received Golden Circle's application for the continuation of the anti-dumping measures. A non-confidential version of the application is available on the EPR.¹³

As set out in Anti-Dumping Notice (ADN) No. 2021/004, the Commissioner was satisfied that the application complied with section 269ZHC. In accordance with section 269ZHD(2)(b), the Commissioner was satisfied that there appeared to be reasonable grounds for asserting that the expiration of the anti-dumping measures might lead, or might be likely to lead, to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent.

The Commissioner therefore decided not to reject the application and initiated the present inquiry on 25 January 2021.

2.2 History of the anti-dumping measures

2.2.1 Consumer pineapple from Thailand

Following an application from Golden Circle, the then Minister for Justice and Customs initially imposed anti-dumping measures on consumer pineapple exported to Australia from Thailand in 2001 following consideration of Trade Measures Report No. 41.

On 28 September 2006, the then Minister for Justice and Customs accepted the recommendations contained in the combined Trade Measures Branch Report Nos. 110 and 111 to continue the anti-dumping measures applying to consumer pineapple exported to Australia from Thailand for a further five years.

On 4 April 2008, the Federal Court set aside the then Minister for Justice and Customs' decision to continue measures in relation to exports of consumer pineapple from Thai Pineapple Canning Industry Corp Ltd. (TPC). Exports from TPC have been exempt from anti-dumping measures since that date.

On 14 October 2011, the then Minister for Home Affairs accepted the recommendations contained in Trade Measures Branch Report No. 171d to continue the anti-dumping measures for a further five years from 18 October 2011.

¹² [ADN No. 2020/125](#) refers.

¹³ EPR 571 & 572, [document no. 01](#) refers.

On 12 September 2016 the then Assistant Minister for Industry, Innovation and Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science accepted the recommendations in Anti-Dumping Commission Report No. 333 to continue the anti-dumping measures applying to consumer pineapple exported from Thailand for a further five years from 17 October 2016.¹⁴

2.2.2 Consumer pineapple from the Philippines

Following an application from Golden Circle, the then Minister for Justice and Customs initially imposed anti-dumping measures on consumer pineapple exported to Australia from the Philippines on 10 October 2006 following consideration of Trade Measures Report No. 112.

On 30 August 2011 the then Minister for Home Affairs accepted the recommendations contained in Trade Measures Branch Report No. 171b to secure the continuation of anti-dumping measures applying to consumer pineapple for a further five years from 11 October 2011.

On 12 September 2016 the then Assistant Minister for Industry, Innovation and Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science accepted the recommendations in Anti-Dumping Commission Report No. 333 to continue the anti-dumping measures applying to consumer pineapple exported from the Philippines for a further five years from 10 October 2016.¹⁵

Further details on the goods and existing measures is available on the Dumping Commodity Register on the commission's website (www.adcommission.gov.au).

2.2.3 Reviews following REP 333

On 29 May 2017, following an application for an Accelerated Review from Kuiburi Fruit Cup Co Ltd, the Commissioner found that this exporter was not eligible to apply for an accelerated review because a declaration that applied to Kuiburi Fruit Cup Co Ltd had already been made under section 269ZG(3)(b) of the Act.¹⁶

On 18 June 2018, following an application from Prime Products Industry Co Ltd (Prime Products) for a review of measures applying to its exports of consumer pineapple, the Commissioner initiated a review of measures and extended the review to include all exporters of consumer pineapple exported from Thailand. On 18 February 2019 the then Minister for Industry, Science and Technology accepted the recommendations in Anti-Dumping Commission Report No. 478 (REP 478) and declared that the relevant dumping duty notice was to be taken to have effect as if different variable factors been set.

2.3 Current Measures

Table 1 sets out the current measures applying to exports of the goods to Australia from both Thailand and the Philippines.

¹⁴ [ADN 2016/81](#) refers.

¹⁵ [ADN 2016/82](#) refers.

¹⁶ Refer to Report 397 for the findings of the accelerated review (available on the EPR) and [here](#) for the relevant declaration (GN 40, 10 October 2012).

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Country	Exporter	Fixed rate of IDD	Dumping duty method
Philippines	Dole Philippines Inc.	5.9%	combination of fixed and variable duty method
	All other exporters	22.9%	combination of fixed and variable duty method
Thailand	Siam Food Products Public Company Ltd	2.6%	combination of fixed and variable duty method
	Kuiburi Fruit Canning Co Ltd & Kuiburi Fruit Cup Co Ltd	N/A	floor price duty method
	Prime Products Industry Co Ltd	N/A	floor price duty method
	Tipco Pineapple Company Ltd	N/A	floor price duty method
	Uncooperative and all other exporters	16.8%	combination of fixed and variable duty method

Table 1: Current measures applying to exports of the goods

2.4 Conduct of the inquiries

2.4.1 Australian industry

The Commissioner is satisfied that the Australian industry for the continuation of the measures, Golden Circle, is the person specified under section 269ZHB(1)(b)(i), being that it lodged the application under section 269TB that resulted in the current measures.

The commission conducted verification of the information and data Golden Circle provided. The report made in relation to the verification process is available on the EPR.¹⁷

2.4.2 Importers

The commission identified in the ABF import database several importers that imported the goods from the Philippines and Thailand during the inquiry period. The commission forwarded importer questionnaires to major importers of the goods from the subject countries and placed a copy of the importer questionnaire on the commission's website for other importers (who were not contacted directly) to complete. The commission received three questionnaire responses from the importers listed below:

- Woolworths Group Limited
- Scalzo Food Industries
- Pave Brands Limited

The commission undertook verification of the importer questionnaire responses from Woolworths Group Limited (in relation to the goods from the Philippines) and Scalzo Food Industries (in relation to the goods from Thailand). The commission is satisfied that the data provided is relevant, accurate and reliable.

The reports made in relation to the importer verifications are available on the EPR.¹⁸

¹⁷ EPR 571 & 572, document 17 refers.

¹⁸ EPR 571 & 572, documents 3 and 12 refer.

2.4.3 End users

The commission also identified key end users/retailers of consumer pineapple and invited these end users to respond to a questionnaire. The commission obtained data from a leading supermarket in relation to sales of the goods.

2.4.4 Exporters

The commission forwarded questionnaires to all known exporters of the goods from the subject countries and placed a copy of the exporter questionnaire on the commission's website for other exporters (who were not contacted directly) to complete.

Table 2 provides a list of the cooperative exporters who provided a complete response to the exporter questionnaire.

Country	Company
Philippines	Dole Philippines Inc.
Thailand	Prime Products Industry Co Ltd
	Siam Food Products Public Co Ltd
	Kuiburi Fruit Canning Co Ltd and Kuiburi Fruit Cup Co Ltd

Table 2: Cooperating exporters

2.4.5 Uncooperative exporters

An uncooperative exporter is defined under section 269T(1) as an exporter of goods subject of an inquiry, or an exporter of like goods, where the Commissioner was satisfied that the exporter did not give the Commissioner information the Commissioner considered relevant to the continuation inquiry within the period the Commissioner considered to be reasonable.

The Commissioner is satisfied that all exporters that did not provide a response to the exporter questionnaire are uncooperative exporters in accordance with the definition in section 269T(1).

2.5 Concurrent inquiries

The commission is also undertaking inquiries into whether the anti-dumping measures applying to food services and industrial (FSI) pineapple imported from the Philippines and Thailand should continue or expire. Further information in relation to these inquiries is available on the EPR for inquiries 573 and 574.

2.6 Submissions received from interested parties

The commission received the following submissions from interested parties:

Interested Party	Date Published on EPR	Document Number
Golden Circle	11 June 2021	10
Australian Pineapple Growers	21 June 2021	11
Government of the Republic of Philippines	27 July 2021	15
Dole Philippines & Thailand	10 August 2021	18
Prime Products Industry Co Ltd	10 August 2021	19
Golden Circle	18 August 2021	20
Dole Philippines & Thailand	23 August 2021	22

Table 3: Submissions received¹⁹

The commission has had regard to all of these submissions in the preparation of this report.

¹⁹ All submissions are available on the EPR on the commission's website.

3 THE GOODS, LIKE GOODS AND THE AUSTRALIAN INDUSTRY

3.1 Finding

The Commissioner is satisfied that the locally manufactured consumer pineapple are like goods to the goods subject to the anti-dumping measures. The Commissioner considers that there is an Australian industry, consisting of Golden Circle, producing like goods. The Commissioner further considers that the like goods are wholly produced in Australia.

3.2 Legislative framework

In order to be satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or recurrence of, dumping or subsidisation, the Commissioner firstly determines whether the goods that the Australian industry has produced 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 definition of like goods is relevant in the context of this inquiry in determining the Australian industry and whether the expiration of the measures would lead to a continuation of, or a recurrence of, the dumping and material injury that the measures are intended to prevent. Chapter 2 of the *Dumping and Subsidy Manual* (the Manual) outlines the commission's framework for assessing like goods.²⁰

Where the locally produced goods and the imported goods are not alike in all respects, the Commissioner assesses whether they have characteristics closely resembling each other against the following considerations:

- i. physical likeness
- ii. commercial likeness
- iii. functional likeness and
- iv. production likeness.

The Commissioner must also consider whether the production of 'like' goods occurs in Australia. Section 269T(2) specifies that for goods to be regarded as being produced in Australia, they must be either wholly or partly manufactured in Australia. Under section 269T(3), in order for the goods to be considered as partly manufactured in Australia, at least one substantial process in the manufacture of the goods must be carried out in Australia. The following therefore establishes the scope of the commission's inquiry.

3.3 The goods subject to the measures

The goods that are the subject of the application are:

Pineapple prepared or preserved in containers not exceeding one litre (consumer pineapple).

²⁰ Available on the commission's [website](#).

3.3.1 Tariff classification

The goods are generally, but not exclusively, classified according to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995* (Cth):

Tariff code	Statistical code	Description
2008.20.00	26	Canned pineapples in containers not exceeding one litre
2008.20.00	28	Pineapples other than canned

Table 4: Tariff classifications of the goods

The goods subject to the anti-dumping measures do not include glacé or dehydrated pineapple.

3.4 Model control code

On 9 August 2018, the commission announced that a model control code (MCC) structure would apply in new investigations, reviews of exporters generally or continuations for cases initiated after this date (see ADN No. 2018/128).²¹

The proposed MCC structure described in ADN No. 2021/004 is below in

Category	Sub-category		Sales data	Cost data
Pineapple cut	CH	Chunks	Mandatory	Mandatory
	CR	Crushed		
	PC	Pieces		
	PZ	Pizza cut		
	SL	Sliced		
	TD	Tidbits		
	TH	Thin sliced		
Container type	TC	Tin can	Mandatory	Mandatory
	PC	Plastic cup		
Container size ¹⁰	Please provide container size in net weight (e.g., '850 g').		Mandatory	Mandatory
Packing medium	L	Light syrup	Mandatory	Mandatory
	H	Heavy syrup		
	S	Natural juice (sweetened)		
	U	Natural juice (unsweetened)		

Table 5.

²¹ For full guidance regarding the commission's application of an MCC structure, refer to ADN No. 2018/128 on the commission's website at: www.adcommission.gov.au.

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Category	Sub-category		Sales data	Cost data
Pineapple cut	CH	Chunks	Mandatory	Mandatory
	CR	Crushed		
	PC	Pieces		
	PZ	Pizza cut		
	SL	Sliced		
	TD	Tidbits		
	TH	Thin sliced		
Container type	TC	Tin can	Mandatory	Mandatory
	PC	Plastic cup		
Container size ¹⁰	Please provide container size in net weight (e.g., '850 g').		Mandatory	Mandatory
Packing medium	L	Light syrup	Mandatory	Mandatory
	H	Heavy syrup		
	S	Natural juice (sweetened)		
	U	Natural juice (unsweetened)		

Table 5: MCC Structure

Interested parties added some variations to this MCC structure, based on their particular circumstances. In these cases the commission evaluated the proposed changes on its merits based on data supplied.

Golden Circle considers chunks, pieces, tidbits and pizza cuts to be identical or almost identical, and that there is no difference in costs or price achieved between these items.

3.5 Like goods

This section sets out the commission's assessment of whether the locally produced goods are identical to, or closely resemble, the goods under consideration and are therefore 'like goods'.

The findings below have had regard to the commission's:

- Australian industry verification
- verification of data from exporters in both the Philippines and Thailand and
- findings in previous cases that locally produced goods are like goods to the goods exported from both the Philippines and Thailand.

The commission is satisfied that the locally produced goods closely resemble or are identical to the goods subject to these inquiries and are like goods. This is because:

- The primary physical characteristics of the locally produced goods closely resemble the imported goods.

- The imported and locally produced goods are commercially alike as they are sold to the same customers and/or compete in the same markets.
- The imported and locally produced goods are functionally alike as they have the same end uses and/or are substitutable and
- The manufacturing process for imported and locally produced goods is similar.

3.5.1 Conclusion – Like goods

The Commissioner is satisfied that the domestically produced goods are ‘like goods’ as defined in section 269T(1) to the goods under consideration.

3.6 Australian industry

Golden Circle is the sole manufacturer of consumer pineapple in Australia. No other interested party has claimed during these inquiries to be an Australian producer of consumer pineapple.

3.6.1 Production process

The commission has previously observed the production processes relevant to consumer pineapple as part of inquiry 333.²²

For the present inquiry the commission visited Golden Circle at Heinz corporate headquarters for the verification of the application data. The commission viewed a video of the production line and also communicated with the Golden Circle’s operation manager via video link.

The commission is satisfied that there have been no substantive changes to Golden Circle’s manufacturing processes in the period between the Australian industry verification in respect of REP 333 and this inquiry.

3.6.2 Conclusion – Australian industry

Based on the information obtained from previous verification visits and the information provided during the course of this inquiry, the Commissioner is satisfied that:

- the like goods were wholly manufactured in Australia²³ and
- there is an Australian industry which produces like goods in Australia.²⁴

²² Available on the commission’s website [here](#).

²³ Section 269T(2) refers.

²⁴ Section 269T(4) refers.

4 AUSTRALIAN MARKET

4.1 Finding

The commission has found that, during the inquiry period, the following sources of supply existed in the Australian market for the goods:

- the Australian industry
- imports from the Philippines and Thailand and
- imports from other countries not subject to the measures.

4.2 Approach to analysis

The commission's analysis detailed in this chapter considers verified financial information which Golden Circle submitted, import data from the ABF import database, financial information obtained from exporters, importers and retailers, market intelligence from the major retailers' online shopping websites and global trade patterns sourced from ITC Trade data, an independent international supplier of trade statistics.²⁵

The commission's analysis is contained in **Confidential Attachment 1**.

4.3 Market size

In its application, Golden Circle estimated the size of the Australian market using its own sales data, Australian Bureau of Statistics import data and data obtained from ITC Trade Data.

The commission has subsequently calculated the size of the market for consumer pineapple based on the verified sales data of Golden Circle and import data obtained from the ABF import database:

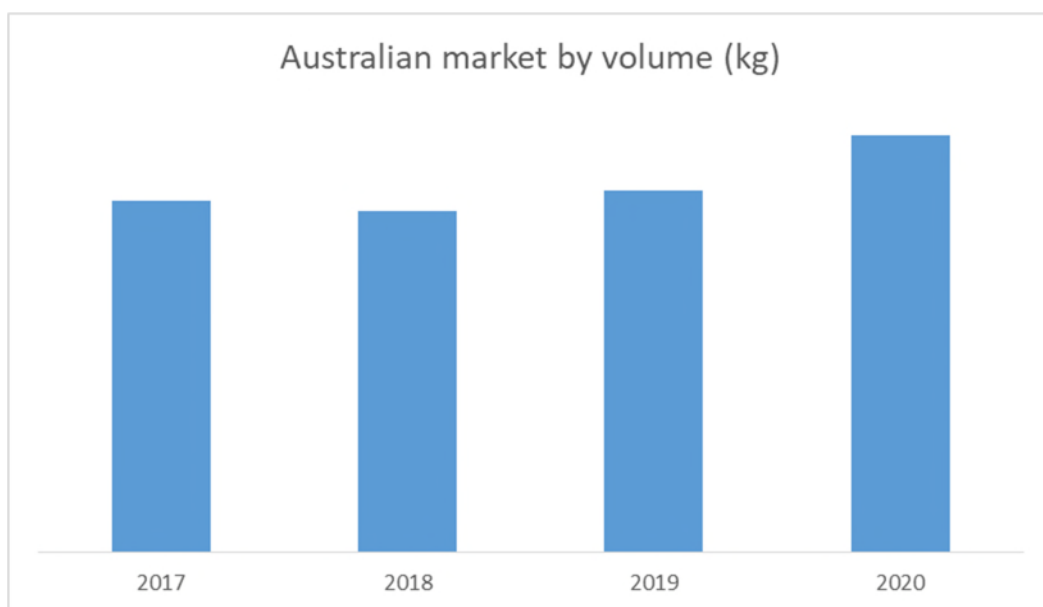


Figure 1: Australian market size (volume)

²⁵ International Trade Centre, '[Trade Map](#)', accessed 4 July 2021.

Figure 1 shows that the size of the market since 2016 remained steady with an increase in calendar year 2020. Golden Circle informed the commission that demand for consumer pineapple increased in 2020 as a result of the COVID-19 pandemic.

4.4 Market share

Golden Circle, together with imports from the Philippines, Thailand and Indonesia, represent the majority of the Australian market for consumer pineapple. Consumer pineapple from other countries represents a small portion of the Australian market.

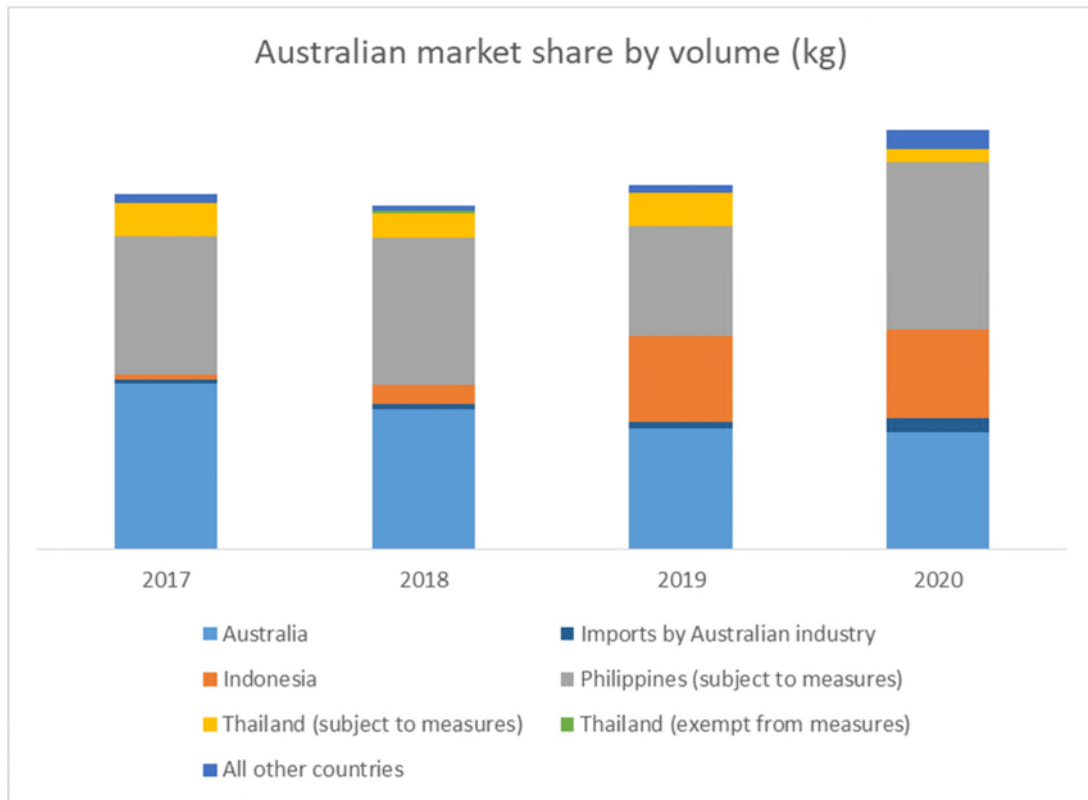


Figure 2: Australian market share

Figure 2 indicates that the Australian industry has lost market share from 2017 to 2020. The volume of imports from Philippines have increased, while the volume of imports from Thailand have reduced in 2020. There has been a significant increase in the volume of imports from all other countries, which are not subject to measures.

4.5 Market structure & pricing

4.5.1 Australian industry

Golden Circle is the sole Australian manufacturer of consumer pineapple. Golden Circle sell both self-manufactured and imported consumer pineapple. The commission found that Golden Circle cannot supply the entire Australian market with its self-manufactured goods.

The Australian industry for consumer pineapple mainly services supermarkets and wholesale distributors who on-sell to smaller retail outlets. Golden Circle estimates that the four main supermarket chains account for as much as 95% of the retail level consumer pineapple sales in Australia. The four main supermarkets are Coles,

Woolworths, Aldi and IGA. Golden Circle informed the commission that Aldi does not sell Golden Circle pineapple products.

These key buyers typically negotiate price, volumes and incentives over a 6 month period with an expectation that those prices will be firm for 12 months.

4.5.2 Retail pricing

Retailers determine 'shelf pricing' for consumer pineapple in Australia based on brand value and quality (or perceived quality). The commission found through analysis of retail prices and information received from Golden Circle, cooperating retailers and importers that pricing is tiered into three segments:

1. Golden Circle's goods processed in Australia, branded as 'Australian' pineapple, attracts the highest retail price.
2. Imported (branded) product such as Dole, Golden Circle's imported range (branded as 'Tropical' pineapple) and SPC branded pineapple sell in the medium price range.
3. The retailer branded 'private label' products, offered at the lowest prices.

The retailers purchase consumer pineapple from Golden Circle and from importers/wholesalers. Golden Circle does not supply the Aldi stores, while Coles, Woolworths and IGA all stock Golden Circle goods.

Large supermarkets control the majority of the Australian market for consumer pineapple due to the significant bargaining power they hold. The retailers purchase goods from suppliers that meet quality standards and reliability in terms of delivery.

4.5.3 Market segmentation

Further to 4.5.2 above, the commission identified a clear price difference between the Golden Circle 'Australian' consumer pineapple and imported consumer pineapple. To illustrate this, the commission has analysed data available from the ABF import database, as well as sales data from a leading retailer in Australia.

The following chart illustrates the Australian industry's selling prices for consumer pineapple to its key customers since 2017, together with the prices of imported consumer pineapple (inclusive of all importation costs and duties, where applicable).

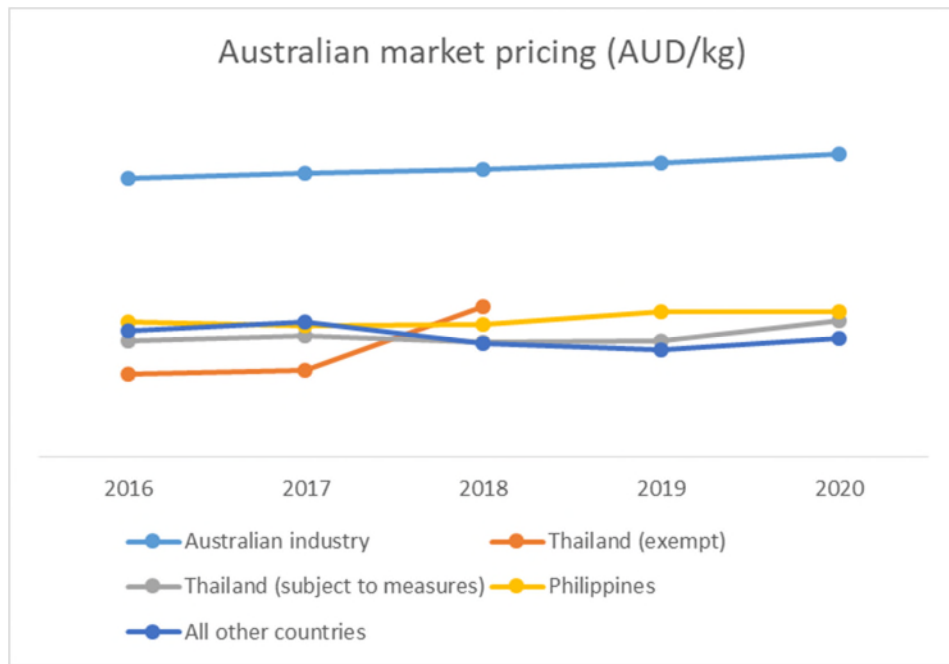


Figure 3: Golden Circle selling prices v prices of imported consumer pineapple

Figure 3 illustrates that there is a significant price difference between the price of the Golden Circle 'Australian' consumer pineapple and the prices of all imported consumer pineapple.

The commission has also considered sales data obtained from a leading supermarket in Australia. The following chart illustrates the selling prices (to consumers) for Golden Circle 'Australian' consumer pineapple as well as the selling prices for imported consumer pineapple from the Philippines and other countries.

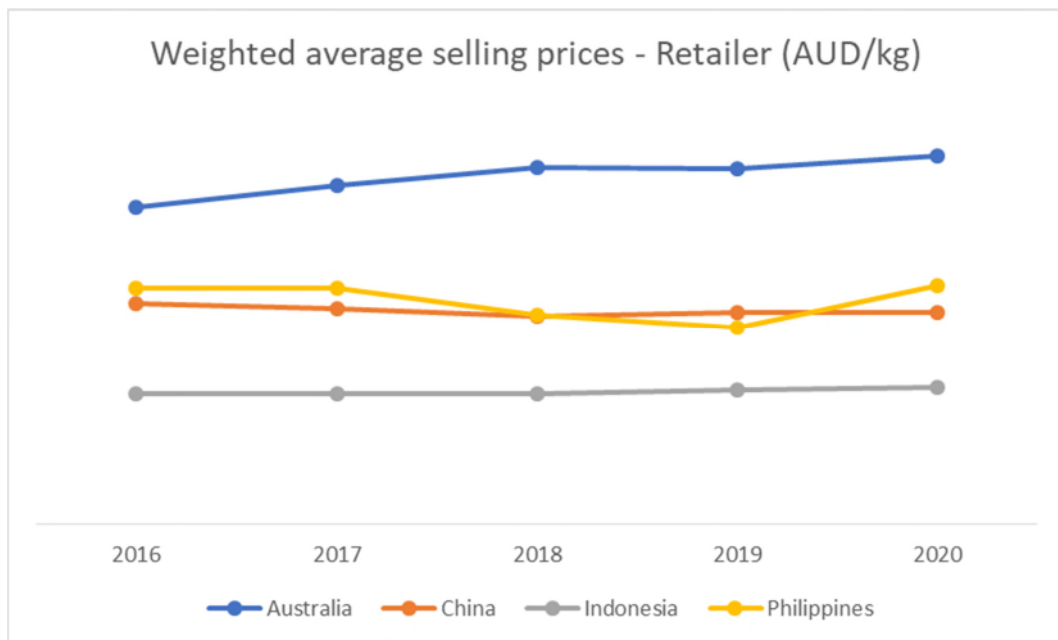


Figure 4: Retail selling prices for consumer pineapple (country of origin)

Figure 4 illustrates that there is a clear price difference between the price of Golden Circle's 'Australian' product and the price of imported products (including Philippines and other countries not subject to the measures). The commission notes that Thailand has not

been included in Figure 4 as sales of the Thai consumer pineapple represented 1% or less of the total sales in each year since 2017.

The commission observes in figures 3 and 4 that Golden Circle's 'Australian' consumer pineapple is able to achieve a price premium in the Australian market. There appears to be a 'middle tier' of consumer pineapple which is competitive between imports from different countries (some subject to the measures and some not) with imports from Indonesia the cheapest in the market. This appears to align with the pricing tiers noted in section 4.5.2 above.

Neither figure 3 nor figure 4 illustrate that the price of imported consumer pineapple influences the prices Golden Circle achieve for their Australian product.

For this reason, the commission considers that Golden Circle's 'Australian' product operates in its own segment within the consumer pineapple market. No other consumer pineapple, sourced from the subject countries or other countries, appears to compete in this segment.

The commission considers this market segmentation further in chapter 7 (below).

4.5.3.1 Submission from Golden Circle

Following publication of SEF 571 and 572, Golden Circle provided a submission rejecting the segmentation analysis. This submission raised the following points:

- The commission's interpretation of Golden Circle operating within its own segment appears to be based on Golden Circle not being able to furnish competitive pricing information from its customers for alternative sources of supply.
- The commission has ignored why Golden Circle's product sells at a premium – higher quality and texture.
- The quality of supply enables Golden Circle to sell at a historic premium.
- In previous years when the supply of raw pineapple fruit did not impact Golden Circle, Golden Circle also sold consumer pineapple as a private label product for retail customers.
- The ability to supply at the private label level has been diminished due to raw pineapple fruit supply.

4.5.3.2 The commission's assessment

The commission's assessment regarding segmentation of the consumer pineapple market is based on sales data gathered during the inquiries, together with information gathered from leading supermarket retailers. The commission understands that Golden Circle's consumer pineapple is sold at a premium due to quality and texture differences – this explains the price premium that Golden Circle achieves. Golden Circle notes in its submission that there are 'levels' to the consumer pineapple market – and that one level it has previously sold into is the private label level. The commission understands that, due to the limited supply of raw pineapple, Golden Circle has elected to sell consumer pineapple in the higher-priced segment of the market.

The commission maintains that, based on the analysis of selling prices into the consumer pineapple market, there are different tiers based on price. Golden Circle achieve the highest sales price, reflecting the premium nature of the Australian-made consumer

pineapple. There is a middle tier, in which imported brands compete. There is also a lower tier, in which private label products are offered.

4.5.4 Factors affecting supply and demand

Demand for consumer pineapple appears to be fairly stable. The main production input in the processing of consumer pineapple is raw pineapple sourced from pineapple growers. The Australian industry and exporters have all stated that they place a great importance on their relationship with the growers and incentivise them to grow the type of pineapple suitable for canning. They also commit to buy certain quantities in order to secure supply as pineapple takes 18 months from planting to harvest of the fruit. Pineapple processing takes place within three days following picking. Processors do not have the option to stockpile material when there is surplus supply.

The commission understands that pineapple production is susceptible to various weather and market forces that can change the supply and demand balance quickly. Weather impacts can cause global shortages from key pineapple producing countries, leading to higher global prices.

When fresh pineapple supply reduces, the price of fresh pineapple increases. The availability of pineapple to processors is further restricted as pineapple growers who might have otherwise sold to processors sell into the fresh pineapple markets.

4.5.5 Conditions in Australia

Australian pineapples grow primarily in Queensland, with the major growing regions being south-east Queensland (particularly the Sunshine Coast hinterland, Maryborough and Wide Bay areas), the Yeppoon area and North Queensland, including Mareeba and Mossman.²⁶

Golden Circle stated that there was a reduction in the quantities it could produce in the years 2017 to 2020 due to drought affecting the Australian growers, resulting in insufficient supply of raw material. Verified data from Golden Circle indicated that there has been a 30% increase in raw pineapple prices since 2016.

Golden Circle also stated that it is in the process of implementing various measures of cooperation with pineapple growers and aim to incentivise future increase of production. The lead time in growing pineapple results in a delay in achieving positive impacts from these incentives.

4.6 Global Supply

The commission has analysed ITC Trade data relating to preserved and prepared pineapple traded globally under the relevant tariff code (208000). The data below relates to all goods traded globally under this tariff code and therefore includes consumer pineapple, FSI pineapple, puree, glazed and dehydrated pineapple products. The commission notes that some of these products are not subject to the anti-dumping measures in Australia.

Although there are Thai exporters of consumer pineapple that are exempt from the anti-dumping measures, the ITC Trade data does not differentiate between subject goods and

²⁶ <https://australianpineapples.com.au/growing/>

exempted goods. The commission has nevertheless analysed this data to identify high level trade trends in the global market and to identify the general capacity of exporters from Thailand and the Philippines to increase their exports to Australia in the absence of the measures.

Thailand, the Philippines and Indonesia are the key countries exporting preserved and prepared pineapple.

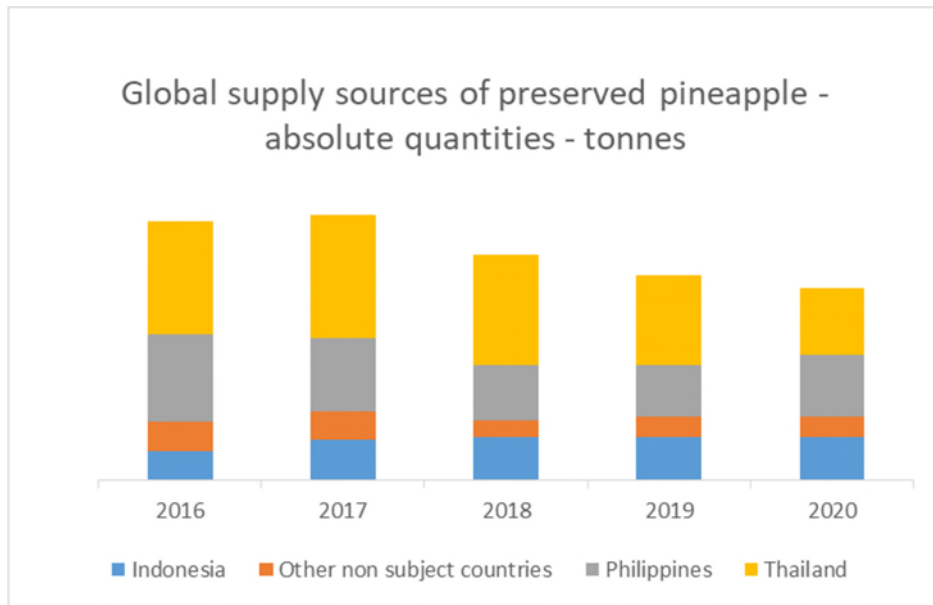


Figure 5: Global supply of preserved or prepared pineapple – quantities (export country)

Figure 5 indicates that the global supply underwent a gradual decrease in quantity from 2018 onwards.

To gain a more granular understanding about trends of the exporters the commission analysed the same source data as the market share as a proportion of total global exports in the figure below:

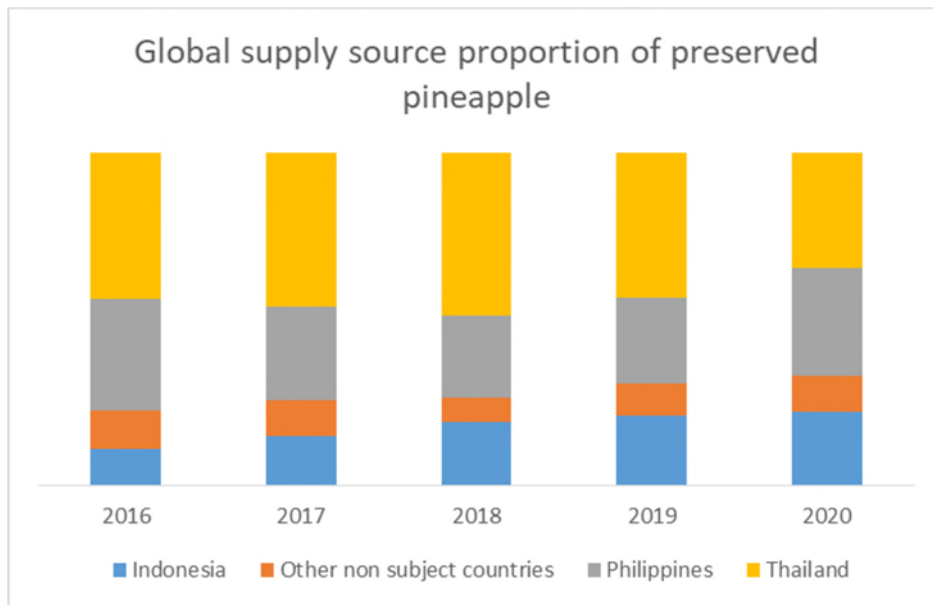


Figure 6: Global supply sources – market share % (export country)

Figure 6 charts how Indonesia has gained global market share in each year since 2016 while Thai exporters have reduced their global market share in 2019 and 2020.

The commission's analysis is in **Confidential Attachment 2**.

4.7 Global Demand

The commission has analysed ITC Trade data relating to preserved and prepared pineapple traded globally under the 6 digit tariff code 208000. The data below relates to the import destinations of all goods traded globally under this tariff code and therefore include consumer pineapple, FSI pineapple, puree, glazed and dehydrated pineapple products. The data therefore also contains quantities of glazed and dehydrated pineapple that is not subject to the anti-dumping measures.

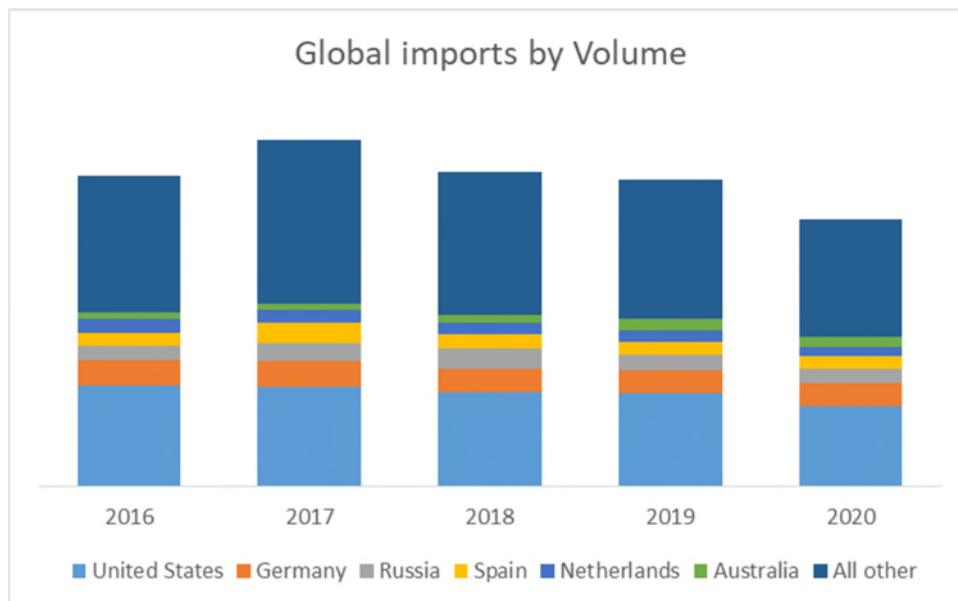


Figure 7: Global imports (volume)

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Figure 7 identifies import volumes entered into Australia in comparison with the largest 5 import countries since 2016 as well as an aggregate of all other countries. The chart demonstrates that the United States is the largest importer of preserved pineapple products. The chart also shows that imports to Australia increased in 2019 and 2020. This is consistent with Golden Circle's claims.

The commission in addition charted the same source data as a proportion of total global exports in the figure below:

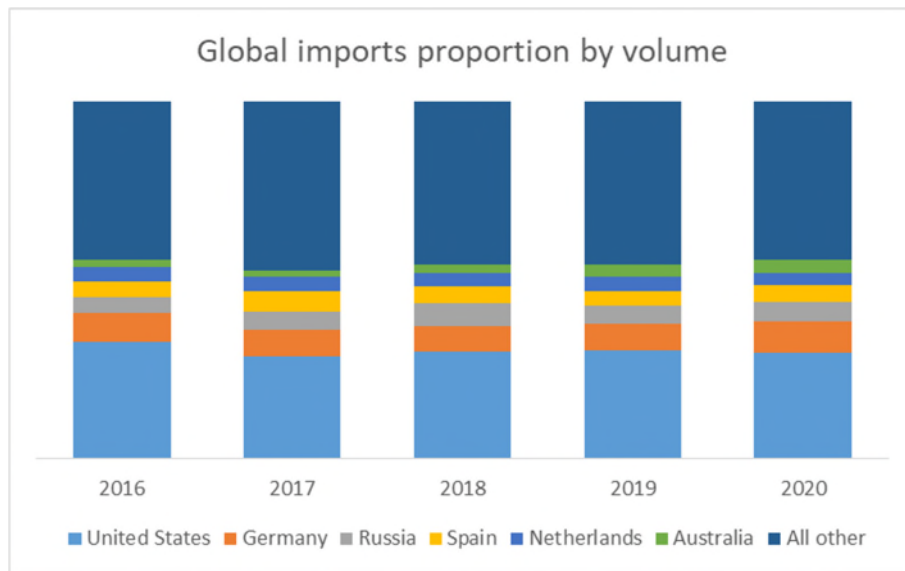


Figure 8: Global imports – proportion volume (destination)

Figure 8 shows in greater detail that Australia's proportion of total world imports have doubled as a proportion in the last 2 years. However Australia's total share of world imports is still well below 5%.

The commission's analysis is in **Confidential Attachment 3**.

5 ECONOMIC CONDITION OF THE INDUSTRY

5.1 Approach to analysis

The commission has considered the economic performance of Golden Circle, the Australian industry for consumer pineapple, to assist with the consideration of whether the expiration of the measures would lead, or would be likely to lead, to the continuation or recurrence of material injury (chapter 7 refers).

The existence of injury during this period may be an indicator of whether injury could continue or recur in the future.

The data and analysis on which the commission has relied to assess the economic condition of the Australian industry is at **Confidential Attachment 4**.²⁷

5.2 Volume effects

5.2.1 Sales Volume

Figure 9 charts the Australian industry's sales volume of its self-manufactured consumer pineapple.

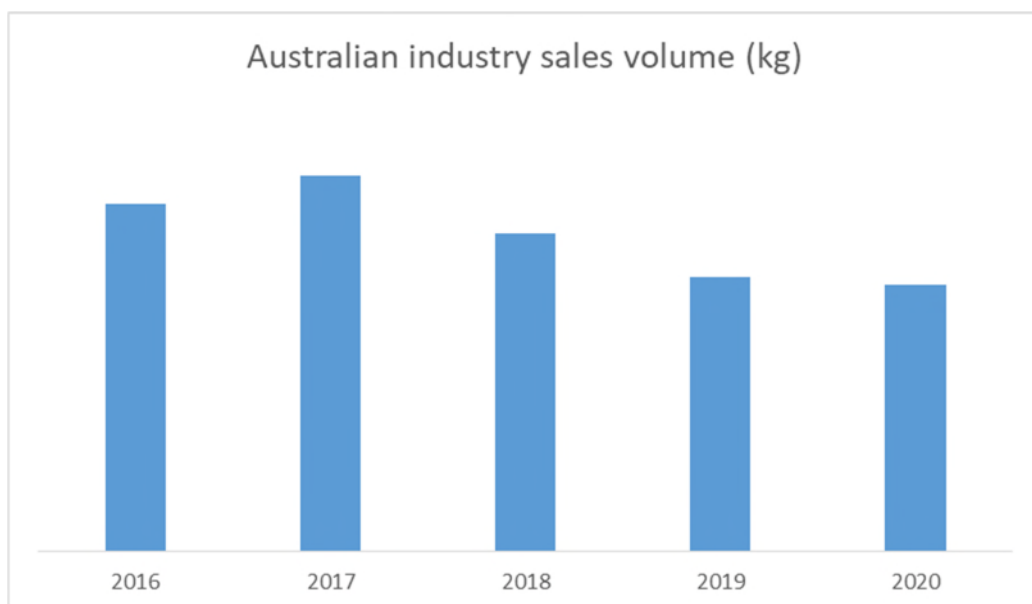


Figure 9: Sales volume

Figure 9 indicates that the Australian industry's annual sales volumes declined steadily between 2017 and 2020.

5.2.2 Market share

Figure 10 charts the proportion of the Australian market for consumer pineapple sourced from:

- the Australian industry
- the Philippines and Thailand and

²⁷ During the inquiry period Golden Circle imported consumer pineapple from the subject countries. Where possible, the analysis of injury effects has focussed on Golden Circle's sales of self-manufactured goods only.

- countries not subject to measures.

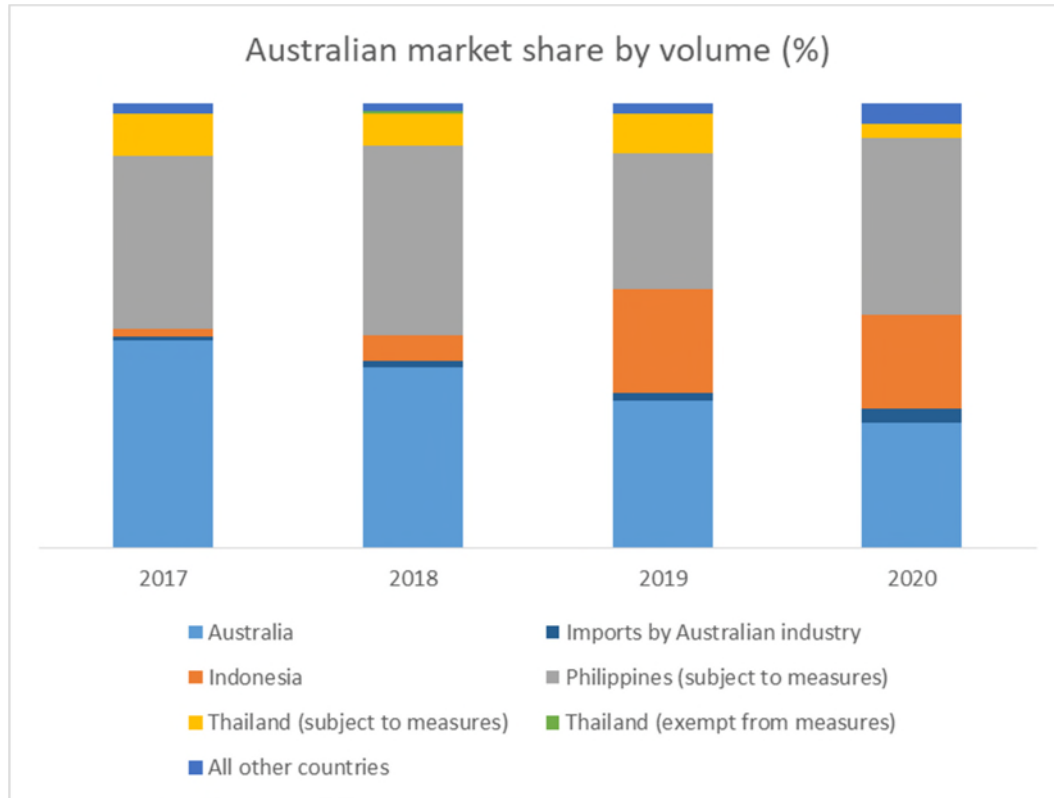


Figure 10: Market share

Figure 10 indicates that:

- The Australian industry self-manufactured goods has accounted for a smaller total market share year-on-year between 2017 and 2020.
- Goods imported from the Philippines account for a comparable share of the market compared to the Australian industry's consumer pineapple, with goods from the Philippines accounting for a larger share of the market than Australian goods in 2018 and 2020.
- Goods from Thailand have been accounting for a decreasing share in the market compared to 2016.
- Goods from Indonesia (not subject to measures) accounted for a substantial proportion of the market share, particularly in 2019 and 2020.

The figure above separates exempt and non-exempt Thai exports but, noting that exempt Thai exports accounted for less than 1 percent of total Australian market volume in any given year, these exempt exports account for negligible volumes and are not visible in the graph.

5.3 Price effects

5.3.1 Price depression

Price depression occurs when a company, for some reason, lowers its prices. Figure 11 charts Golden Circle's per unit selling price from 2017 to 2020.

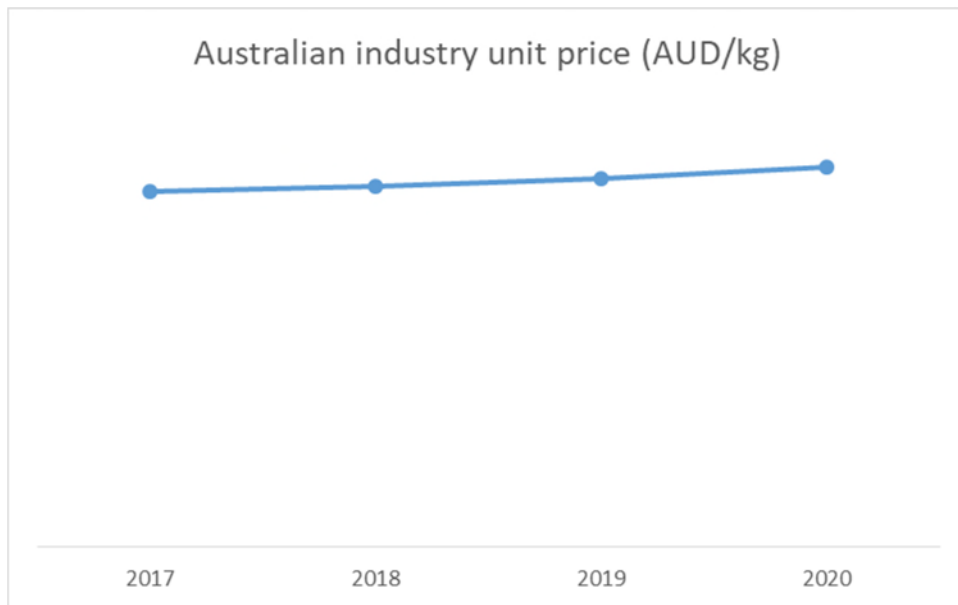


Figure 11: Unit selling price

Figure 11 indicates that Australian industry unit selling prices have risen slightly year-on-year between 2017 and 2020, suggesting that the Australian industry has not experienced price depression during the injury period.

5.3.2 Price suppression

Price suppression occurs when price increases, which otherwise would have occurred, have been prevented. An indicator of price suppression may be the margin between prices and costs.

The commission has compared Golden Circle's per unit selling prices and cost to make and sell (CTMS) in Figure 12.

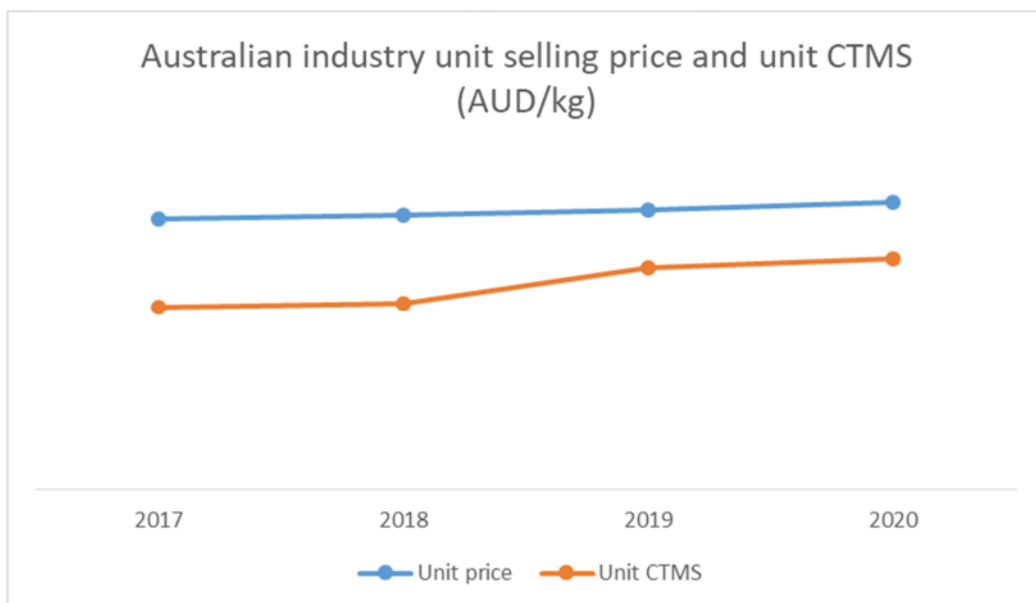


Figure 12: Unit price and CTMS

Having regard to the relationship between the trends in the above chart, the commission observes in Figure 12 that, between 2018 and 2019, the unit CTMS increased to narrow

the margin between the CTMS and unit selling price. Both the unit CTMS and unit selling prices have increased year-on-year.

Based on the observations of the unit selling price and CTMS, noting the narrower margin between CTMS and selling price, the commission considers that price suppression is evident.

5.4 Profit and profitability

5.4.1 Profit and profitability

Figure 13 charts Golden Circle's profit and profitability from 2017 to 2020.

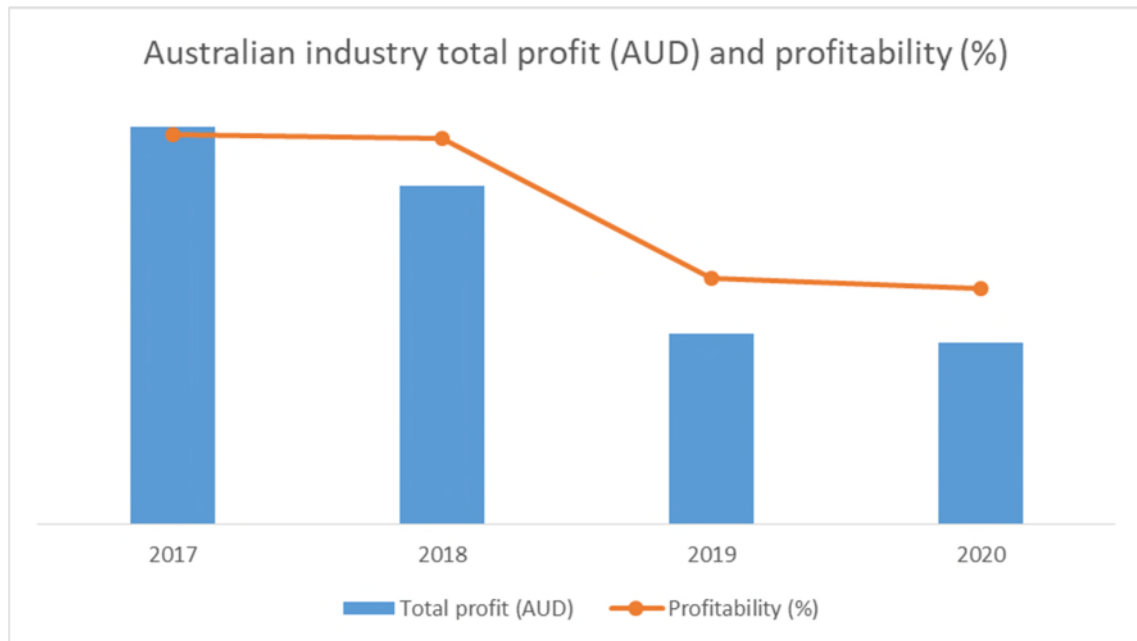


Figure 13: Profit and profitability

Figure 13 indicates that Australian industry has experienced both reduced total profit and reduced profitability from 2017 to 2020. Based on the available information, the commission considers that Australian industry has experienced a deterioration in its economic performance in the form of reduced profit and profitability across the injury analysis period.

5.5 Other economic factors

Golden Circle provided data relating to a range of other economic factors.

5.5.1 Assets

Figure 14 charts Golden Circle's assets relating to the production of like goods from 2017 to 2020.

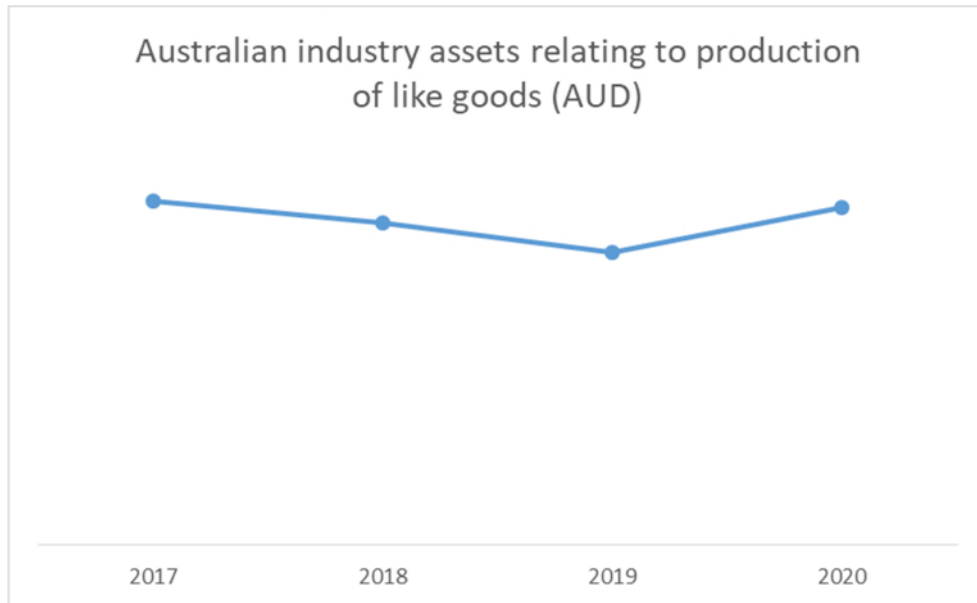


Figure 14: Assets

Figure 14 indicates that the value of assets relating to the production of like goods dropped between 2017 and 2019, with the value of assets returning to levels slightly lower than 2017 levels in 2020.

5.5.2 Research and development expenses

Figure 15 charts Golden Circle's research and development (R&D) expenses relating to like goods from 2017 to 2020.

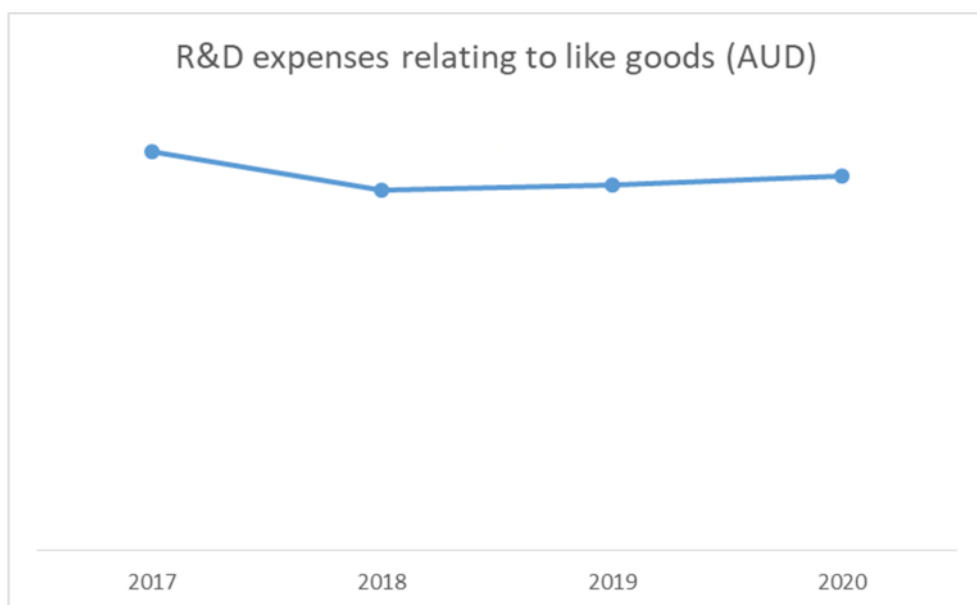


Figure 15: Research and development expenditure

Figure 15 indicates that research and development expenditure has reduced slightly following 2017, although generally R&D expenditure has remained stable. The commission also notes that across the period the R&D expenses made up a very low component of expenses in relation to the goods.

5.5.3 Revenue

Figure 16 charts Golden Circle's revenue across from 2016 to 2020 in respect of consumer pineapple.

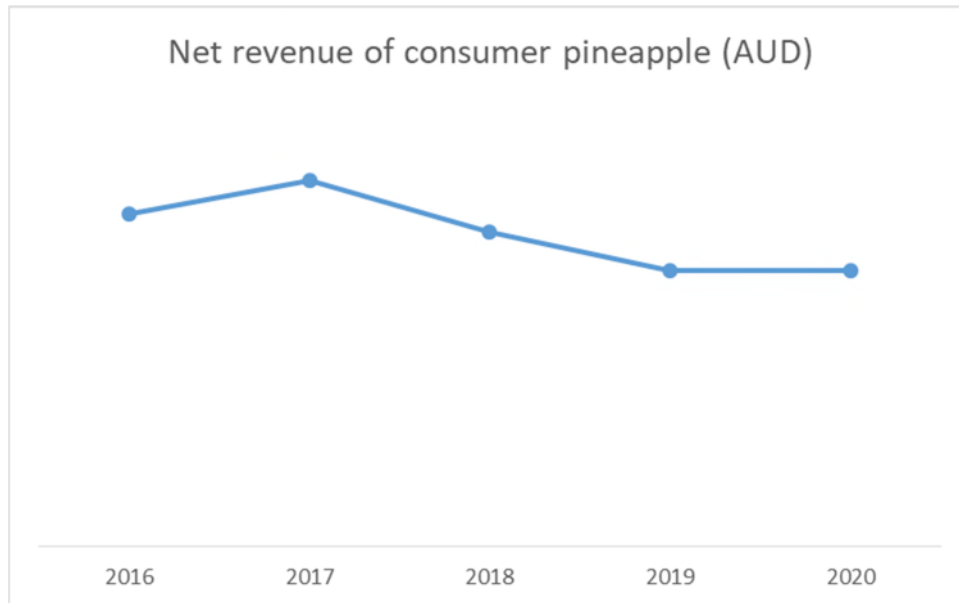


Figure 16: Revenue

Figure 16 indicates that net revenue has reduced overall compared with 2016 and 2017 figures, although revenue remained stable between 2019 and 2020.

5.5.4 Capacity utilisation

Figure 17 charts Golden Circle's capacity utilisation across from 2017 to 2020 as it relates to the production of like goods.

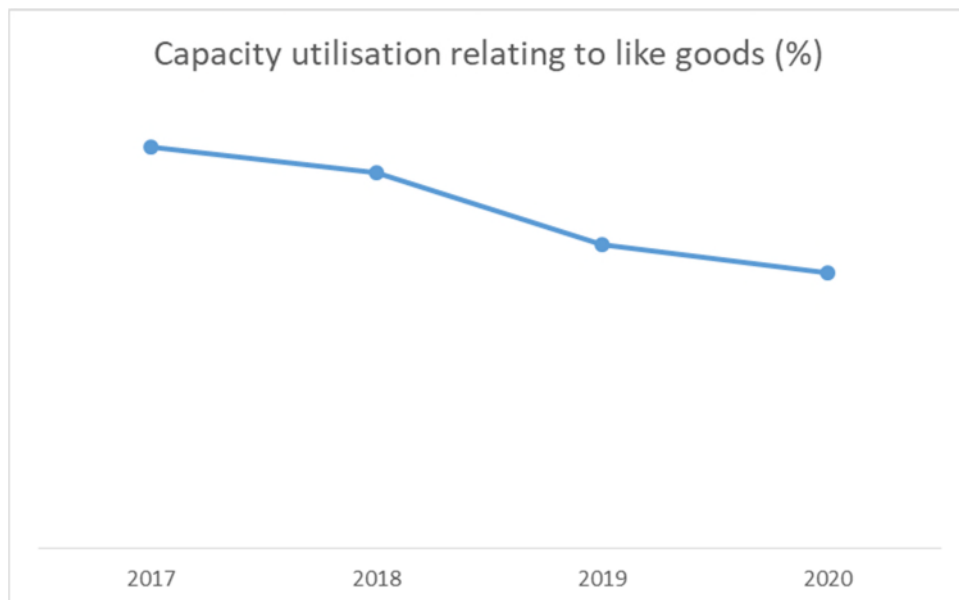


Figure 17: Capacity utilisation

Figure 17 indicates that capacity utilisation has steadily decreased between 2017 and 2020. This calculation divides Golden Circle's claimed actual production by its production

capacity for like goods. However, Golden Circle advised it is able to process all of the raw pineapple it acquires and is able to sell all canned pineapple that it manufactures. The commission therefore considers that Golden Circle is operating at 100% of its real capacity in relation to the goods.

5.5.4.1 Submission from Golden Circle

Following the publication of SEF 571 and 572, Golden Circle provided a submission clarifying the commission's finding regarding capacity utilisation. Golden Circle stated that it has an under-utilised processing plant in Queensland, in which the production capacity is limited due to the supply of raw pineapple fruit available for processing. Golden Circle stated that the reduced through-put of the plant due to the lower supply of pineapple fruit results in a reduced capacity utilisation of the plant.

The commission accepts Golden Circle's submission regarding the reduced through-put and that Golden Circle's plant is under-utilised. As Golden Circle noted in its submission, this is due to the limited supply of raw pineapple fruit available for processing.

5.5.5 Employment

Figure 18 charts Golden Circle's employment numbers across from 2017 to 2020 as they relate to the production of like goods.

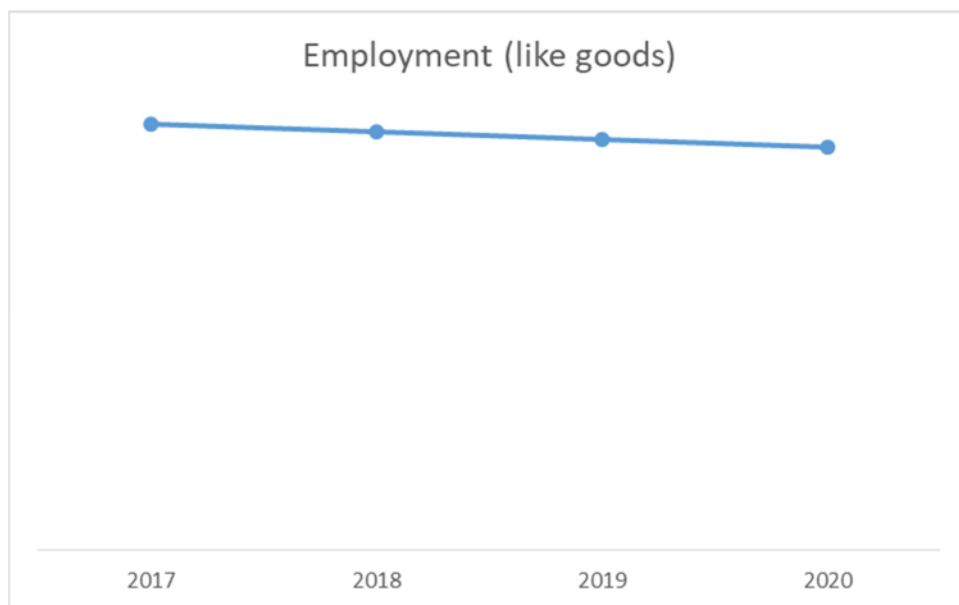


Figure 18: Employment

Figure 18 indicates that employment numbers in relation to the production of like goods have remained largely steady between 2017 and 2020, although there has been a slight decrease in employee numbers year-on-year.

5.5.6 Inventory

Figure 19 charts Golden Circle's closing stock from 2016 to 2020.

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Figure 19: Closing inventory

Figure 19 indicates that Australian industry has had significant reductions in closing stock year-on-year, with a fairly consistent rate of reduction in closing stock in each year from 2016 to 2020. These movements in inventory demonstrate that Australian industry is able to sell all product that it manufactures.

6 DUMPING IN THE INQUIRY PERIOD

6.1 Finding

For the purpose of assessing whether dumping is likely to continue or recur, the Commissioner has examined whether exports to Australia from the subject countries were at dumped prices during the inquiry period. The commission considered this information to determine whether the variable factors in relation to exporters have changed.

The Commissioner has found that the variable factors in relation to all exporters have changed. The Commissioner has ascertained dumping margins as summarised in Table 6.

Country	Exporter	Dumping margin
Philippines	Dole Philippines Inc.	17.5%
	Uncooperative and all other exporters	49.9%
Thailand	Siam Food Products Public Company Limited	-5.3%
	Kuiburi Fruit Canning Co., Ltd and Kuiburi Fruit Cup Co., Ltd	-3.0%
	Prime Products Industry Company Limited	3.8%
	Uncooperative and all other exporters	15.7%

Table 6: Summary of dumping margins²⁸

6.2 Legislative framework

In accordance with section 269ZHF(2), the Commissioner must not recommend that the Minister take steps to secure the continuation of anti-dumping measures unless the Commissioner is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of dumping. The existence of dumping during the inquiry period may be an indicator of whether dumping may occur in the future.

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 the goods are determined under sections 269TAB and 269TAC respectively.

Section 269TACB is used to work out whether dumping has occurred and the levels of dumping by comparing the export price and normal value of the goods.

Further details of the export price and normal value calculations for each exporter are set out below.

²⁸ Note that the dumping margins for Siam Food and Dole Philippines have changed since SEF 571 572 following further review of the calculations.

6.2.1 Cooperative exporters

As discussed in chapter 2, the following exporters provided a detailed REQ, including data relating to Australian sales (where applicable), domestic sales, and details of the CTMS:

- Dole Philippines Inc. (Dole Philippines)
- Kuiburi Fruit Canning Co., Ltd (KFC) and Kuiburi Fruit Cup Co., Ltd (KFCup)
- Siam Food Products Public Company Limited (Siam Food)
- Prime Products Industry Co., Limited (Prime Products).

The commission undertook desktop verification of the data received from all four exporters.

6.2.2 Uncooperative and all other exporters

Section 269T(1) provides that an exporter is an ‘uncooperative exporter’, where the Commissioner is satisfied that an exporter did not give the Commissioner information that the Commissioner considered to be relevant to the inquiry, within a period the Commissioner considered to be reasonable or where the Commissioner is satisfied that an exporter significantly impeded the inquiry.

The *Customs (Extensions of Time and Non-cooperation) Direction 2015* (the Direction) states that the Commissioner must determine an exporter to be an uncooperative exporter, on the basis that no relevant information was provided in a reasonable period, if that exporter fails to provide a response or fails to request a longer period to do so within the legislated period.²⁹

After having regard to the Direction, the Commissioner determined that all exporters that did not provide a response to the exporter questionnaire, or which did not request a longer period to provide a response within the legislated period (being 37 days), are uncooperative exporters for the purposes of these inquiries.

As provided for in section 269TACAB(1), for uncooperative exporters, the export price and normal value are worked out in accordance with section 269TAB(3) and section 269TAC(6) respectively by having regard to all relevant information (refer to section 6.9 below).

6.3 Verification of cooperative exporters

The commission established suitability of the data in the REQs of the four exporters noted at section 6.2.1 (above) by calculating the variable factors relating to each exporter’s exports of the goods to Australia and benchmarking these factors, and the relevant data underlying these factors, to the following:

- the sales and cost data and the variable factors ascertained for each cooperating exporter that were the subject to previous verification visits
- the sales and cost data and the variable factors ascertained for other cooperating exporters whose data was not the subject of previous verification visits
- relevant information from previous investigations which involved the exporter and
- the data submitted with the exporter’s REQ.

²⁹ Section 8 of the Direction.

Where the REQ data examined was inconsistent with other exporters' data or other relevant information, the commission has undertaken further analysis and where necessary reported the outcome of this analysis accordingly.

6.4 Calculation of dumping margins

For dumping margins calculated for the purposes of this inquiry, the commission compared the weighted average export prices over the whole of the inquiry period with the weighted average corresponding normal values over the whole of that period.

6.5 Variable factors – Dole Philippines Inc.

6.5.1 Verification

The commission undertook verification of the information Dole Philippines provided in its REQ.

The commission is satisfied that the information provided is accurate and reliable for the purpose of determining whether, during the inquiry period, exports were at dumped prices.

6.5.2 Export price

In respect of the goods Dole Philippines exported to customers in Australia during the inquiry period, the commission notes that Dole Philippines:

- is the manufacturer of the goods
- is named on the commercial invoice as the supplier
- is named as the consignor on the bill of lading
- arranges and pays for the inland transport to the port of export and
- arranges and pays for the port handling charges at the port of export.

The commission is satisfied that for all Australian export sales during the period that Dole Philippines was the exporter of the goods. The commission noted that exports to Australia were through a related entity, Dole Asia Holdings Pte Ltd.

In respect of Dole Philippines' Australian sales of the goods during the period, the commission found no evidence that:

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

The commission therefore considers that all export sales from Dole Philippines to its Australian customers, all of whom were unrelated, during the period were 'arms length' transactions.

However, given the presence of the intermediary in the exports to Australia (being Dole Asia Holdings Pte Ltd) the commission has determined the export price under section 269TAB(1)(c). This export price has been determined as the price paid by the importer to Dole Asia Holdings Pte Ltd, less transport and other costs arising after exportation.

The export price calculations are at **Confidential Attachment 5**.

6.5.3 Normal value

The commission found Dole Philippines domestic sales of like goods in the inquiry period to be to unrelated customers. In respect of Dole Philippines domestic sales of like goods during the inquiry period, the commission found no evidence that:

- there was any 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 or
- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.³⁰

The commission therefore considers that all sales from Dole Philippines to its domestic customers during the inquiry period were 'arms length' transactions.

In respect of Dole Philippine's domestic sales of like goods, the commission recommends that the normal value be determined under section 269TAC(1), being the price paid or payable for like goods sold in the ordinary course of trade for home consumption in the country of export in sales that are 'arms length' transactions by the exporter.

When calculating a normal value under section 269TAC(1), in order to ensure a proper comparison between the goods exported to Australia and the goods sold on the domestic market, the commission considers the volume of sales of each exported MCC on the domestic market. The commission found that Dole Philippines did not sell the export models on the domestic market during the inquiry period. The commission selected the closest MCC based on the MCC structure outlined at Table 5 (above). The commission then considered whether a specification adjustment was required.

The commission has calculated a specification adjustment under section 269TAC(8) for all export MCCs, by having regard to material cost differences between domestic and export models, and calculating a specification adjustment for each export model, based on the difference in the cost to make plus a gross margin.

The normal value calculations are at **Confidential Attachment 5**.

6.5.3.1 Submission in relation to Dole Philippine's normal value

Following publication of SEF 571 and 572, Dole Philippines made submissions on the Commissioner's normal value calculation methodology for Dole Philippines.

³⁰ Section 269TAA of the Act refers.

Dole Philippines noted that the commission calculated Dole Philippines' normal value with reference to the cost to make (CTM) of the goods manufactured for export to Australia, plus the weighted average SG&A expenses for like goods produced for sale in the domestic market (for sale in the Philippines). Dole Philippines submitted that the normal value calculation should include an adjustment for differences in the export and domestic SG&A expenses.

As noted in the Manual, the commission makes adjustments where evidence exists that a particular difference has affected price comparability.³¹ Dole Philippines has not provided evidence to the commission to establish how differences in the export and domestic SG&A affected price comparability. The commission considers the current approach, without further adjustments, remains the most accurate to determine the normal value for Dole Philippines.

Dole Philippines also noted that, in calculating the normal value, the commission calculated specification adjustments to match export and domestic models of goods and, as part of this calculation, included a profit margin derived from the average profit margin achieved on domestic sales of like goods. Dole Philippines submitted that the Commissioner has no legal basis with which to include this profit margin when calculating specification adjustments.

The commission considers that it is appropriate to include a profit margin in determining specification adjustments for Dole Philippines. The commission applied the profit margin as a percentage added to the cost difference identified between the export model CTM and the closest equivalent domestic model CTM. The inclusion of the profit margin recognises that the specification adjustment is made to reflect the sales price (not the production cost) of export sales, as these goods would have been sold on the domestic market. Excluding a profit margin would produce a normal value that less accurately reflects the price payable for export goods had they been sold in the domestic market. Therefore, the commission considers it preferable to include the profit margin when calculating the specification adjustments.

6.5.4 Adjustments

The commission is satisfied there is sufficient information to justify the following adjustments in accordance with section 269TAC(8). These adjustments are necessary to ensure a fair comparison of normal value and export prices:

Adjustment Type	Deduction/addition
Domestic inland transport	Deduct an amount for domestic inland transport
Export inland transport	Add an amount for export inland transport
Domestic packaging	Deduct an amount for domestic inland transport
Export packaging	Add an amount for export packaging
Domestic port handling and warehousing	Deduct an amount for domestic port handling and warehousing

³¹ The Manual, chapter 14.

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Export port handling	Add an amount for export port handling
Domestic credit terms	Deduct an amount for domestic credit terms
Export credit terms	Add an amount for export credit terms
Duty drawback – export sales	Add an amount for customs duties – domestic sales
Specification	Add or deduct an amount for specification based on the difference in cost to make plus the gross margin

Table 7 - Summary of adjustments – Dole Philippines

6.5.5 Dumping margin

The commission has calculated a dumping margin in respect of the goods Dole Philippines exported to Australia during the inquiry period. The dumping margin is **17.5%**.

The commission's dumping margin calculations for Dole Philippines are set out in **Confidential Attachment 5**.

6.6 Variable factors – Kuiburi Fruit Canning Company Limited and Kuiburi Fruit Cup Company Limited

6.6.1 Verification

The commission undertook verification of the information KFC and KFCup provided in its REQ.

The commission is satisfied that the information provided is accurate and reliable for the purpose of determining whether, during the inquiry period, exports were at dumped prices.

6.6.2 The Exporter

KFC is a private company limited by shares, founded in 1992. The company manufactures and exports fruit products in cans, mainly pineapple. Joint-products of the production include juice and dehydrated fruit, and by-products include scrap, sold as animal feed. In 2010 KFC invested in a production line for plastic cups. KFC set up a subsidiary for the plastic cup division KFCup. KFC wholly controls KFCup.

KFCup has few staff. The management of its business functions, including fruit processing and sales, are through shared services with KFC. KFCup made no sales to Australia in the inquiry period.

The commission considers that KFC and KFCup are jointly the manufacturer and exporter of the goods. Consequently, the commission has calculated variable factors jointly for KFC and KFCup (together referred to as Kuiburi).

6.6.3 Export price

The commission found that all of KFC's exports of the goods to Australia were to unrelated parties.

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In respect of the Australian sales of the goods during the period, the commission found no evidence that:

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

The commission therefore considers that all export sales from KFC to their Australian customers, all of whom were unrelated, during the period were 'arms length' transactions.

In respect of Australian sales of the goods, the commission has determined an export price under section 269TAB(1)(a), as the price paid by the importer to the exporter less transport and other costs arising after exportation.

The export price calculations are at **Confidential Attachment 6**.

6.6.4 Normal value

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 sales was less than 5%. The commission has considered whether this volume is still large enough to permit a proper comparison for the purposes of determining a normal value under section 269TAC(1).

The commission notes that the total volume of sales is well below 5% and that there are differences in the models sold domestically and those exported to Australia. Additionally, there was not a material volume of sales for domestic consumption in all quarters during the relevant period and the commission considered that it had insufficient information to make specification adjustments for differences in sales in accordance with section 269TAC(8).

Therefore, the commission is not satisfied that the volume of relevant sales is large enough to permit a proper comparison for the purposes of assessing a dumping margin.

The commission recommends that the normal value instead be ascertained under section 269TAC(2)(c), using the sum of:

- the CTM that reasonably reflects competitive market costs in accordance with section 43(2) of the *Customs (International Obligations) Regulation 2015* (Cth) (the Regulation)
- an amount for SG&A in accordance with section 44(2) of the Regulation, having regard to the SG&A amount incurred for domestic sales of like goods by Kuiburi and
- an amount for profit based on data relating to the production and sale of like goods on the domestic market in the ordinary course of trade (OCOT) in accordance with section 45(2) of the Regulation.

The normal value calculations are at **Confidential Attachment 6**.

6.6.5 Adjustments

The commission is satisfied there is sufficient information to justify the following adjustments in accordance with section 269TAC(9). These adjustments are necessary to ensure a fair comparison of normal value and export prices:

Adjustment Type	Deduction/addition
Export packaging costs	Add an amount for export packaging costs
Export inland freight	Add an amount for export inland freight
Export port handling charges	Add an amount for export port handling charges
Export credit	Add an amount for export credit

Table 8 – Summary of adjustments – Kuiburi

6.6.6 Dumping margin

The dumping margin in respect of the goods KFC exported to Australia during the inquiry period is **negative 3.0%**.

The dumping margin calculation is at **Confidential Attachment 6**.

6.7 Variable factors – Prime Products Industry Co. Ltd

6.7.1 Verification

The commission undertook verification of the information Prime Products provided in its REQ.

The commission is satisfied that the information provided is accurate and reliable for the purpose of determining, during the inquiry period, exports were at dumped prices.

6.7.2 Export price

In respect of the goods Prime Products exported to customers in Australia during the inquiry period, the commission notes that Prime Products:

- is the manufacturer of the goods
- is named on the commercial invoice as the supplier
- is named as the consignor on the bill of lading
- arranges and pays for the inland transport to the port of export and
- arranges and pays for the port handling charges at the port of export.

The Commissioner is therefore satisfied that Prime Products is the exporter of the goods.

The commission is satisfied that Prime Products exports to Australia are 'arms length' transactions, as there is no evidence that:

- there was any consideration payable for, or in respect of, the goods other than their price
- the price was 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 or

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- 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.

In respect of Prime Products' sales of the goods to Australia, the commission has determined an export price under section 269TAB(1)(a), as the price paid by the importer to the exporter less transport and other costs arising after exportation.

The export price calculations are at **Confidential Attachment 7**.

6.7.3 Normal value

The commission found Prime Products domestic sales of like goods in the inquiry period to be to unrelated customers. In respect of Prime Products domestic sales of like goods during the inquiry period, the commission found no evidence that:

- there was any 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 or
- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.

The commission therefore considers that all sales from Prime Products to its domestic customers during the inquiry period were 'arms length' transactions.

In respect of Prime Products' domestic sales of like goods, the commission recommends that the normal value be determined under section 269TAC(1), being the price paid or payable for like goods sold in the ordinary course of trade for home consumption in the country of export in sales that are 'arms length' transactions by the exporter.

When calculating a normal value under section 269TAC(1), in order to ensure a proper comparison between the goods exported to Australia and the goods sold on the domestic market, the commission considers the volume of sales of each exported MCC on the domestic market. The commission found that, during the inquiry period, Prime Products did not sell the export models on the domestic market. The commission selected the closest MCC based on the MCC structure outlined at Table 5 (above). The commission then considered whether a specification adjustment was required.

The commission has calculated a specification adjustment under section 269TAC(8) for all export MCCs, by having regard to material cost differences between domestic and export models, and calculating a specification adjustment for each export model, based on the difference in the cost to make plus a gross margin.

The normal value calculations are at **Confidential Attachment 7**.

6.7.4 Adjustments

The commission is satisfied there is sufficient information to justify the following adjustments in accordance with section 269TAC(8). These adjustments are necessary to ensure a fair comparison of normal value and export prices:

Adjustment Type	Deduction/addition
Export inland transport	Add an amount for export inland transport
Export handling & other	Add an amount for export handling & other
Specification adjustment	Add an amount for the difference in the cost to make plus the gross margin.

Table 9 - Summary of adjustments – Prime Products

6.7.5 Dumping margin

The dumping margin in respect of Prime Products' exports of the goods to Australia during the inquiry period is **3.8%**.

The dumping margin calculation is at **Confidential Attachment 7**.

6.8 Variable factors – Siam Food

6.8.1 Verification

The commission undertook verification of the information Siam Food provided in its REQ.

The commission is satisfied that the information provided is accurate and reliable for the purpose of determining whether, during the inquiry period, exports were at dumped prices.

6.8.2 Export price

In relation to Siam Food's sales of the goods to Australia, the commission considers that the customers listed for each shipment were the beneficial owners of the goods at the time of importation, and therefore were the importers of the goods.

The commission considers Siam Food to be the exporter of the goods as Siam Food:

- is the manufacturer of the goods
- is named on the commercial invoice as the supplier
- arranges and pays for the inland transport to the port of export and
- arranges and pays for the port handling charges at the port of export.

The commission found that all Siam Food's Australian exports of the goods were to unrelated parties.

In respect of Siam Food's Australian sales of the goods during the period, the commission found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than price

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- 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 or
- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.

The commission therefore considers that all export sales from Siam Food to its Australian customers, all of whom were unrelated, during the period were 'arms length' transactions.

In respect of Siam Good's sales of the goods to Australia, the commission has determined an export price under section 269TAB(1)(a), as the price paid by the importer to the exporter less transport and other costs arising after exportation.

The export price calculations are at **Confidential Attachment 8**.

6.8.3 Normal value

The commission found that Siam Food did not have any domestic sales of like goods in the inquiry period. The commission considered whether the normal value could be ascertained under section 269TAC(1), having regard to sales by other sellers of like goods.

The commission notes that relevant domestic sales by other sellers were not the models that Siam Food exported to Australia. Additionally, the commission considered that it had insufficient information to make specification adjustments for differences in sales in accordance with section 269TAC(8).

The commission recommends that the normal value instead be ascertained under section 269TAC(2)(c), using the sum of:

- the CTM that reasonably reflects competitive market costs in accordance with section 43(2) of the Regulation
- an amount for SG&A in accordance with section 44(3)(a) of the Regulation, having regard to the SG&A amount incurred by Siam Food for domestic sales of the same general category of goods (FSI pineapple) and
- an amount for profit based on the weighted average of the amounts realised by other exporters or producers from the sale of like goods in accordance with section 45(3)(b) of the Regulation.

The normal value calculations are at **Confidential Attachment 8**.

6.8.4 Adjustments

The commission is satisfied there is sufficient information to justify the following adjustments in accordance with section 269TAC(9). The commission considers these adjustments to be necessary to ensure a fair comparison of normal value and export prices:

Adjustment Type	Deduction/addition
Export packaging costs	Add an amount for export packaging costs
Export inland freight	Add an amount for export inland freight

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Export port handling charges	Add an amount for export port handling charges
Export credit	Add an amount for export credit

Table 10 - Summary of adjustments – Siam Food

6.8.5 Dumping margin

The dumping margin in respect of the goods Siam Food exported to Australia during the inquiry period is **negative 5.3%**.

The dumping margin calculation is at **Confidential Attachment 8**.

6.9 Uncooperative and all other exporters

As detailed in chapter 6.2.2, the commission considers all exporters of consumer pineapple from the Philippines and Thailand that did not provide a response to the exporter questionnaire, or which did not request a longer period to provide a response within the legislated period, are uncooperative exporters for the purposes of this inquiry.

Section 269TACAB(1) sets out the provisions for calculating export prices and normal values for uncooperative exporters.

6.9.1 Thailand

Export prices

Pursuant to section 269TACAB(1), the commission has determined an export price pursuant to section 269TAB(3), having regard to all relevant information. Specifically, the commission has used the lowest weighted average FOB export price for consumer pineapple from amongst those established for cooperating exporters in Thailand in the inquiry period.

Normal values

Pursuant to section 269TACAB(1), the commission has determined the normal value for the uncooperative exporters pursuant to section 269TAC(6) after having regard to all relevant information. Specifically, the commission has used the highest weighted average normal value for consumer pineapple from amongst those established for cooperating exporters in Thailand in the inquiry period.

Dumping margin

The dumping margin for uncooperative and all other exporters of consumer pineapple from Thailand is **15.7%**.

The commission's calculations are included at **Confidential Appendix 1**.

6.9.2 Philippines

Export prices

Pursuant to section 269TACAB(1), the commission has determined an export price pursuant to section 269TAB(3), having regard to all relevant information. Specifically, the commission has used the weighted average FOB export price for consumer pineapple from the cooperating exporter in the Philippines in the inquiry period.

Normal values

Pursuant to section 269TACAB(1), the commission has determined the normal value for the uncooperative exporters pursuant to section 269TAC(6) after having regard to all relevant information. Specifically, the commission has used the weighted average normal value for consumer pineapple from the cooperating exporter in the Philippines in the inquiry period, less favourable adjustments.

Dumping margin

The dumping margin for uncooperative and all other exporters of consumer pineapple from the Philippines is **49.9%**.

The commission's calculations are included at **Confidential Appendix 2**.

6.10 Summary of dumping margins

Country	Exporter	Dumping margin
Philippines	Dole Philippines Inc.	17.5%
	Uncooperative and all other exporters	49.9%
Thailand	Siam Food Products Public Company Limited	-5.3%
	Kuiburi Fruit Canning Co., Ltd and Kuiburi Fruit Cup Co., Ltd	-3.0%
	Prime Products Industry Company Limited	3.8%
	Uncooperative and all other exporters	15.7%

Table 11: Dumping margin summary

7 LIKELIHOOD THAT DUMPING AND MATERIAL INJURY WILL CONTINUE OR RECUR

7.1 Finding

On the basis of the evidence available, the Commissioner is not satisfied that the expiration of the current measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and material injury that the current measures are intended to prevent.

7.2 Legislative framework

Section 269ZHF(2) provides that the Commissioner must not recommend that the Minister secure the continuation of measures unless the Commissioner is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the anti-dumping measure is intended to prevent.

The commission notes that its assessment of the likelihood of certain events occurring and their anticipated effect, as is required in a continuation inquiry, necessarily requires an assessment of a hypothetical situation. The Anti-Dumping Review Panel has supported this view, noting that the commission must consider what will happen in the future should a certain event, being the expiry of the measures, occur. However, the Commissioner's conclusions and recommendation must nevertheless be based on facts.³²

7.3 The commission's approach

In assessing the likelihood of whether dumping and material injury will continue or recur, a number of factors are relevant as outlined in the Manual.³³ The commission's view is that the relevance of each factor varies depending on the nature of the goods under examination and the market for sales of the goods. No one factor can necessarily provide decisive guidance. The following analysis therefore examines a range of factors that the commission considers relevant to this inquiry.

7.4 Australian industry's claims

In its application, Golden Circle claims, among other things, that:

- Exports of consumer pineapple from Thailand and the Philippines have continued to enter Australia following the continuation of measures in October 2016.
- Exporters of consumer pineapple in Thailand and the Philippines have maintained distribution links in Australia.
- Imports of consumer pineapple from Thailand and the Philippines are at prices that make it difficult for Golden Circle to raise prices in response to increases in production costs and to achieve adequate returns for ongoing reinvestment opportunities.

³² [ADRP Report No. 44](#) (Clear Float Glass) refers.

³³ The Manual, pages 175 to 176.

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- The alleged price suppression has impacted on future planning and Golden Circle need to maintain higher production volumes so that fixed costs can be allocated over a larger base.
- The alleged price suppression has affected Golden Circle's ability to secure supply of raw pineapple to increase production, as the growers require certainty that they can sell their pineapple.
- Producers in Thailand and the Philippines retain excess capacity that could be directed towards Australia should the measures be removed.
- Future exports of consumer pineapple from the Philippines and Thailand will be at dumped prices.
- The expiry of the measures would likely result in a substantial loss of sales volume and market share for the Australian industry, culminating in the likely closure of the Golden Circle Northgate processing facility, which is integral for the processing of locally grown pineapples, sourced from farms in Queensland and northern New South Wales.

7.4.1 Submissions received

Australian Pineapples

The commission received a submission from Australian Pineapples, a member of Queensland Fruit and Vegetables Ltd, prior to the publication of SEF 571 and 572. This submission raised the following points:

- It is the stability and certainty with guaranteed supply – volume and price – that enables pineapples growers to commit to long-term supply.
- Golden Circle has strategies in place to secure increased volumes of pineapple fruit across the period from 2022 to 2027.
- It is critical that Golden Circle is not faced with unfair prices from the two largest pineapple supply sources globally (i.e. the Philippines and Thailand).
- Australian Pineapple support the request for the continuation of anti-dumping measures applying to consumer pineapple.

Department of Agriculture (Philippines)

The commission received a submission from the Department of Agriculture (Philippines) following publication of SEF 571 and 572. This submission:

- supported the Commissioner's proposal that the measures applying to consumer pineapple from the Philippines expire, and
- reiterated the findings regarding movement in Golden Circle's prices (refer to section 7.7 below) and lack of correlation between Golden Circle's prices and the prices of imported consumer pineapple (refer to section 7.7 below).

The commission has considered these points in preparing this report.

Dole Philippines and Dole Thailand

The commission received a submission from Dole Philippines and Dole Thailand following publication of the SEF 571 and 572. This submission raised the points noted below.

- SEF 571 and 572 supports a reasonable satisfaction that expiry of the measures would not lead or would not be likely to lead to a recurrence of material injury.
- There are other factors that are likely to influence the economic performance of Golden Circle. These factors include the significant and growing presence of imports from other countries, insignificant exports from Thailand and the segmentation of the Australian market that enables Golden Circle to achieve premium prices.
- The commission must have regard to Article 11 of the Anti-Dumping Agreement (ADA), concerning the duration of anti-dumping duties. Specifically, the submission claims that the continuation of the measures applying to consumer pineapple from the Philippines and Thailand is inconsistent with Australia's obligations under Article 11 of the ADA.

The commission has noted these points in preparing this report. With regards to Article 11 of the ADA, the commission confirms that the conduct of these continuation inquiries is consistent with Article 11 of the ADA. Article 11.3 of the ADA specifically provides for authorities conducting reviews to determine whether the expiry of the duties would be likely to lead to a continuation or recurrence of dumping and injury.

The commission also received submissions from the following entities in response to SEF 571 and 572:

- Prime Products (an exporter of the goods from Thailand) and
- Golden Circle.

The commission has addressed the specific points raised in these submissions throughout this chapter.

7.5 Are exports likely to continue or recur?

To determine whether exports of consumer pineapple are likely to continue or recur should the measures be allowed to expire, the commission has had regard to import volumes, maintenance of distribution links to the Australian market by the exporters, and excess production capacity of exporters in the subject countries.

7.5.1 Import volumes

The following table highlights the indexed volumes of imports of consumer pineapple since 1 January 2016:

	2016	2017	2018	2019	2020
Thailand	100	84	61	80	31
Philippines	100	104	111	84	127
All other countries	100	204	386	1400	1610

Table 12 - Index of changes in imports from 1 January 2016³⁴

³⁴ The commission has filtered the data from the ABF import database to capture those consignments that meet the goods description.

The above table indicates that, following the continuation of the measures applying to consumer pineapple in 2016:

- the volume of imports from Thailand has significantly reduced from 2016 to 2020 but has continued
- the volume of imports from the Philippines has continued and, since 2016, has increased relative to 2016 in all years except 2019 and
- the volume of imports from all other countries has significantly increased.

7.5.2 Maintenance of distribution links to the Australian market

The commission has determined, based on information received from cooperating exporters and from the ABF import database, that exporters from the subject countries continue to supply consumer pineapple to Australian customers.

Comparing the supplier and importer relationships that existed in the previous inquiry period and the current inquiry period, the commission has found as follows:

- in respect of exports from Thailand, the same parties continue to trade the goods in substantial quantities and
- in respect of exports from the Philippines, Dole Philippines continue to supply the same importers, with minor quantities from other exporters.

On this basis, the commission considers that exporters from each of the subject countries have maintained distribution links into the Australian market, indicating that exports are likely to continue in the event that measures expire.

7.5.3 Excess production capacity of exporters in subject countries

The commission has analysed the excess capacity available for each of the cooperating exporters in the Philippines and Thailand during the inquiry period. The commission has determined that the excess capacity ranged between 13% and 57%.

7.5.4 Summary

The commission considers that should the measures expire, exports from both subject countries are likely to continue, on the basis that:

- the commission has identified imports from both subject countries in each year since 2016 (when the measures were last continued)
- exporters have maintained distribution links to the Australian market and
- exporters maintain excess production capacity.

7.6 Will dumping continue or recur?

In assessing the likelihood of whether dumping will continue or recur, a number of factors are relevant as outlined in the Manual.

The Manual provides that the inquiry may gather facts relevant to whether dumping will resume, such as exporters' margins, the volume of exports before and after the measures were imposed, the effect of the measures, the level of dumping compared with the level of measures, and any change in those measures (e.g. as a result of a review).

The commission's view is that the relevance of each factor will vary depending on the nature of the goods under examination and the market for sales of the goods. No one factor can necessarily provide decisive guidance. The following analysis therefore examines a range of factors that the commission considers are relevant to this inquiry.

This section assesses the likelihood that, in the absence of measures, dumping of consumer pineapple exported to Australia will continue.

7.6.1 Analysis of dumping within inquiry period

The dumping margins from Chapter 6 of this report are below:

Country	Exporter	Dumping Margin
Philippines	Dole Philippines Inc.	17.5 %
	Uncooperative and all other exporters	49.9%
Thailand	Kuiburi Fruit Canning and Kuiburi Fruit Cup	-3.0%
	Siam Food Products	-5.3%
	Prime Products	3.8%
	Uncooperative and all other exporters	15.7%

Table 13 - Summary of dumping margins

The commission has determined that the goods exported to Australia from the Philippines were at dumped prices during the inquiry period. The commission has also determined that the goods exported to Australia from Thailand, except from Kuiburi and Siam Food, were at dumped prices during the inquiry period.

7.6.2 Likelihood of future dumping

The commission has examined the facts relevant to assessing the likelihood that these exporters will continue to export the goods at dumped prices.

In respect of goods exported to Australia from the Philippines and from all exporters from Thailand except Kuiburi and Siam Food, the commission considers that dumping would be likely to continue if the anti-dumping measures expired, on the basis of the points outlined below:

- during the inquiry period the goods exported to Australia were at dumped prices
- the commission found that these exporters had dumped during the original investigation, or in subsequent matters where the commission has ascertained variable factors
- the commission has not identified evidence of an incentive for these exporters to adjust their pricing behaviour and
- there is no evidence to indicate dumping will not continue.

Kuiburi

In respect of Kuiburi, not found to have dumped the goods during the inquiry period, the commission has examined relevant information to assess the likelihood that this exporter will resume exporting the goods at dumped prices in the future.

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Table 14 below shows the changes in dumping margins determined for Kuiburi since measures were last continued.

	REP 333	REP 455	REP 478	SEF 572
Dumping Margin	9.2%	-9.7	-8.1%	-3.0%

Table 14 - Changes in dumping margins

The commission notes that over an extended period, spanning two review periods and the current inquiry period, this exporter has not dumped the goods to Australia.

Following Review 455, Kuiburi was subject to the floor price duty method. Review 478 led to a revision of this floor price. The commission considered the export prices at which Kuiburi exported the goods during the current inquiry period, and found that the export prices were significantly higher than the floor price.

Given the above analysis, the commission considers that while Kuiburi may export at dumped prices in the future, there is insufficient evidence at present to conclude that it is *likely* to do so.

Siam Food

In respect of Siam Food, not found to have dumped the goods during the inquiry period, the commission has examined relevant information to assess the likelihood that this exporter will resume exporting the goods at dumped prices in the future.

Table 15 below shows the changes in dumping margins determined for Siam Food since 2016.

	REP 478	REP 571 572
Dumping Margin	2.6%	-5.3%

Table 15 - Changes in dumping margins

Review 478 established a relatively low dumping margin for Siam Food. The commission notes the size of the negative dumping margin calculated for this inquiry period. The commission has considered the export prices for Siam Food during the inquiry period and how these compare to other exporters of the goods. There appears to be little incentive for Siam Food to reduce export prices further.

Given the above analysis, the commission considers that while Siam Food may export at dumped prices in the future, there is insufficient evidence at present to conclude that it is *likely* to do so.

Prime Products

Following publication of SEF 571 and 572, Prime Products submitted the following points:

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- Prior to this inquiry Prime Products has not been found to have dumped consumer pineapple.
- The low dumping margin (of 3.8%) is based on a small volume of exports to Australia and a miniscule volume of domestic sales in a single quarter of the inquiry period.
- Prime Products achieved a profit of [confidential – precise profit percentage] on export sales.

As a result, Prime Products submitted that there is sufficient evidence that future dumping is not likely.

The commission has considered the points that Prime Products raised. In continuation inquiry 333, although Prime Products provided a response to the exporter questionnaire, Prime Products did not provide sufficient information. As such, the commission could not calculate an export price and normal value, and thus a dumping margin, specifically for Prime Products. The commission therefore applied the same methodology as for uncooperative exporters, giving Prime Products a dumping margin of 9.2%. In Review 478, the dumping margin for Prime Products was negative 11.7%.

Prime Products has not provided information to explain how the export price and normal value calculated in this inquiry is not representative of those respective variable factors if higher sales volumes were achieved in the future (in both the export and domestic market). In the absence of that information the commission considers the variable factors, and thus the dumping margin, calculated using the verified information from this inquiry to be the most relevant information. For this reason, the Commissioner is satisfied that there is sufficient evidence that future exports from Prime Products to Australia will be at dumped prices.

7.6.3 Impact of trade remedies in other jurisdictions

The commission is not aware of anti-dumping measures applying to exports of consumer pineapple exported from the Philippines and Thailand, or indeed any other country, applying in other jurisdictions. The United States removed its anti-dumping measures applying to canned pineapple in 2009.

7.6.4 Summary

Given the above analysis, the commission considers there is sufficient evidence to conclude that:

- during the inquiry period, the goods exported to Australia from the Philippines and Thailand, except from Kuiburi and Siam Food, were at dumped prices and
- there is no evidence that indicates that dumping will not continue.

As a result, the commission considers that, if the anti-dumping measures are not continued, the dumping of the goods from the Philippines and Thailand (from exporters other than Kuiburi and Siam Food) is likely to continue or recur.

The commission does not consider there is sufficient evidence to conclude that exports of the goods to Australia from Kuiburi and Siam Food at dumped prices are likely to continue or recur.

7.7 Will material injury continue or recur?

The *Ministerial Direction on Material Injury 2012* provides that injury from dumping need not be the sole cause of injury to the industry, where injury caused by dumping is material in degree.³⁵ It further provides that the materiality of injury caused by a given degree of dumping can be judged differently, depending on the economic condition of the Australian industry suffering the injury. In considering the circumstances of each case, the commission must consider whether an industry that at one point in time is healthy and could shrug off the effects of the presence of dumped products in the market, could at another time, weakened by other events, suffer material injury from the same amount and degree of dumping.

In its application, Golden Circle submitted that imports of consumer pineapple from the subject countries continue to be at prices that make it difficult for Golden Circle to raise prices to meet increases in production costs and achieve adequate returns for ongoing reinvestment opportunities. Golden Circle also reiterated the findings in REP 333 that exports of consumer pineapple from the subject countries undercut the Australian industry, and that the expiry of the measures will result in a substantial loss of sales volume and market share.

7.7.1 Likely effect on prices

The commission has used ABF import data to analyse export pricing since 2016 for the subject countries, as well as exports from all other countries.

Figure 20 below demonstrates the export prices compared with the Australian industry's selling prices:

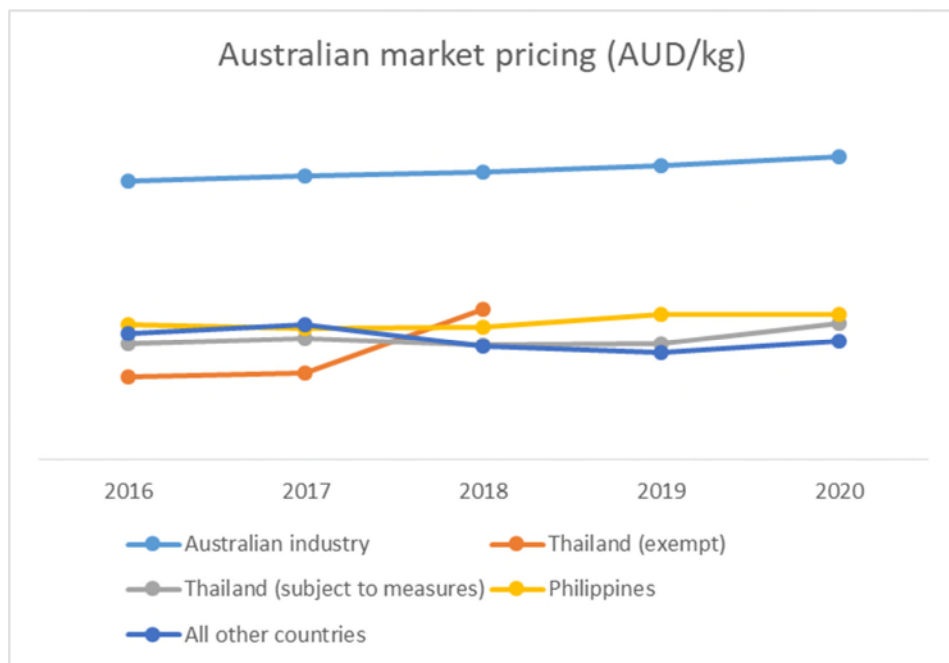


Figure 20 – Australian market prices

Figure 20 indicates that:

³⁵ ADN No. 2021/024 refers

- exports from Thailand that are not subject to measures were the lowest priced product up to mid-2017
- since 2018, exports from all other countries have been the lowest priced product in the Australian market
- exports from the Philippines and Thailand are closely aligned since 2017, remaining relatively stable with a very slight increase up to 2020 and
- Golden Circle's selling prices remain the highest in the Australian market, steadily increasing since 2016.

The commission considers that Figure 18 demonstrates that, despite lower priced consumer pineapple being available from the subject countries and from other countries not subject to measures, Golden Circle has been able to achieve a consistently higher sales price on its sales of consumer pineapple.

7.7.1.1 Price undercutting

Price undercutting occurs when sales of imported goods in the Australian market are at a price below that of the Australian-produced like goods. The commission has undertaken a price undercutting analysis that focuses on transactions made during the inquiry period. This analysis compares the price of the imported goods with the sales price of the locally produced goods in the Australian market.

The results of the commission's price undercutting analysis provides information that aids in assessing the effect of dumped imports on the Australian industry's prices and whether this has caused, or is likely to cause, injury in the form of price depression and price suppression, amongst other potential injury factors.

The commission's price undercutting analysis compares the prices at which the Australian industry sold like goods to the actual prices achieved by importers who sourced the goods from exporters subject to the current measures. Where sufficient detail is available, the commission has compared the goods on a 'like-for-like' basis.

The commission determined a landed value for exports for cooperating exporters as the sum of:

- the verified CIF value of export sales
- any general duties and dumping duties relevant to each exporter and
- Australian importation costs based on importer data which cooperative importers provided.

The undercutting analysis indicates that all imports of the goods undercut the Australian industry's selling prices during the inquiry period. This includes imports of the goods from the subject countries. Goods from those countries not subject to the measures (predominantly Indonesia, which represents 83% of imports from non-subject countries) undercut the Australian industry by the greatest amount.

7.7.1.2 Price depression and price suppression

In its application, Golden Circle claimed that imports of consumer pineapple from the subject countries continue to be at prices that make it difficult for Golden Circle to raise prices to meet increases in production costs and achieve adequate returns for ongoing reinvestment opportunities. Specifically, Golden Circle provided examples of negotiation

processes with customers, highlighting the rejection of price increases which Golden Circle sought. Golden Circle claimed this illustrated the injurious effect of the imports from the subject countries undercutting Golden Circle's prices.

The commission has considered these examples, both of which are with customers who are major supermarkets in the Australian market. In these examples, Golden Circle has sought to increase selling prices, justifying its request based on, amongst other items, increasing costs of raw pineapple, tin can and labour costs. Where increasing costs of raw pineapple was raised as one of the justifications for increasing selling prices, the customers involved have referred to their own data and analysis of raw pineapple costs in Australia, ultimately negotiating a lower price increase than Golden Circle had originally sought.

Importantly, in both examples of price negotiation, the commission does not observe any reference to selling prices of imported consumer pineapple, nor any perceived pricing pressure due to imports from the subject countries (or any other country not subject to the measures). The commission has not identified evidence in the application, in submissions from interested parties, or raised at the industry verification visit, to indicate the cheaper imports from the subject countries have placed pricing pressure on the Australian industry.

These examples of price negotiation are contained in **Confidential Attachment 9**.

7.7.1.3 Supermarket pricing behaviour

The commission has obtained retail selling prices of the goods from a major supermarket in Australia. The commission has analysed this data for the injury analysis period and observes the following:

- In each year from 2016 onwards, the selling prices of Golden Circle's consumer pineapple are the highest, well above consumer pineapple imported from the Philippines and countries not subject to the measures.
- Fluctuations in the selling prices of consumer pineapple imported from the Philippines appear to have little to no impact on the selling prices of consumer pineapple from Golden Circle (specifically, while selling prices of imported goods from the Philippines declined from 2017 to 2019, the selling prices of Golden Circle's consumer pineapple increased from 2017 to 2018).

This analysis indicates that changes in the prices of the goods from one of the subject countries (the Philippines) have not influenced the prices that Golden Circle is able to achieve. Details of this analysis are available at **Confidential Attachment 1**.

7.7.1.4 Submission from Golden Circle

In a submission following publication of SEF 571 and 572, Golden Circle stated the following:

- That it was 'unfathomable' that the dumping margins of the size established in these inquiries would have no impact on Golden Circle's pricing.
- Customers have denied price increases Golden Circle has sought to achieve (which were sought due to increased input costs).

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- Price suppression and reduced profitability which Golden Circle experienced during the inquiry period can be attributed to the influence of dumped exports from the largest source country – the Philippines.
- The presence of imports that undercut the Australian industry must be considered a significant influence on market selling prices.
- The commission confirmed that Golden Circle had suffered price suppression and reduced profit and profitability and that customers had rejected the full proposed price increases that Golden Circle sought to achieve.
- Golden Circle could not access competitive offers for imported consumer pineapple as customers would be disclosing commercially sensitive negotiation arrangements.
- In commenting on Golden Circle's failure to provide information regarding competitor pricing, the commission was encouraging certain behavior which would be in breach of the Supplier Grocery Code of Conduct, the Australian Competition and Consumer Law and confidentiality provisions existing in contracts between Golden Circle's customers and other suppliers.
- Golden Circle's inability to provide information regarding competitor pricing should not be considered in determining whether the measures should be continued or allowed to expire.

7.7.1.5 The commission's assessment

The Commissioner's recommendation regarding whether the measures applying to consumer pineapple from the Philippines and Thailand is based on the evidence before him. As noted in Chapter 6, exporters of the goods from both countries have been found to have dumped the goods during the inquiry period. However, these dumped goods have not been found to have impacted the prices, nor the volumes, which Golden Circle has achieved. As illustrated in Figure 20 (above), Golden Circle's consumer pineapple maintains a consistently higher sales price which has increased since the measures were last continued in 2016, and which does not fluctuate regardless of movements in the price of imported consumer pineapple.

Throughout its submission Golden Circle refers to the examples of price increases which customers have rejected, and argues that this is illustrative of the influence of dumped imports. The commission has assessed these examples at section 7.7.1.2 above. In rejecting the price increases Golden Circle has sought, these customers have disputed the claimed increases in the cost of raw pineapple (the key input in consumer pineapple). As noted in section 7.7.1.2, the commission has not identified evidence to indicate that the imports of consumer pineapple have impacted on the prices Golden Circle has been able to achieve.

In assessing evidence throughout these inquiries, for the purposes of preliminary findings in SEF 571 and 572 and for the purposes of the recommendations in this report, the commission does not seek to encourage the behaviours that Golden Circle refer to in its submission at 7.7.1.4 above. The commission obtains information from interested parties on a voluntary basis. No individual or business is required or compelled to provide information. The commission is committed to treating information it receives confidentially, responsibly and in accordance with the law. Further information regarding the

commission's collection and use of Information is available on the commission's website.³⁶

The commission has assessed the evidence interested parties have provided and explained, in SEF 571 and 572 and this report, the findings of that assessment. That is, neither the assessment of the pricing data, nor the specific examples provided, support a finding that imported consumer pineapple impacts on the prices which Golden Circle is able to achieve.

7.7.1.6 Summary

The commission has identified that:

- Golden Circle has been able to achieve a consistently higher sales price on its sales of consumer pineapple.
- Despite the prices of imported goods from the subject countries (and other countries) being lower than the Australian industry, this does not appear to have impacted the price Golden Circle achieves.
- The examples of price negotiation between Golden Circle and key retailers in Australia do not indicate any reference to the prices of imported goods from the subject countries, but rather refer to the prices of raw pineapple as the key factor in price negotiation.
- Supermarket pricing data illustrates that Golden Circle's product maintains a consistently higher selling price, which does not fluctuate with movements in the selling price of imported consumer pineapple.

The commission notes the discussion at section 4.5.3 (above) regarding market segmentation. To reiterate, the commission considers that Golden Circle's 'Australian' product operates in its own segment within the consumer pineapple market. The commission has not identified evidence during the course of this inquiry to indicate that imported consumer pineapple, sourced from the subject countries or other countries, competes in this segment.

7.7.2 Likely effects on volumes

The commission notes that Golden Circle advised it is able to process all of the raw pineapple it acquires. Golden Circle also advised that its production capacity is limited to the volumes of raw pineapple sourced from pineapple farmers. While this has the potential to impact on the sales volumes Golden Circle can achieve, dumped goods from the subject countries does not impact on raw pineapple supply.

In chapter 4 (above), and at section 7.7.1 (above), the commission noted the higher selling prices Golden Circle has consistently achieved in the Australian market. Both the Australian industry and importers indicated to the commission that some customers are willing to pay a premium for the Golden Circle product. Further, the commission understands that several major supermarkets in Australia ensure that Golden Circle products will be available to customers in these stores.

The commission has not identified evidence to suggest that the Australian industry will lose sales volumes or market share due to dumped imports from the subject countries. This is consistent with the commission's analysis regarding market segmentation – i.e.

³⁶ Refer to the commission's [policy](#) on the collection and use of information.

that Golden Circle's product is sold into a segment of the market that achieves a price premium - a segment in which imported consumer pineapple does not compete. While the Australian industry has seen its market share decline since the continuation of the anti-dumping measures in 2016, the commission notes Golden Circle's statements regarding reduced pineapple supply due to the impact of drought conditions in Australia.

Golden Circle claims that the expiration of the measures on consumer and FSI pineapple exported from the Philippines and Thailand pose a 'very real and immediate threat of future material injury to the prospects of the pineapple processing industry that is only recently recovering from enduring drought conditions'.³⁷ The commission has considered Golden Circle's submission in the conduct of these inquiries. The commission considers that there is insufficient evidence before it to find that the expiration of the measures would impact Golden Circle's pineapple processing plans as claimed. While Golden Circle states that the expiration of measures will prevent it re-building supply of pineapples for canning, there is insufficient evidence before the commission to indicate that the dumping of imports from the subject exporters of this inquiry will limit Golden Circle's future volumes. The commission also notes that 'threat of future material injury' is not part of the test for the continuation of measures.

The commission has also considered Australian Pineapples' submission (noted at section 7.4.1 above) in the conduct of this inquiry.³⁸ Following the publication of SEF 571 and 572, Golden Circle also submitted that the anti-dumping measures afford Australian pineapple growers and Golden Circle itself a level of continued certainty. The commission considers that there is insufficient evidence to indicate that the dumping of imports from the subject exporters of this inquiry will limit supply certainty.

7.8 Conclusion

Taking the above analysis into account, the Commissioner is satisfied that there is sufficient evidence to support a finding that imports of the goods from Thailand and the Philippines are likely to continue upon the expiration of the measures.

The Commissioner is satisfied that imports of the goods from the Philippines and Thailand (except for imports from Kuiburi and Siam Food) were at dumped prices during the inquiry period. The Commissioner is also satisfied that there is sufficient evidence to indicate that imports from the Philippines and Thailand (except for imports from Kuiburi and Siam Food) will continue to be at dumped prices upon the expiration of the measures.

The Commissioner is not, however, satisfied that there is sufficient evidence to support a finding that material injury is *likely* to be caused by future imports at dumped prices upon the expiration of the measures.

Specifically, the Commissioner has found that:

- Golden Circle has been able to achieve a consistently higher sales price on its consumer pineapple, despite imports from the subject countries and other countries being at lower prices.
- There is no evidence before the commission indicating that imports from the subject countries impact the prices Golden Circle achieves.

³⁷ EPR 571 and 572, [document 10](#).

³⁸ EPR 571 and 572, [document 11](#).

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- The available evidence indicates that Golden Circle's sales of consumer pineapple are within a segment of the Australian consumer pineapple market – a segment in which imported consumer pineapple does not compete.
- There is no evidence that Golden Circle has lost sales volumes to imported products or would lose sales volumes if the measures expire, with the data indicating that Golden Circle is able to process all of the raw pineapple it acquires.
- The key factor limiting Golden Circle's ability to increase sales volume is the availability of raw pineapple and there is no evidence to find that imports from the subject countries impact on raw pineapple availability.

The Commissioner accepts that, should the measures be allowed to expire, it is possible that consumer pineapple will be exported to Australia at dumped prices in the future and materially injure the Australian industry. However, the Commissioner is not satisfied on the evidence before him that this is *likely*.

As a result, the Commissioner is not satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of the material injury that the anti-dumping measures are intended to prevent.

8 RECOMMENDATIONS

On the basis of the reasons contained in this report, and in accordance with section 269ZHF(2), the Commissioner is not satisfied that the expiration of the anti-dumping measures applying to consumer pineapple exported to Australia from the Philippines and Thailand would lead, or would be likely to lead, to a continuation or recurrence of, the dumping and the material injury the anti-dumping measures are intended to prevent.

As a result, pursuant to section 269ZHF(1)(a)(iv) the Commissioner recommends that the notice in so far as it relates to exporters from Thailand expires on 17 October 2021 and that the notice in so far as it relates to exporters from the Philippines expires on 10 October 2021.

The Commissioner recommends that the Minister **declare**:

- in accordance with subsection 269ZHG(1)(a), that he has decided not to secure the continuation of the anti-dumping measures concerned. The dumping duty notice as it relates to exporters from Thailand will therefore expire on 17 October 2021 and the notice as it relates to exporters from the Philippines will therefore expire on 10 October 2021.

The Commissioner recommends the Minister **be satisfied that**:

- in accordance with subsection 269TAB(3), sufficient information is not available to enable the export price of consumer pineapple exported to Australia from the Philippines and Thailand by uncooperative exporters to be ascertained under the subsection 269TAB(1)
- in accordance with subsection 269TAC(2)(a)(i), the normal value of consumer pineapple exported to Australia from Thailand by KFC cannot be ascertained under subsection 269TAC(1) because of an absence of sales of like goods in the market of Thailand that would be relevant for the purpose of determining a price under subsection 269TAC(1)
- in accordance with subsection 269TAC(2)(a)(i), the normal value of consumer pineapple exported to Australia from Thailand by Siam Food cannot be ascertained under subsection 269TAC(1) because of an absence of sales of like goods in the market of Thailand that would be relevant for the purpose of determining a price under subsection 269TAC(1) and
- in accordance with subsection 269TAC(6), sufficient information is not available to enable the normal value of consumer pineapple exported to Australia from the Philippines and Thailand by uncooperative exporters to be ascertained under the preceding subsections of section 269TAC (other than subsection 269TAC(5D)).

The Commissioner recommends the Minister **determine**:

- being satisfied that subsection 269TAB(1)(a) applies, that the export price of goods exported to Australia from Thailand by Prime Products is the price paid or payable for the goods by the importer, other than any part of that price that represents a charge in respect of any other matter arising after exportation, as set out in **confidential attachment 7**
- being satisfied that subsection 269TAB(1)(a) applies, that the export price of goods exported to Australia from Thailand by Siam Food is the price paid or payable for

the goods by the importer, other than any part of that price that represents a charge in respect of any other matter arising after exportation, as set out in **confidential attachment 8**

- being satisfied that subsection 269TAB(1)(a) applies, that the export price of goods exported to Australia from Thailand by KFC is the price paid or payable for the goods by the importer, other than any part of that price that represents a charge in respect of any other matter arising after exportation, as set out in **confidential attachment 6**
- in accordance with subsection 269TAB(1)(c), having regard to all the circumstances of the exportation of consumer pineapple from the Philippines by Dole Philippines to Australia, that the export price is as set out in **confidential attachment 5**
- in accordance with subsection 269TAB(3), having regard to all relevant information, that the export price for uncooperative exporters from the Philippines and Thailand are as set out in **confidential appendices 1 and 2**
- in accordance with subsection 269TAC(1), being satisfied that like goods are sold in the ordinary course of trade for home consumption in the Philippines (by Dole Philippines) in sales that are 'arms length' transactions that the normal value of consumer pineapple exported to Australia from Dole Philippines is the price paid or payable for like goods as set out in **confidential attachment 5**
- in accordance with subsection 269TAC(1), being satisfied that like goods are sold in the ordinary course of trade for home consumption in Thailand (by Prime Products) in sales that are 'arms length' transactions that the normal value of consumer pineapple exported to Australia from Prime Products is the price paid or payable for like goods as set out in **confidential attachment 7**
- in accordance with subsection 269TAC(2)(c), that the normal value of consumer pine exported from Thailand by KFC is the sum of:
 - the cost of production or manufacture of consumer pineapple in Thailand as set out in **confidential attachment 6** and
 - on the assumption that consumer pineapple, instead of being exported, had been sold for home consumption in the ordinary course of trade in Thailand , the administrative, selling and general costs associated with the sale and the profit on that sale as set out in **confidential attachment 6**

as adjusted in accordance with subsection 269TAC(9), as set out in Table 8, to ensure that the normal value of the goods so ascertained is properly comparable with the export price of the goods

- in accordance with subsection 269TAC(2)(c), that the normal value of consumer pine exported from Thailand by Siam Food is the sum of:
 - the cost of production or manufacture of consumer pineapple in Thailand as set out in **confidential attachment 8** and
 - on the assumption that consumer pineapple, instead of being exported, had been sold for home consumption in the ordinary course of trade in Thailand , the administrative, selling and general costs associated with the sale and the profit on that sale as set out in **confidential attachment 8**

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as adjusted in accordance with subsection 269TAC(9), as set out in Table 10, to ensure that the normal value of the goods so ascertained is properly comparable with the export price of the goods

- in accordance with subsection 269TAC(6), having regard to all relevant information, that the normal values for uncooperative exporters from the Philippines and Thailand are as set out in **confidential appendices 1 and 2** and
- having applied subsection 269TACB(2)(a) and in accordance with subsections 269TACB(1) and (4):
 - that the consumer pineapple exported to Australia from Thailand (except by KFC and Siam Food) and the Philippines are taken to have been dumped and
 - the dumping margins for Prime Products, Siam Food, KFC and Dole Philippines (as well as uncooperative exporters from both countries) in respect of those goods is the difference between the weighted average export prices of the consumer pineapple over the inquiry period and the weighted average of corresponding normal values over that period as set out in chapter 6.

The Commissioner recommends the Minister **direct:**

- in accordance with 269TAC(8), adjustments, as listed in Table 7, are necessary to ensure a fair comparison of normal values and export prices for consumer pineapple exported to Australia by Dole Philippines, as set out in **confidential attachment 5** and
- in accordance with 269TAC(8), adjustments, as listed in Table 9, are necessary to ensure a fair comparison of normal values and export prices for consumer pineapple exported to Australia by Prime Products, as set out in **confidential attachment 7**.

9 APPENDICES AND ATTACHMENTS

Confidential Attachment 1	Australian market
Confidential Attachment 2	Global supply - pineapples
Confidential Attachment 3	Global demand - pineapples
Confidential Attachment 4	Economic condition of the Industry
Confidential Attachment 5	Dole Philippines – dumping margin calculation
Confidential Attachment 6	Kuiburi – dumping margin calculation
Confidential Attachment 7	Prime Products – dumping margin calculation
Confidential Attachment 8	Siam Food – dumping margin calculation
Confidential Attachment 9	Price negotiations
Confidential Appendix 1	Thailand – uncooperative dumping margin
Confidential Appendix 2	Philippines – uncooperative dumping margin