



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

**Anti-Dumping
Commission**

CUSTOMS ACT 1901 - PART XVB

STATEMENT OF ESSENTIAL FACTS

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**

19 July 2021

CONTENTS

CONTENTS	2
ABBREVIATIONS	4
1 SUMMARY AND RECOMMENDATIONS	5
1.1 INTRODUCTION.....	5
1.2 LEGISLATIVE FRAMEWORK.....	5
1.3 PRELIMINARY FINDINGS AND PROPOSED RECOMMENDATION.....	6
1.4 RESPONDING TO THIS SEF.....	7
1.5 FINAL REPORT.....	7
2 BACKGROUND	9
2.1 APPLICATION AND INITIATION.....	9
2.2 HISTORY OF THE ANTI-DUMPING MEASURES.....	9
2.3 CURRENT MEASURES.....	10
2.4 CONDUCT OF THE INQUIRY.....	11
2.5 CONCURRENT INQUIRIES.....	12
2.6 SUBMISSIONS RECEIVED FROM INTERESTED PARTIES.....	13
3 THE GOODS, LIKE GOODS AND THE AUSTRALIAN INDUSTRY	14
3.1 PRELIMINARY FINDING.....	14
3.2 LEGISLATIVE FRAMEWORK.....	14
3.3 THE GOODS SUBJECT TO THE MEASURES.....	14
3.4 MODEL CONTROL CODE.....	15
3.5 LIKE GOODS.....	16
3.6 AUSTRALIAN INDUSTRY.....	17
4 AUSTRALIAN MARKET	18
4.1 PRELIMINARY FINDING.....	18
4.2 APPROACH TO ANALYSIS.....	18
4.3 MARKET SIZE.....	18
4.4 MARKET SHARE.....	19
4.5 MARKET STRUCTURE & PRICING.....	19
4.6 GLOBAL SUPPLY.....	22
4.7 GLOBAL DEMAND.....	24
5 ECONOMIC CONDITION OF THE INDUSTRY	26
5.1 APPROACH TO ANALYSIS.....	26
5.2 VOLUME EFFECTS.....	26
5.2.1 SALES VOLUME.....	26
5.3 PRICE EFFECTS.....	27
5.4 PROFIT AND PROFITABILITY.....	29
5.5 OTHER ECONOMIC FACTORS.....	29
6 VARIABLE FACTORS – DUMPING DUTY NOTICE	34
6.1 PRELIMINARY FINDING.....	34
6.2 LEGISLATIVE FRAMEWORK.....	34
6.3 VERIFICATION OF SELECTED EXPORTERS.....	35
6.4 CALCULATION OF DUMPING MARGINS.....	36
6.5 VARIABLE FACTORS – DOLE PHILIPPINES INC.....	36
6.6 VARIABLE FACTORS – KUIBURI FRUIT CANNING COMPANY LIMITED AND KUIBURI FRUIT CUP COMPANY LIMITED.....	38
6.7 VARIABLE FACTORS – PRIME PRODUCTS INDUSTRY Co., LTD.....	40
6.8 VARIABLE FACTORS – SIAM FOOD.....	42
6.9 UNCOOPERATIVE AND ALL OTHER EXPORTERS.....	44
6.10 SUMMARY OF DUMPING MARGINS.....	45
7 LIKELIHOOD THAT DUMPING AND MATERIAL INJURY WILL CONTINUE OR RECUR	46

PUBLIC RECORD

7.1	PRELIMINARY FINDING.....	46
7.2	LEGISLATIVE FRAMEWORK.....	46
7.3	THE COMMISSION'S APPROACH.....	46
7.4	AUSTRALIAN INDUSTRY'S CLAIMS.....	46
7.5	ARE EXPORTS LIKELY TO CONTINUE OR RECUR?	47
7.6	WILL DUMPING CONTINUE OR RECUR?	48
7.7	WILL MATERIAL INJURY CONTINUE OR RECUR?	50
7.8	CONCLUSION	55
8	PROPOSED MEASURES	56
8.1	PRELIMINARY RECOMMENDATION.....	56
9	NON-INJURIOUS PRICE	57
9.1	INTRODUCTION.....	57
9.2	NON-INJURIOUS PRICE	57
9.3	LESSER DUTY RULE	57
9.4	ASSESSMENT OF NIP.....	57
10	FORM OF MEASURES.....	59
10.1	INTRODUCTION.....	59
10.2	PRELIMINARY FINDINGS	59
10.3	CONCLUSION	60
11	APPENDICES AND ATTACHMENTS.....	61

PUBLIC RECORD

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 Thailand and the Philippines are due to expire on 10 October 2021 and 17 October 2021 respectively.¹

The present inquiries were initiated on 25 January 2021, following the Commissioner's consideration of the application lodged by 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 this continuation inquiry.

This Statement of Essential Facts (SEF) sets out the facts on which the Commissioner proposes to base his recommendations to the Minister, subject to any submissions received in response to this SEF.

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.

Under section 269ZHE(3), the Commissioner is not obliged to have regard to any submissions relating generally to the inquiry that are received by the Commissioner after the end of the 37 day period referred to in section 269ZHE(2)(a)(ii) if to do so would, in the Commissioner's opinion, prevent the timely placement of this SEF on the public record. Section 269ZHF(1)(a) requires the Commissioner, after conducting an inquiry, to give the Minister a report which recommends:

- that the notice remain unaltered;⁴ or
- that the notice cease to apply to a particular exporter or to a particular kind of goods;⁵ or
- that the notice have effect in relation to a particular exporter or to exporters generally, as if different variable factors had been ascertained;⁶ or

¹ Under section 269TM, dumping duty notices expire five years after the date on which they were published, unless they are revoked earlier.

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(1)(a)(i).

⁵ Section 269ZHF(1)(a)(ii).

⁶ Section 269ZHF(1)(a)(iii).

PUBLIC RECORD

- that the notice expire on the specified expiry day.⁷

Pursuant to section 269ZHF(2), the Commissioner must not recommend that the Minister take steps to 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.

1.3 Preliminary findings and proposed recommendation

For the reasons set out in this SEF, 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 will 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 has 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 provided by 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. By 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 did not identify any evidence of Golden Circle facing pricing pressure. No examples were provided of tender processes or other negotiation processes where imports from the subject countries have been referenced, or alternative prices have been raised. The examples the Commission observed indicated that the key driver of the prices Golden Circle achieve is the price of raw pineapple sourced within Australia. This is not impacted by imports from the subject countries. This analysis is explained in section 7.7.1 of this report.
- No evidence was identified indicating that Golden Circle had lost sales volume due to imports from the subject countries. Golden Circle advised it is operating at full capacity. The limiting factor with regard to sales volumes is the availability of raw pineapple, as noted above. The analysis regarding sales volumes is in section 7.7.2 of this report.

Based on the above preliminary findings, the Commissioner proposes to recommend to the Minister that the notices in respect of the goods exported to Australia from the Philippines and Thailand not be continued.

⁷ Section 269ZHF(1)(a)(iv).

1.4 Responding to this SEF

This SEF represents an important stage in the inquiry. It informs interested parties of the facts established by the Commissioner and allows them to make submissions in response to the SEF.

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

Interested parties are invited to make submissions to the Commissioner in response to the SEF within 20 days of the SEF being placed on the public record. The due date to lodge written submissions in response to this SEF is **9 August 2021**.⁸

The Commissioner is not obliged to have regard to any submission made in response to the SEF received after this date if to do so would, in the opinion of the Commissioner, prevent the timely preparation of the report to the Minister.⁹

Submissions may be provided by email to investigations4@adcommission.gov.au.

Alternatively, interested parties may post submissions to:

Director, Investigations Unit 4
Anti-Dumping Commission
GPO Box 2013
CANBERRA ACT 2601
AUSTRALIA

Confidential submissions must be clearly marked accordingly and a non-confidential version of any submission is required for inclusion on the Public Record. Information in relation to making submissions is available on the Commission's website www.adcommission.gov.au.

The public record contains non-confidential submissions by interested parties, the non-confidential versions of the Commission's visit reports and other publicly available documents. The EPR is available via the Commission's website. Interested parties should read this SEF in conjunction with other documents on the public record.

1.5 Final report

The Commissioner's final report and recommendations must be provided to the Minister within 155 days after the publication of a notice under section 269ZHD(4) or such longer period as is allowed.¹⁰

The final report will include recommendations, including whether the relevant notice ought to:

- remain unaltered;
- cease to apply to a particular exporter or to a particular kind of goods;

⁸ The due date for submissions is 8 August 2021. As this is a weekend the effective due date moves to the next business day

⁹ Section 269ZHF(4).

¹⁰ Section 269ZHF(1). On 14 January 2017 the powers and functions of the Minister under section 269ZHI were delegated to the Commissioner, see Anti-Dumping Notice No. 2017/10.

PUBLIC RECORD

- have effect in relation to a particular exporter or to exporters generally as if different variable factors had been ascertained; or
- expire on the specified expiry day.

Extensions of time for the provision of the Commissioner's final report and recommendations to the Minister were granted under section 269ZHI(3).¹¹ The current due date for the final report is **6 September 2021**.

¹¹ EPR 571 & 572, document nos. 4 and 13 refer.

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, an application for the continuation of the anti-dumping measures was received from Golden Circle. 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 and, in accordance with section 269ZHD(2)(b), 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 lodged by Golden Circle, anti-dumping measures were initially imposed on consumer pineapple exported to Australia from Thailand in 2001 by the then Minister for Justice and Customs 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.

PUBLIC RECORD

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 by Golden Circle, anti-dumping measures were initially imposed on consumer pineapple exported to Australia from the Philippines on 10 October 2006 by the then Minister for Justice and Customs 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 Anti-Dumping Commission's (Commission) 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. Anti-Dumping Commission Report No. 397 (REP 397) found that Kuiburi Fruit Cup Co Ltd and Kuiburi Fruit Canning Co., Ltd (Kuiburi Fruit) are joint exporters of the goods and the relevant declaration had already been made.

On 18 June 2018, following an application by 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.

PUBLIC RECORD

Country	Exporter	Dumping Margin	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 inquiry

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 provided by Golden Circle. The report made in relation to the verification process will be available on the EPR.

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 completion by other importers who were not contacted directly. The Commission received three questionnaire responses from the importers listed below:

- Woolworths Group Limited;
- Scalzo Food Industries; and
- 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.¹⁶

¹⁶ EPR 571 & 572, document no. 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 completion by other exporters who were not contacted directly.

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

Uncooperative exporter is relevantly 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 considered to be 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 be continued or allowed to expire. Further information in relation to these inquiries can be found on the electronic public record for inquiries 573 and 574.

PUBLIC RECORD

2.6 Submissions received from interested parties

The following submissions have been received from interested parties:

Interested Party	Date Published on EPR	Document Number
Golden Circle	11 June 2021	10
Australian Pineapple Growers	21 June 2021	11

Table 3: Submissions received¹⁷

The points raised in these submissions have been addressed in this SEF.

¹⁷ All submissions are available on the EPR on the Commission website.

3 THE GOODS, LIKE GOODS AND THE AUSTRALIAN INDUSTRY

3.1 Preliminary 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, and 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 produced by the Australian industry are 'like' to the imported goods. Section 269T(1) defines like goods as:

goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration.

The 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. The Commission's framework for assessing like goods is outlined in Chapter 2 of the *Dumping and Subsidy Manual* (the Manual).¹⁸

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 'like' goods are in fact produced 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).

¹⁸ 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 be implemented in new investigations, reviews of exporters generally or continuations for cases initiated after this date (see ADN No. 2018/128).¹⁹

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

¹⁹ Full guidance regarding the Commission's application of an MCC structure is provided in ADN No. 2018/128 on the Commission website at: www.adcommission.gov.au.

PUBLIC RECORD

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

It should be noted that some 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 stated that they consider 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 provided by exporters from both the Philippines and Thailand;²⁰ and
- findings in previous cases that locally produced goods are like goods to the goods exported from both the Philippines and Thailand.²¹

²⁰ Ibid.

²¹ Ibid.

PUBLIC RECORD

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 as the:

- primary physical characteristics of the locally produced goods closely resemble the imported goods;
- imported and locally produced goods are commercially alike as they are sold to the same customers and/or compete in the same markets;
- imported and locally produced goods are functionally alike as they have the same end uses and/or are substitutable; and
- imported and locally produced goods are manufactured in a similar manner.

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 production processes relevant to consumer pineapple were previously observed by the Commission 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 Australia;²³ 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 Preliminary finding

The Commission has found that, during the inquiry period, the Australian market for the goods was supplied by 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 analysis detailed in this chapter is based on verified financial information submitted by Golden Circle, import data from the ABF import database, financial information obtained from exporters, importers and retailers, market intelligence sourced by the Commission 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 export data obtained from the ABF import database:

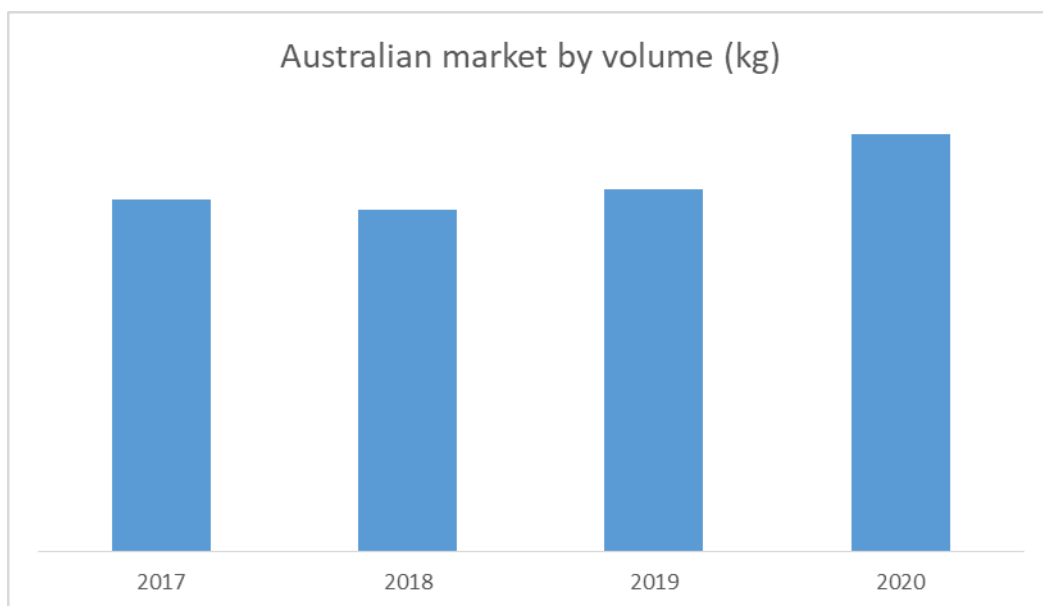


Figure 1: Australian market size by volume

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

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

4.4 Market share

The Australian market is predominately supplied by Golden Circle and imports from the Philippines, Thailand and Indonesia. A small portion of the Australian market is supplied by other countries.

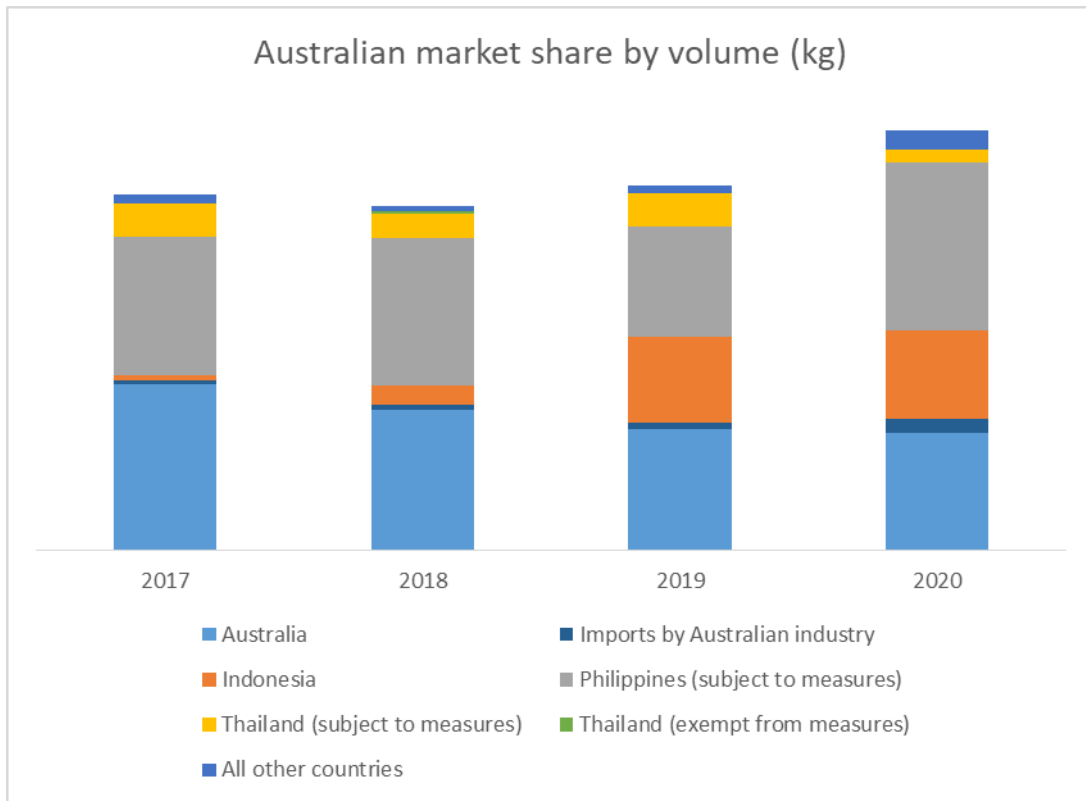


Figure 2: Australian market share

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 processor 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 per cent 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 six month period with an expectation that those prices will be firm for 12 months.

4.5.2 Retail pricing

‘Shelf pricing’ for consumer pineapple in Australia is determined by the retailers and based on brand value and quality (or perceived quality). The Commission found through analysis of retail prices and information received from Golden Circle and cooperating retailers and importers that pricing is tiered into three segments:

1. Golden Circle goods processed in Australia are branded as ‘Australian’ pineapple and can attract the highest retail price;
2. Imported branded product such as Dole, Golden Circle imported range branded as ‘Tropical’ pineapple and SPC branded pineapple sell in the medium price range; and
3. The retailer branded ‘private label’ products are 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.

Over 90 per cent of the Australian market for consumer pineapple is controlled by the large supermarkets who have significant bargaining power. 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).

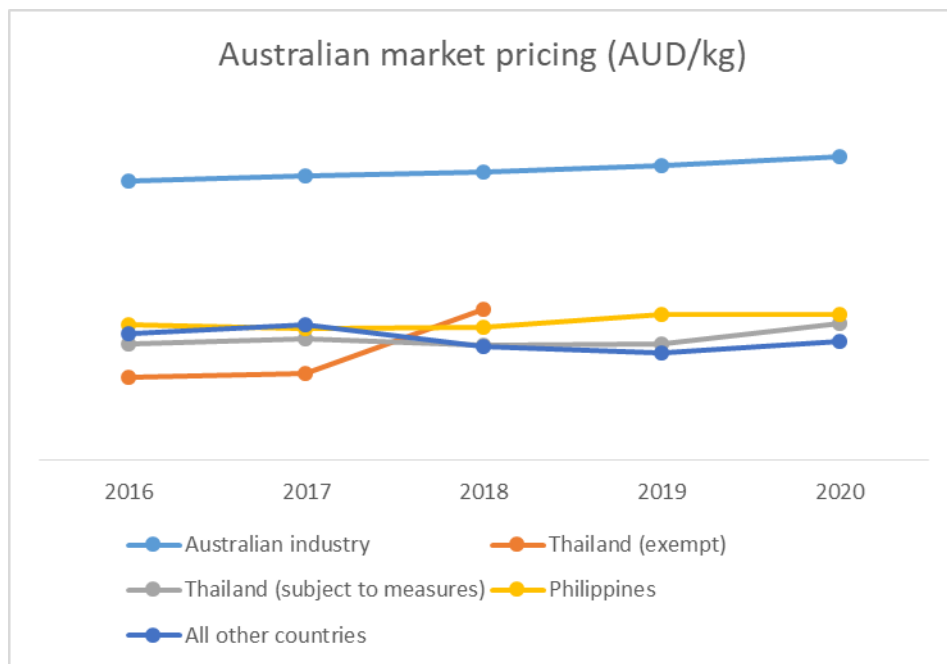


Figure 3: Golden Circle selling prices v prices of imported consumer pineapple

PUBLIC RECORD

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.

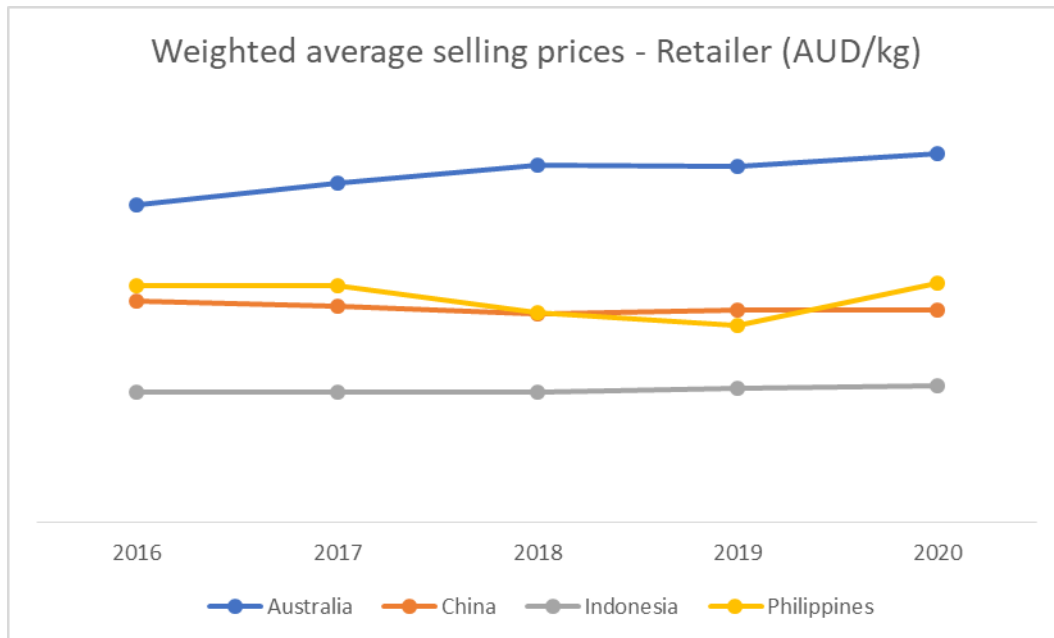


Figure 4: Retail selling prices for consumer pineapple by country of origin

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 by this retailer 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 prices Golden Circle achieve for their Australian product is influenced by movement in the price of imported consumer pineapple.

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).

4.5.4 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 supplied by 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. It is also important to note that once the pineapple is picked it has to be processed within 3 days. 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 is reduced, the price of fresh pineapple increases. The availability of pineapple to processors is further restricted as pineapple growers who might have otherwise have sold to processors sell into the fresh pineapple markets.

4.5.5 Conditions in Australia

Australian pineapples are mostly grown 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 the quantities they could produce in the years 2017 to 2020 were reduced due to drought affecting the Australian growers, resulting in insufficient supply of raw material. Verified data from Golden Circle indicated that raw pineapple prices have increased by approximately 30% since 2016.

Golden Circle also stated that they are in the process of implementing various measures of cooperation with pineapple growers and aim to incentivise future increase of production. They state that the impact of these incentives will not be delivered short-term due to the lead time in growing pineapple.

4.6 Global Supply

The Commission has analysed ITC Trade data relating to preserved and prepared pineapple that is traded globally under the relevant tariff code (208000). The data below relates to all goods that are 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 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

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

PUBLIC RECORD

from Thailand and the Philippines to increase their exports to Australia in the absence of the measures.

The global market for preserved and prepared pineapple is dominated by the major export countries of the goods - Thailand, the Philippines and Indonesia:

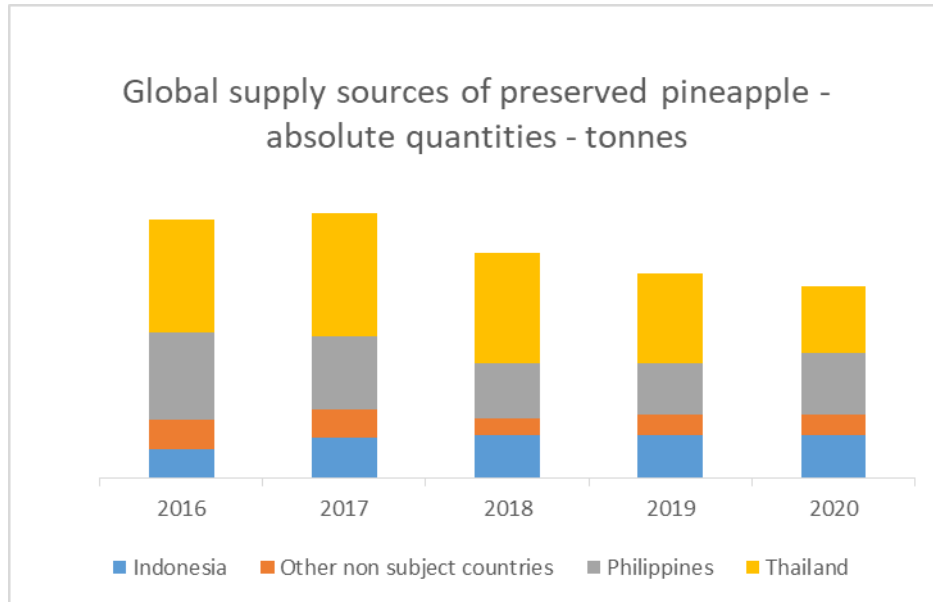


Figure 5: Global supply of preserved or prepared pineapple – quantities by export country

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:

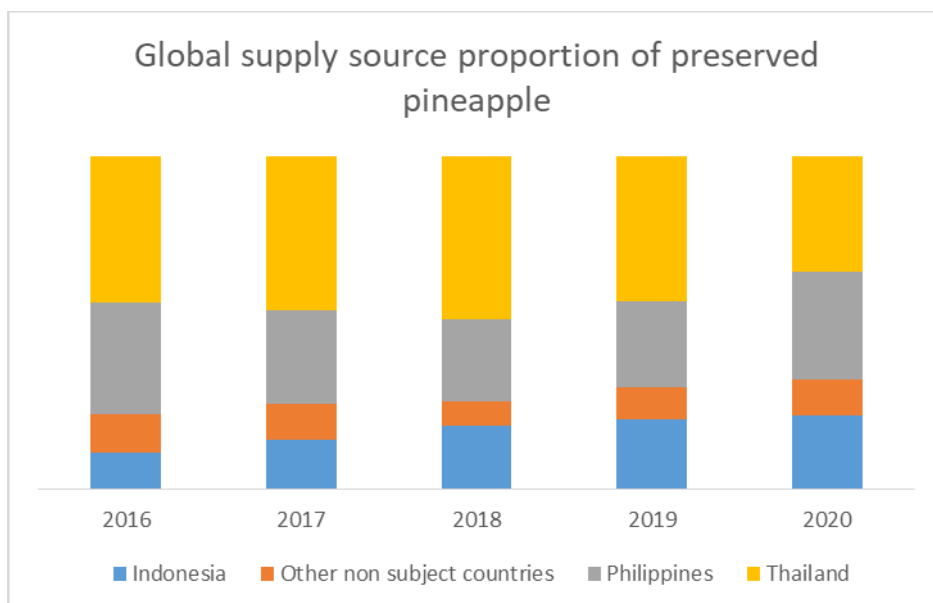


Figure 6: Global supply sources by country – by market share %

Figure 6 charts how Indonesia has gained market share on a year by year basis while Thai exporters have reduced their market share in 2019 and 2020.

Reference is made to the Commission’s analysis in **Confidential Attachment 2**.

4.7 Global Demand

The Commission has analysed ITC Trade data relating to preserved and prepared pineapple that is traded globally under the 6 digit tariff code 208000. The data below relates to the import destinations of all goods that is 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.

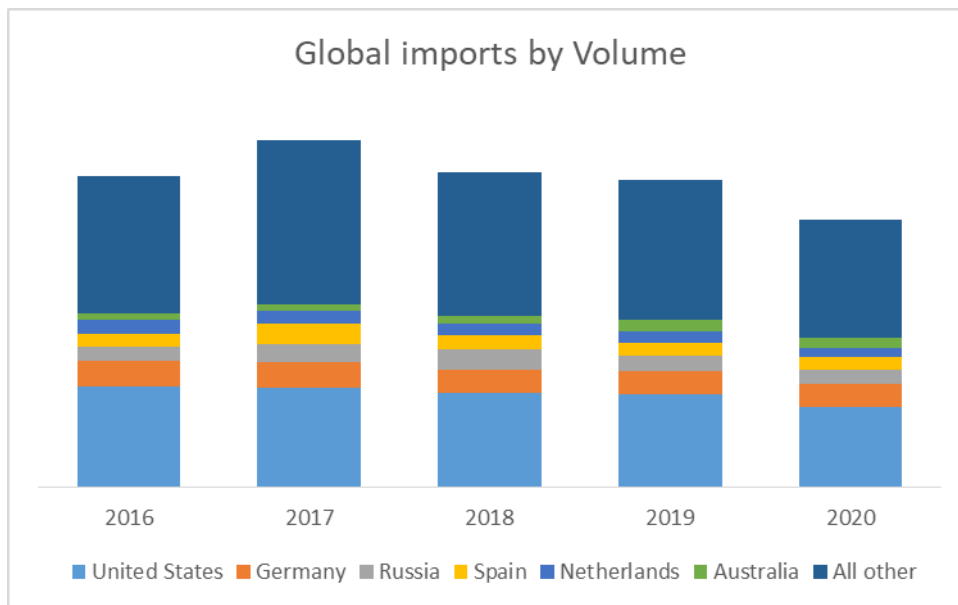


Figure 7: Global imports by volume

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 by far the largest importer of preserved pineapple products. The chart also shows that imports to Australia increased in 2019 and 2020. This is consistent with claims made by Golden Circle.

PUBLIC RECORD

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

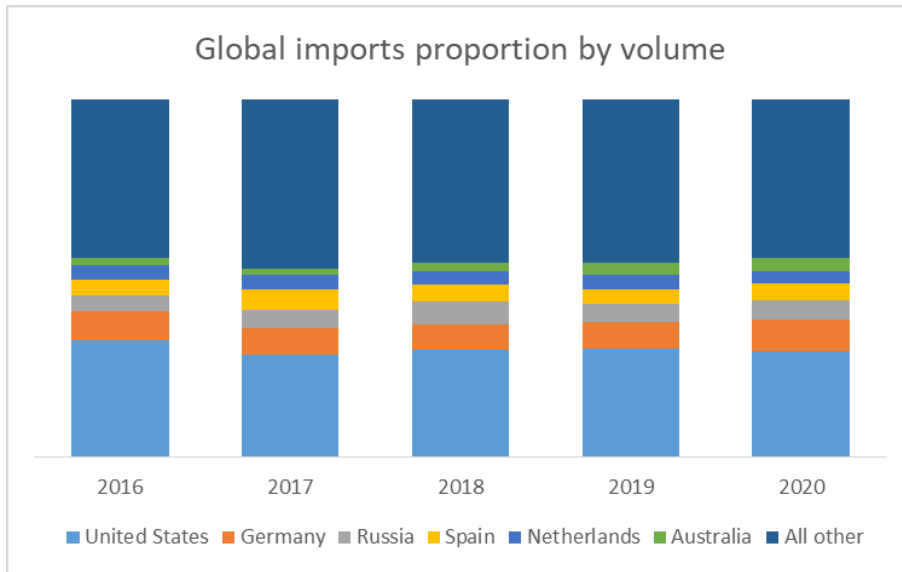


Figure 8: Global imports – proportion volume by destination

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%.

Reference is made to the Commission's analysis in **Confidential Attachment 3**.

5 ECONOMIC CONDITION OF THE INDUSTRY

5.1 Approach to analysis

The Commission has considered the economic performance of the Australian industry, as represented by Golden Circle, 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 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**.

5.2 Volume effects

5.2.1 Sales Volume

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

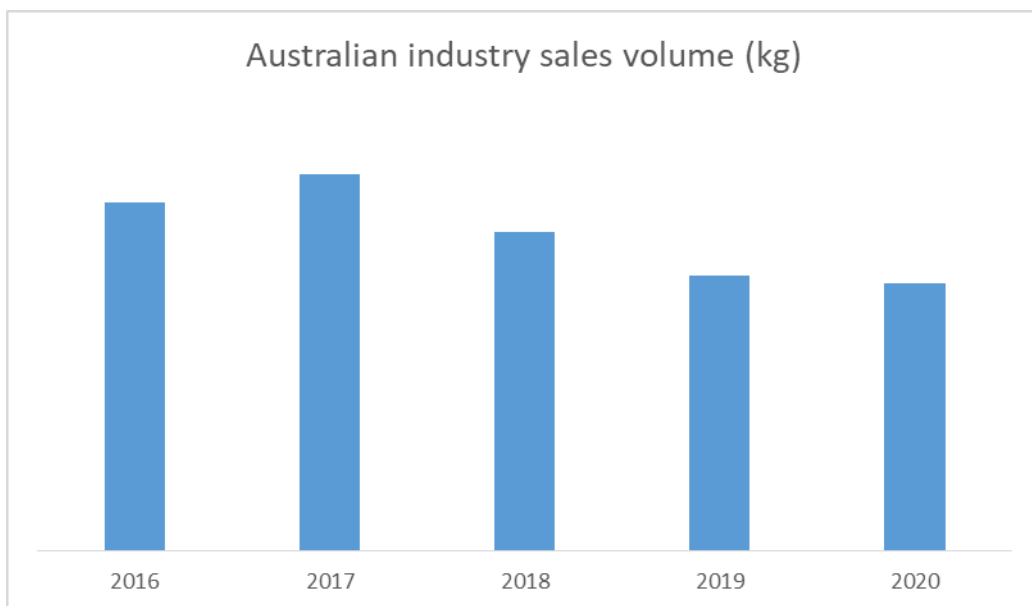


Figure 9: Sales volume

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 by:

- the Australian industry;
- exports from the Philippines and Thailand; and
- exports from countries not subject to measures.

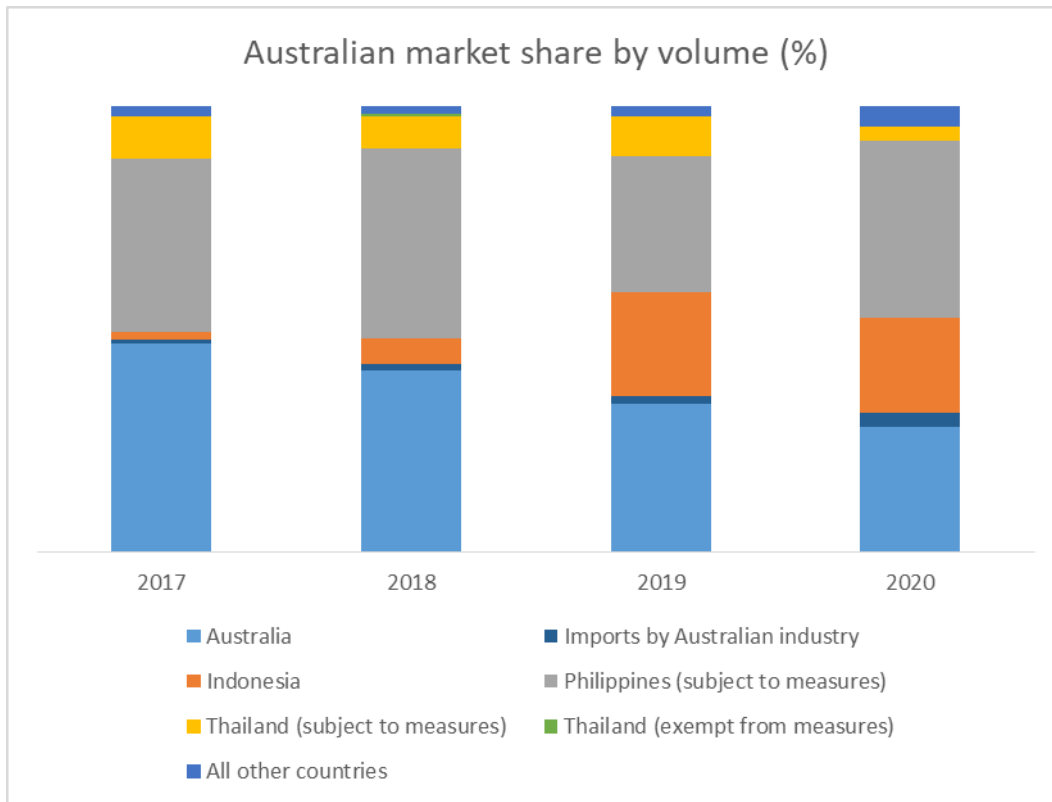


Figure 10: Market share

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 to goods produced by Australian industry, 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 across the period of analysis.

PUBLIC RECORD

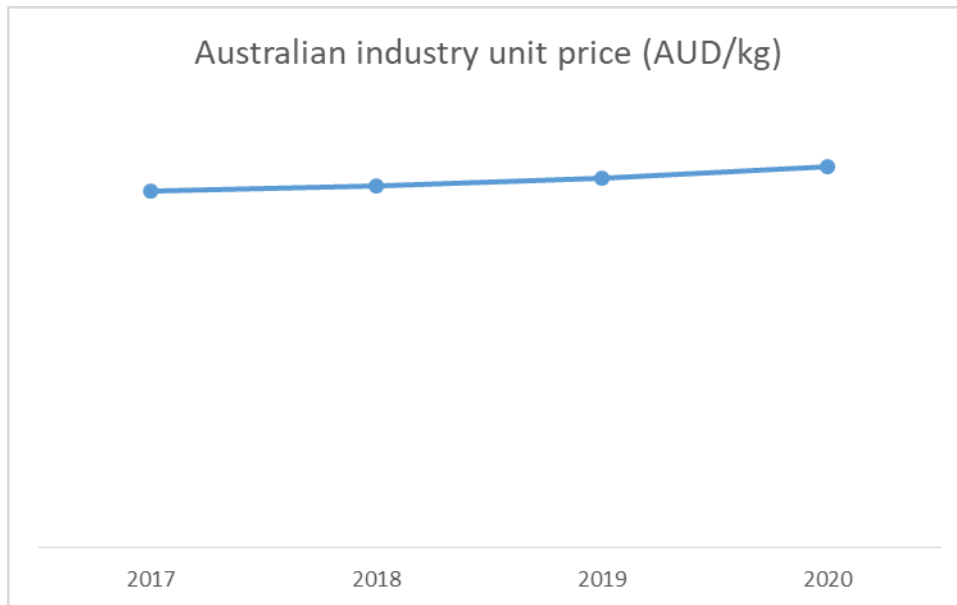


Figure 9: Unit selling price

Figure 11 indicates that Australian industry unit selling prices have risen slightly year-on-year between 2017 and 2020, suggesting that 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). This relationship is presented in Figure 12.

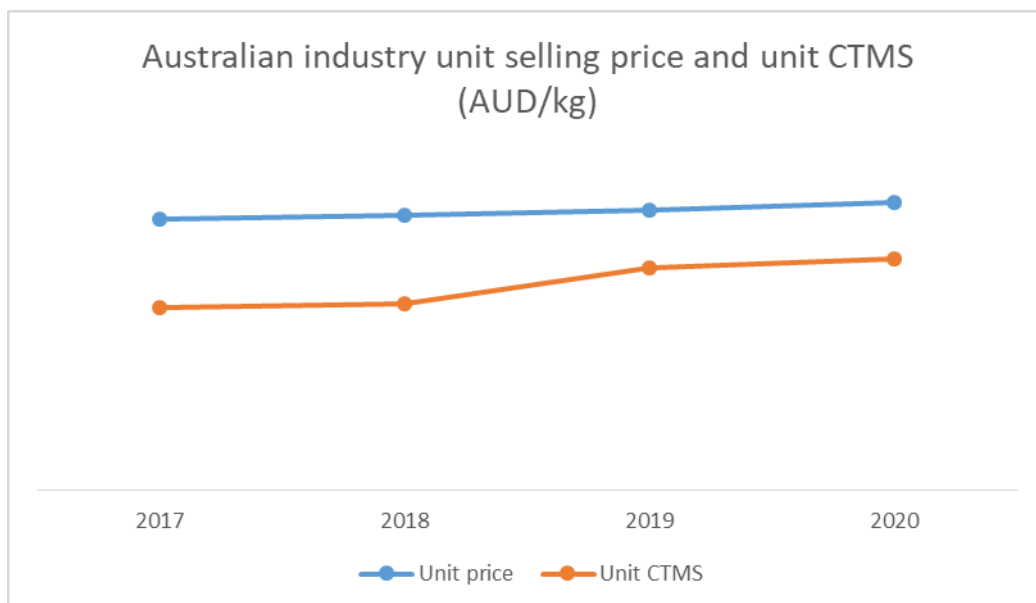


Figure 12: Unit price and CTMS

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

PUBLIC RECORD

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 across the period of analysis.

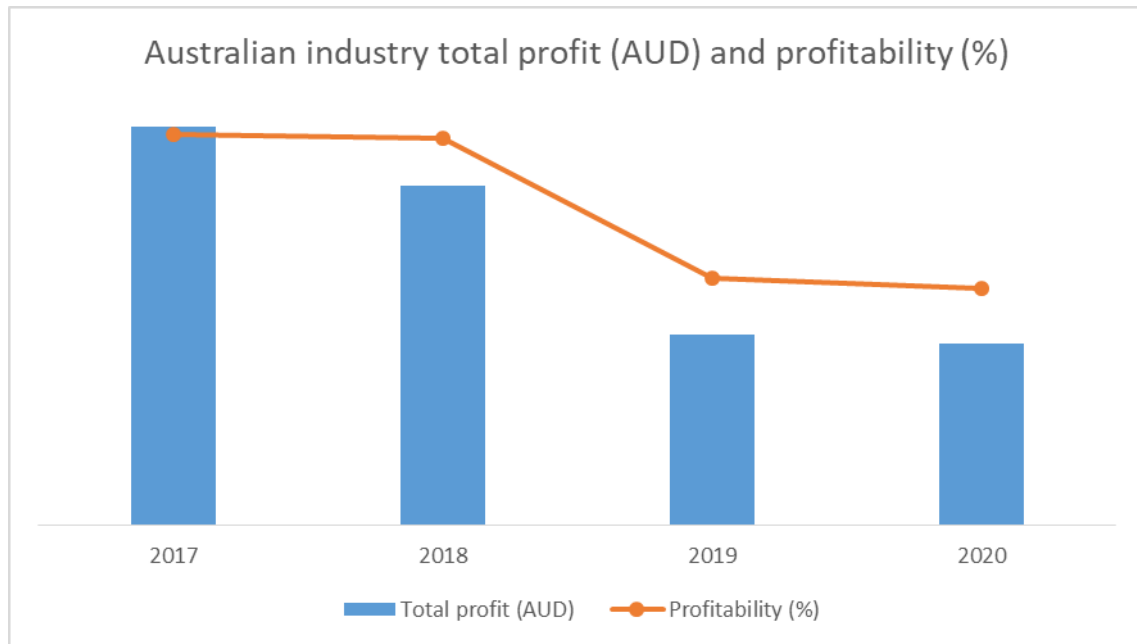


Figure 13: Profit and profitability

Figure 13 indicates that Australian industry has experienced both reduced total profit and reduced profitability across the period of analysis. 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 the period of analysis for a range of other economic factors.

5.5.1 Assets

Figure 14 charts Golden Circle's assets relating to the production of like goods across the period of analysis.

PUBLIC RECORD

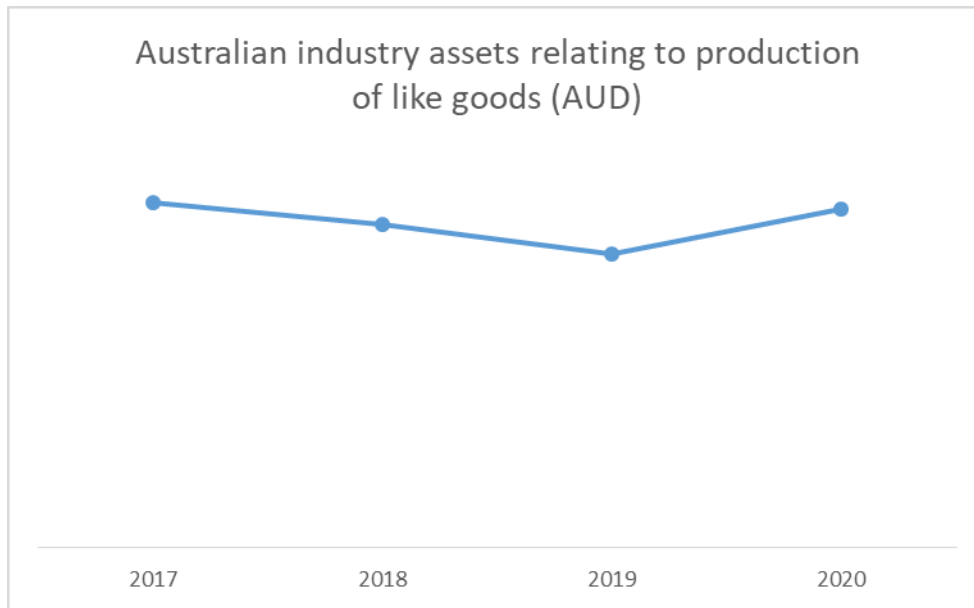


Figure 14: Assets

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 across the period of analysis.

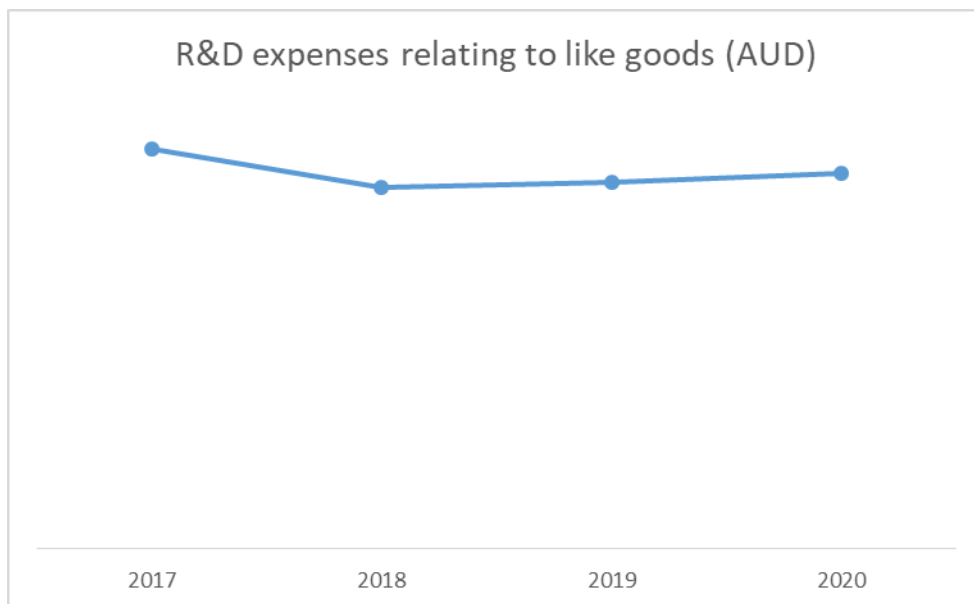


Figure 15: Research and development expenditure

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 the period of analysis in respect of consumer pineapple.

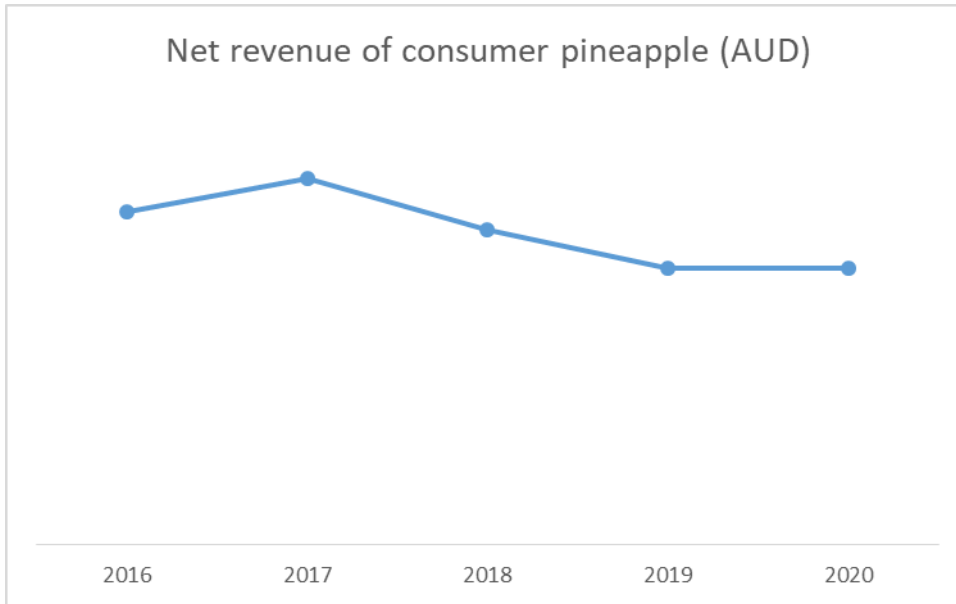


Figure 16: Revenue

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 the period of analysis as relates to the production of like goods.

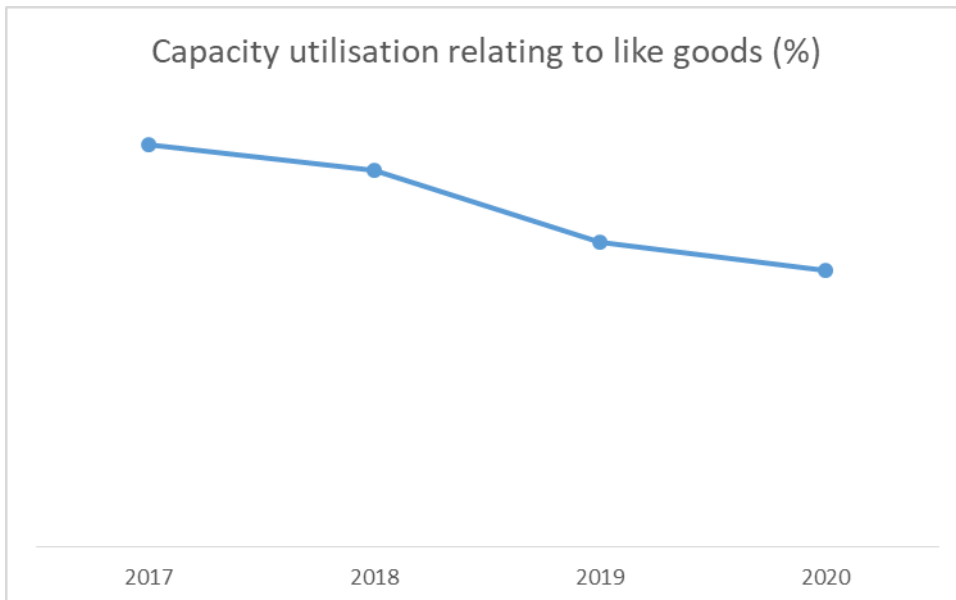


Figure 17: Capacity utilisation

Figure 17 indicates that capacity utilisation has steadily decreased between 2017 and 2020, based on Golden Circle’s claimed actual production divided by its production

PUBLIC RECORD

capacity for like goods. However, Golden Circle stated to the Commission that their real capacity is determined by supply of raw pineapple from the growers. Golden Circle stated that they process all raw pineapple they can access, and that they sell all canned pineapple that they manufacture. The Commission therefore considers that Golden Circle is operating at 100% of their real capacity in relation to the goods.

5.5.5 Employment

Figure 18 charts Golden Circle's employment numbers across the period of analysis as relates to the production of like goods.

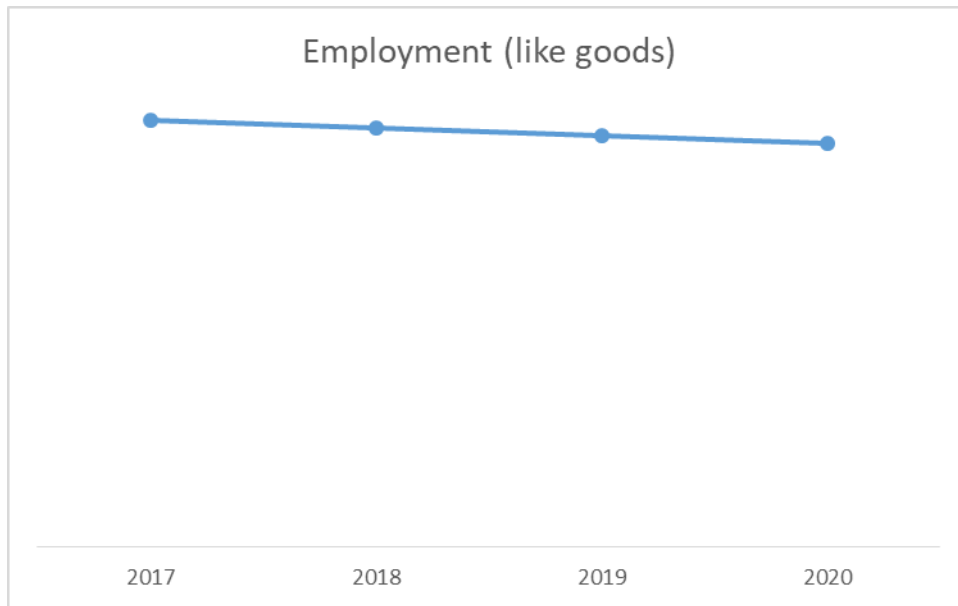


Figure 18: Employment

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 stocks across the period of analysis.

PUBLIC RECORD



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 they manufacture.

6 VARIABLE FACTORS – DUMPING DUTY NOTICE

6.1 Preliminary finding

For the purpose of assessing whether the expiration of the measures would lead, or be likely to lead, to the recurrence of dumping, the Commission has ascertained all variable factors relevant to taking the measures during the inquiry period.

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.	14.2%
	Uncooperative and all other exporters	53.4%
Thailand	Siam Food Products Public Company Limited	6.4%
	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 margins

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.

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.
- Kuiburi Fruit Canning Co., Ltd and Kuiburi Fruit Cup Co., Ltd

PUBLIC RECORD

- Siam Food Products Public Company Limited
- Prime Products Industry Co., Limited

The Commission undertook desktop verification of the data provided by 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 at section 8 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.

After having regard to the Direction, the Commissioner determined that all exporters that did not provide a response to the exporter questionnaire or a completed preliminary information request, or which did not request a longer period to provide a response within the legislated period (being 37 days, concluding on 20 January 2021), are uncooperative exporters for the purposes of this inquiry.

As provided for in section 269TACAB(1), for uncooperative exporters, 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 chapter 0).

6.3 Verification of selected exporters

The suitability of the data in the REQs of Dole Philippines Inc. (Dole Philippines), Siam Food Products Public Company Limited (Siam Food), Prime Products Industry Co., Ltd (Prime Products Industry), and Kuiburi Fruit Canning Co., Ltd and Kuiburi Fruit Cup Co., Ltd (Kuiburi Fruit Canning and Kuiburi Fruit Cup), was established by ascertaining 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.

Where the examination of the data in the REQ produced results that were inconsistent with those observed in relation to 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.

Sections 269TACAB(1)(c), (d) and (e) provides for the export price and normal value for uncooperative exporters to be worked out in accordance with section 269TAB(3) and section 269TAC(6), respectively, having regard to all relevant information.

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 its exports during the inquiry period were dumped.

6.5.2 Export price

In respect of the goods supplied by Dole Philippines 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; or
- 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 made by Dole Philippines to its Australian customers, all of whom were unrelated, during the period were arm's 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

PUBLIC RECORD

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.²⁷

The Commission therefore considers that all sales made by Dole Philippines to its domestic customers during the inquiry period were arm's length transactions.

In respect of domestic sales of like goods by Dole Philippines, 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 arm's 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 the export models were not sold on the domestic market during the inquiry period. As such, the Commission 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**.

²⁷ Section 269TAA of the Act refers.

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
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 exported to Australia by Dole Philippines for the inquiry period. The dumping margin is **14.2 per cent**.

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 Kuiburi Fruit Canning Company Limited (KFC) and Kuiburi Fruit Cup Company Limited (KFCup) provided in its REQ.

The Commission is satisfied that the information provided is accurate and reliable for the purpose of determining whether its exports during the inquiry period were dumped.

6.6.2 The Exporter

KFC was founded in 1992, as a private company limited by shares. 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 which is sold

PUBLIC RECORD

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. KFCup is wholly controlled by KFC.

KFCup has few staff. Most of its business functions, including fruit processing and sales, are managed 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 Kuiburi's Australian exports of the goods were to unrelated parties.

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; or
- 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 made by Kuiburi to their Australian customers, all of whom were unrelated, during the period were arm's 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 five per cent. 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).

PUBLIC RECORD

Therefore, the verification team 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 verification team 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 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 preliminary dumping margin in respect of the goods exported to Australia by Kuiburi for 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 whether its exports during the inquiry period were dumped.

6.7.2 Export price

In respect of the goods supplied by Prime Products 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 arm's length transactions, as there is no evidence that;

- there was any consideration payable for, or in respect of, the goods other than their price; or
- 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
- 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 Australian sales of the goods by Prime Products, 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 made by Prime Products to its domestic customers during the inquiry period were arm's length transactions.

In respect of domestic sales of like goods by Prime Products, 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 arm's length transactions by the exporter.

PUBLIC RECORD

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 verification team found that the export models were not sold on the domestic market during the inquiry period. As such, the verification team considered whether a specification adjustment was required.

The verification team 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 preliminary dumping margin in respect of the goods exported to Australia by Prime Products for the inquiry period is **3.8%**.

The preliminary 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 its exports during the inquiry period were dumped.

6.8.2 Export price

In relation to the Australian sales of the goods exported by Siam Food, 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;

PUBLIC RECORD

- 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; or
- 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 made by Siam Food to its Australian customers, all of whom were unrelated, during the period were arm's length transactions.

In respect of Australian sales of the goods by Siam Food, 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 269TAC(1), having regard to sales by other sellers of like goods.

The Commission notes that relevant domestic sales by other sellers were of different models to those exported to Australia by Siam Food. 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 verification team 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
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 preliminary dumping margin in respect of the goods exported to Australia by Siam Food for the inquiry period is **6.4%**.

The preliminary 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 per cent**.

PUBLIC RECORD

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 **53.4 per cent**.

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

6.10 Summary of dumping margins

Country	Exporter	Dumping margin
Philippines	Dole Philippines Inc.	14.2%
	Uncooperative and all other exporters	53.4%
Thailand	Siam Food Products Public Company Limited	6.4%
	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 Preliminary 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 take steps to 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. This view has been supported by the Anti-Dumping Review Panel, which noted 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.²⁸

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.²⁹ The Commission's view is that the relevance of each factor varies depending on the nature of the goods being examined and the market into which the goods are being sold. 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 continue to be priced at levels 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;

²⁸ [ADRP Report No. 44](#) (Clear Float Glass) refers.

²⁹ The Manual, pages 175 to 176.

PUBLIC RECORD

- Golden Circle claims that the alleged price suppression has impacted on their future planning and that they need to maintain higher production volumes so that fixed costs can be allocated over a larger base;
- Golden Circle claims that the alleged price suppression has affected its 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; and
- 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 Submission received

The Commission also received a submission from Australian Pineapples, a member of Queensland Fruit and Vegetables Ltd. This submissions 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); and
- Australian Pineapple support the request for the continuation of anti-dumping measures applying to consumer pineapple.

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 the following factors.

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 2016³⁰

³⁰ The Commission has filtered the data from the ABF import database to ensure that only those consignments that meet the goods description are captured in this analysis.

PUBLIC RECORD

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

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

7.5.2 Maintenance of distribution links to the Australian market

The Commission has determined, based on information provided by 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 that, in respect of exports from:

- Thailand, the same parties continue to trade the goods in substantial quantities; and
- 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 per cent.

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:

- Imports have been identified from both subject countries in each year since the measures were continued in 2016;
- 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).

PUBLIC RECORD

The Commission's view is that the relevance of each factor will vary depending on the nature of the goods being examined and the market into which the goods are being sold. 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 consumer pineapple will be exported to Australia at dumped prices.

7.6.1 Analysis of dumping within inquiry period

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

Country	Exporter	Dumping Margin
Philippines	Dole Philippines Inc.	14.2 %
	Uncooperative and all other exporters	53.4%
Thailand	Kuiburi Fruit Canning and Kuiburi Fruit Cup	-3.0%
	Siam Food Products	6.4%
	Prime Products	3.8%
	Uncooperative and all other exporters	15.7%

Table 83 - Summary of preliminary dumping margins

The Commission has preliminarily determined that the goods exported to Australia from the Philippines were dumped in the inquiry period. The Commission has also preliminarily determined that the goods exported to Australia from Thailand, except by Kuiburi, were dumped in 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 by all exporters from Thailand except Kuiburi, the Commission considers that dumping by these exporters would be likely to continue if the anti-dumping measures expired, on the basis that:

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

Kuiburi

In respect of Kuiburi, whose exports were found not to have been dumped 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.

PUBLIC RECORD

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 been found to be dumping the goods to Australia.

Following Review 455, Kuiburi was subject to the floor price duty method. This floor price was revised following Review 478. 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.

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:

- the goods exported to Australia from the Philippines and Thailand, except by Kuiburi, during the inquiry period were dumped; 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, by exporters other than Kuiburi, 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 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.³¹ It further provides that the materiality of injury caused by a given degree of

³¹ ADN No. 2021/024 refers

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 priced at levels 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:

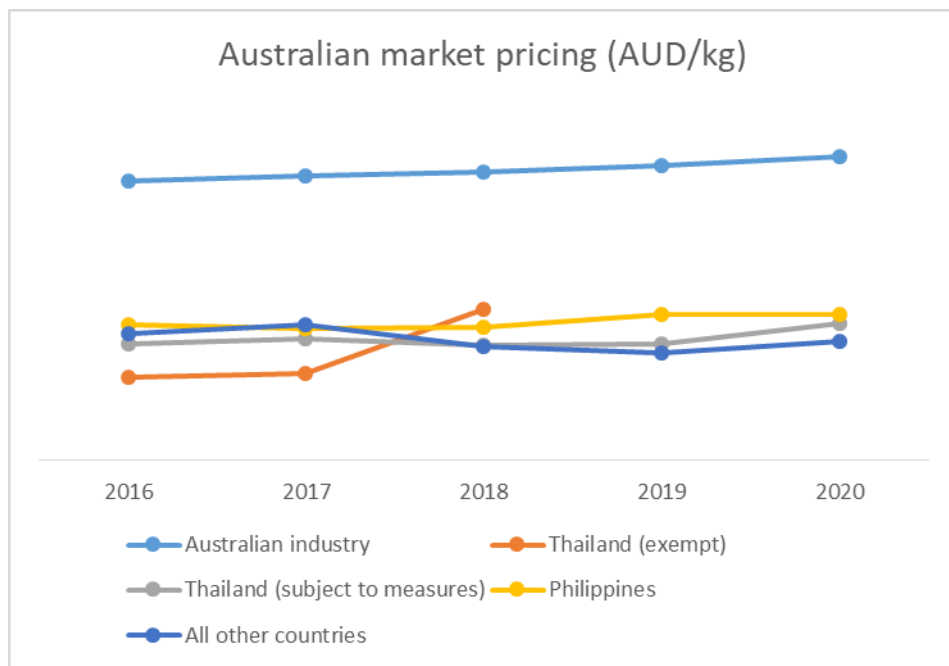


Figure 20 – Australian market prices

Figure 20 indicates that:

- 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;

PUBLIC RECORD

- 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 imported goods are sold in the Australian market at a price below that of the Australian produced like goods. The Manual highlights that price undercutting analysis is a feature of the Commission's practice in determining whether dumping has caused injury. The Commission has undertaken a price undercutting analysis that focuses on data that covers 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 provided by cooperative importers.

The undercutting analysis indicates that the Australian industry's selling prices for the goods are undercut by all imports of the goods during the inquiry period. Goods from those countries not subject to the measures (predominantly Indonesia, which represents 83 per cent of these imports) 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 priced at levels 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, where price increases were rejected. 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

PUBLIC RECORD

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 by 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, 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 is the highest selling consumer pineapple product, well above consumer pineapple imported from the Philippines and countries not subject to the measures; and
- 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 the prices of the goods from a key subject country (the Philippines) does not influence the prices that Golden Circle is able to achieve. Details of this analysis are available at **Confidential Attachment 1**.

7.7.1.4 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) undercutting 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; and
- 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 that it is operating at full production capacity, which was confirmed through verification of the data provided by Golden Circle. Golden Circle also advised that its production capacity is limited to the volumes of raw pineapple that can be sourced from pineapple farmers. While this has the potential to impact on the sales volumes Golden Circle can achieve, this cannot be attributed to dumped goods from the subject countries.

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. 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 anti-dumping measures were last continued 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'.³² The Commission has considered Golden Circle's submission in the conduct of this inquiry. 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 Golden Circle's future volumes will be limited by the dumping of imports from the subject exporters of this inquiry. The Commission also notes that 'threat of future material injury' is not part of the test for whether measures should be continued.

The Commission has also considered Australian Pineapples' submission (noted at section 7.4.1 above) in the conduct of this inquiry.³³ The Commission considers that there is insufficient evidence to indicate that supply certainty will be limited by the dumping of imports from the subject exporters of this inquiry.

³² EPR 571 and 572, [document 10](#).

³³ EPR 571 and 572, [document 11](#).

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 in the absence of anti-dumping measures.

The Commissioner is satisfied that imports of the goods from the Philippines and Thailand (except for imports from Kuiburi) were dumped during the inquiry period, and that there is sufficient evidence to indicate that imports from the Philippines and Thailand (except for imports from Kuiburi) will continue to be at dumped prices in the absence of anti-dumping 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 exports at dumped prices in the absence of measures.

Specifically, the Commissioner has found that:

- Golden Circle has been able to achieve a consistently higher sales price on its consumer pineapple, despite its prices being undercut by imports from the subject countries and other countries;
- There is no evidence before the Commission indicating that the prices Golden Circle achieves are impacted by imports from the subject countries;
- 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 operating at full capacity; and
- The key factor limiting Golden Circle's ability to increase sales volume is the availability of raw pineapple, which is not impacted by imports from the subject countries.

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 PROPOSED MEASURES

8.1 Preliminary Recommendation

The Commissioner proposes to recommend to the Minister that the dumping duty notice in respect of the goods exported to Australia from the Philippines and Thailand be allowed to expire on 10 October 2021 and 17 October 2021 respectively. Accordingly, for all exporters from these countries, the Commissioner does not propose to recommend a change to the variable factors.

9 NON-INJURIOUS PRICE

9.1 Introduction

The Commissioner proposes to recommend to the Minister that the notices in respect of consumer pineapple exported to Australia from Thailand and the Philippines be allowed to expire on 10 October 2021 and 13 October 2021 respectively. However, in the event that a different recommendation is made and the anti-dumping measures are continued, the Commission has considered the non-injurious price (NIP).

9.2 Non-injurious price

The NIP is defined in section 269TACA as 'the minimum price necessary to prevent the injury, or a recurrence of the injury' caused by the dumped or subsidised goods, the subject of a dumping duty notice or a countervailing duty notice. The Commission will generally derive the NIP from an unsuppressed selling price (USP).

9.3 Lesser duty rule

Where the Minister is required to determine the IDD, section 8(5B) of the *Customs Tariff (Anti-Dumping) Act 1975* (Cth) (Dumping Duty Act) applies.

Sections 8(5B) requires the Minister, in determining the IDD payable, to have regard to the 'lesser duty rule'. In relation to a dumping duty notice, the lesser duty rule requires consideration of whether the NIP is less than the normal value of the goods.

However, pursuant to sections 8(5BAA) of the Dumping Duty Act, the Minister is not required to have regard to the lesser duty rule where one or more of the following circumstances apply:³⁴

- a) the normal value of the goods was not ascertained under section 269TAC(1) because of the operation of section 269TAC(2)(a)(ii); and/or
- b) there is an Australian industry in respect of like goods that consists of at least two small-medium enterprises, whether or not that industry consists of other enterprises.

None of these circumstances apply in the case of this inquiry, and therefore the Minister must consider the desirability of applying a lesser amount of duty.

9.4 Assessment of NIP

The USP is a selling price that the Australian industry could reasonably achieve in the market in the absence of dumped or subsidised imports.³⁵

The Commission's preferred approach to establishing the USP for the goods is set out in chapter 24 of the Manual, which sets out the following methods:

- industry selling prices at a time unaffected by dumping or subsidisation;
- constructed Australian industry price based on the industry's CTMS, plus an amount for profit; or

³⁴ Sections 8(5BAAA)(a) to (c) of the Dumping Duty Act concern the calculation of dumping duty.

³⁵ The Manual, page 137.

PUBLIC RECORD

- use relevant and comparable selling prices of undumped and unsubsidised imports.

Having calculated the USP, the Commission then calculates a NIP by deducting the costs incurred in getting the goods from the export FOB point (or another point if appropriate) to the relevant level of trade in Australia. The deductions normally include overseas freight, insurance, into store costs and amounts for importer expenses and profit.

Based on the information gathered during the course of this inquiry, the Commission considers the Australian industry's selling prices are not affected by dumped goods. Therefore, the Commission has calculated a USP based on the Australian industry's selling prices during the inquiry period.

Post-exportation cost data gathered from importers during the inquiry form the basis of deductions from the USP to calculate the NIP.

The Commission has found that the NIP is higher than the normal values for all exports of the goods from Thailand and accordingly, the Commissioner proposes to recommend that dumping duties be based on the full margins of dumping.

The Commission has found that the NIP is lower than the normal values for all exports of the goods from the Philippines and accordingly, the Commissioner proposes to recommend that the Minister have regard to the lesser duty rule in determining the dumping duties payable.

The Commission's calculation of the NIP is contained in **Confidential Attachment 10**.

10 FORM OF MEASURES

10.1 Introduction

The Commissioner proposes to recommend to the Minister that the dumping duty notices in respect of consumer pineapple exported to Australia from the Philippines and Thailand be allowed to expire. However, in the event that a different recommendation is made and the anti-dumping measures are continued, the Commission has considered the form of measures.

10.2 Preliminary findings

The Commissioner preliminarily finds that, in relation to consumer pineapple exported to Australia from the Philippines and Thailand during the inquiry period, for all exporters:

- the ascertained export price has changed;
- the ascertained normal value has changed; and
- the NIP has changed.

10.2.1 Legislative framework

The forms of dumping duty available to the Minister when imposing anti-dumping measures are prescribed in the *Customs Tariff (Anti-Dumping) Regulation 2013* (Cth) and include:

- fixed duty method (\$X per tonne);
- floor price duty method;
- combination duty method; or
- *ad valorem* duty method (i.e. a percentage of the export price).³⁶

The various forms of dumping duty all have the purpose of removing the injurious effects of dumping. However, in achieving this purpose, certain forms of duty will better suit particular circumstances more so than others. In considering which form of duty to recommend to the Minister, the Commissioner will have regard to the published *Guidelines on the Application of Forms of Dumping Duty November 2013* (the Guidelines) and relevant factors in the market for the goods.³⁷

10.2.2 Fixed duty method

A fixed duty method operates to collect a fixed amount of duty – regardless of the actual export price of the goods. The fixed duty is determined when the Minister exercises her powers to ascertain an amount for the export price and the normal value.

10.2.3 Floor price duty method

The floor price duty method sets a ‘floor’ – for example a normal value of \$100 per tonne – and duty is collected when the actual export price is less than that normal value of \$100 per tonne. The floor price is either the normal value or the non-injurious price (NIP), whichever becomes applicable under the duty collection system.

³⁶ Section 5 of the *Customs Tariff (Anti-Dumping) Regulation 2013* (Cth).

³⁷ [Available on the Commission website.](#)

PUBLIC RECORD

This duty method does not use an ascertained export price as a form of 'floor price' as occurs with the combination and fixed duty methods.

10.2.4 Ad valorem duty method

The *ad valorem* duty method is applied as a proportion of the actual export price of the goods. An *ad valorem* dumping duty is determined for the product as a whole, meaning that a single ascertained export price is required when determining the dumping margin. The *ad valorem* duty method is the simplest and easiest form of duty to administer when delivering the intended protective effect.

10.2.5 Combination duty method

The combination duty comprises two elements: the 'fixed' element and the 'variable' duty element. The fixed element is determined when the Minister exercises powers to 'ascertain' an amount (i.e. set a value) for the export price and the normal value. This may take the form of either a fixed duty or an *ad valorem* on the ascertained export price.

The variable component stems from a feature of this form of duty whereby, having ascertained the export price for the purposes of imposing the dumping duty, if the actual export price of the shipment is lower than the ascertained export price, the variable component works to collect an additional duty amount (i.e. the difference between the ascertained export price and the actual export price). It is called a 'variable' element because the amount of duty collected varies according to the extent the actual export price is beneath the ascertained export price.

10.3 Conclusion

The form of measures currently applicable to consumer pineapple from the Philippines and Thailand are both the floor price duty method and the combination duty method.

Subject to submissions received in response to this SEF and if it is recommended that the measures be continued, the Commission is of the view that the combination duty method should be used to determine the IDD for exporters found to be dumping during the inquiry period. For exporters not found to be dumping during the inquiry period, the IDD should be determined using the floor price duty method.

11 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 Attachment 10	NIP/USP analysis
Confidential Appendix 1	Thailand – uncooperative dumping margin
Confidential Appendix 2	Philippines – uncooperative dumping margin