



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

**Anti-Dumping  
Commission**

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*CUSTOMS ACT 1901 - PART XVB*

**REPORT**  
**573 & 574**

**INQUIRY INTO THE CONTINUATION OF  
ANTI-DUMPING MEASURES APPLYING TO  
FOOD SERVICE AND INDUSTRIAL (FSI) PINEAPPLE  
EXPORTED TO AUSTRALIA FROM THE REPUBLIC OF THE  
PHILIPPINES AND THE KINGDOM OF THAILAND**

**6 September 2021**

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## ABBREVIATIONS

ABF	Australian Border Force
the Act	<i>Customs Act 1901 (Cth)</i>
ADN	Anti-Dumping Notice
the applicant or Golden Circle	Golden Circle Limited
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
CTMS	Cost to make and sell
the Direction	<i>Customs (Extensions of Time and Non-cooperation) Direction 2015</i>
Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975</i>
EPR	Electronic public record
FOB	Free on board
FSI	Food Service and Industrial
the goods	the goods the subject of the application (also referred to as the goods under consideration or GUC)
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
the Philippines	the Republic of the Philippines
Prime Products	Prime Products Industry Co. Ltd
the Regulation	<i>Customs (International Obligations) Regulation 2015</i>
REP 41	<i>Trade Measures Report No. 41</i>
REP 110	<i>Trade Measures Report No. 110</i>
REP 111	<i>Trade Measures Report No. 111</i>
REP 112	<i>Trade Measures Report No. 112</i>
REP 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
USP	Unsuppressed selling price

## 1 SUMMARY AND RECOMMENDATIONS

### 1.1 Introduction

The anti-dumping measures currently applicable to exports of food service and industrial (FSI) pineapple (the goods) to Australia from the Kingdom of Thailand (Thailand) and the Republic of the Philippines (the Philippines) (collectively, the subject countries) are due to expire on 17 October 2021 and 13 November 2021 respectively.<sup>1</sup>

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

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

### 1.2 Legislative framework

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

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

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

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

- that the notice remain unaltered<sup>5</sup>
- that the notice cease to apply to a particular exporter or to a particular kind of goods<sup>6</sup>

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<sup>1</sup> Under section 269TM, dumping duty notices expire five years after the date on which they were published, unless they are revoked earlier. The dumping duty notice relevant to FSI pineapple exported to Australia from the Philippines is Anti-Dumping Notice No. 2016/83. The dumping duty notice relevant to FSI pineapple exported to Australia from Thailand is Anti-Dumping Notice No. 2016/84.

<sup>2</sup> Refer to Golden Circle's application for the continuation of the measures on the electronic public record (EPR) for inquiries 573 and 574, document no. 1 refers.

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

<sup>4</sup> Section 269ZHF(4).

<sup>5</sup> Section 269ZHF(1)(a)(i).

<sup>6</sup> Section 269ZHF(1)(a)(ii).

- that the notice have effect in relation to a particular exporter or to exporters generally, as if different variable factors had been ascertained<sup>7</sup> or
- that the notice expire on the specified expiry day.<sup>8</sup>

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

### **1.3 Statement of Essential Facts**

The Commissioner published *Statement of Essential Facts No. 573 and 574* (SEF 573 and 574) on 19 July 2021.<sup>10</sup> SEF 573 and 574 set out the findings of the Commissioner and the recommendations he proposed to make to the Minister based on the information before him at the time.

### **1.4 Findings**

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

Specifically, the Commissioner has found that found that:

- Golden Circle has been able to achieve a consistently higher sales price on its FSI pineapple, despite imports from the subject countries (and other countries) being at lower prices. The commission did not identify evidence indicating that imports from the subject countries impacts the prices Golden Circle achieves (refer to section 7.7.1 of this report).
- Since measures were last continued in 2016, the Australian market has shifted with imports from Thailand (from exporters not subject to the measures) and imports from other countries (also not subject to the measures) now holding the vast majority of the Australian market share. These imports appear to compete at a price point much lower than Golden Circle's product. If the measures are allowed to expire it appears future imports from Thailand and the Philippines will compete on price at this lower level, with no evidence to support that Golden Circle's prices are impacted (refer to section 7.7.1 of the report for further details).
- The commission is of the view that due to limited supply of raw pineapple in Australia, Golden Circle has focussed on the consumer pineapple market rather than the FSI pineapple market. This would explain its declining sales volume for FSI pineapple. The commission has not identified evidence to suggest that imports of the goods from the subject countries impacts on the price of raw pineapple fruit sourced within Australia. Further, the commission has not identified evidence indicating that Golden Circle has lost sales volumes due to imports from the

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<sup>7</sup> Section 269ZHF(1)(a)(iii).

<sup>8</sup> Section 269ZHF(1)(a)(iv).

<sup>9</sup> Section 269ZHF(2).

<sup>10</sup> EPR 573 and 574, document 8 refers.

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subject countries. Golden Circle instead advised that it is able to process all of the raw pineapple fruit it acquires. Refer to section 7.7.2 of this report for this analysis.

### **1.5 Recommendation**

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

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<sup>11</sup> The specified day in relation to FSI pineapple from the Philippines is 13 November 2021. The specified day in relation to FSI pineapple from Thailand is 17 October 2021.

## 2 BACKGROUND

### 2.1 Application and initiation

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

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

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

As set out in Anti-Dumping Notice (ADN) No. 2021/005, the Commissioner was satisfied that the application complied with section 269ZHC. In accordance with section 269ZHD(2)(b), the commission was satisfied that there appeared to be reasonable grounds for asserting that the expiration of the anti-dumping measures might lead, or might be likely to lead, to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent.

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

### 2.2 History of the anti-dumping measures

#### 2.2.1 FSI pineapple from Thailand

Following an application from Golden Circle, anti-dumping measures were initially imposed on FSI pineapple exported to Australia from Thailand (except by Malee Sampran Public Co) 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 FSI pineapple exported to Australia from Thailand for a further five years.

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

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<sup>12</sup> [ADN No. 2020/125](#) refers.

<sup>13</sup> EPR 573 & 574, [document no. 01](#) refers.

accepted the recommendations in *Anti-Dumping Commission Report No. 334* (REP 334) to continue the anti-dumping measures applying to FSI pineapple exported from Thailand for a further five years from 17 October 2016.<sup>14</sup>

Following REP 334 Kuiburi Fruit Canning Co., Ltd (Kuiburi Fruit Canning) applied to the Anti-Dumping Review Panel (ADRP) for a review of the decision to continue the measures as far as it applied to Kuiburi Fruit Canning's exports. On 24 April 2017 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 Review Panel Report No. 50* and revoked the measures for FSI pineapple as they applied to Kuiburi Fruit Canning with effect from 13 September 2016.<sup>15</sup>

On 20 February 2019 the then Minister for Industry, Science and Technology accepted the recommendations contained in *Anti-Dumping Commission Report No. 477* (REP 477) and declared that the dumping duty notice applying to FSI pineapple exported to Australia from Thailand be revoked in relation to Prime Products Industry Co Ltd (Prime Products).<sup>16</sup>

### **2.2.2 FSI pineapple from the Philippines**

Following an application from Golden Circle, anti-dumping measures were initially imposed on FSI pineapple exported to Australia from the Philippines on 13 November 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. 171a* to secure the continuation of anti-dumping measures applying to FSI pineapple for a further five years from 14 November 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 REP 334 to continue the anti-dumping measures applying to FSI pineapple exported from the Philippines for a further five years from 13 November 2016.<sup>17</sup>

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

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<sup>14</sup> Anti-Dumping Notice (ADN) No. 2016/84 refers.

<sup>15</sup> ADRP Public Notice No. 2016/50 refers.

<sup>16</sup> ADN No. 2019/08 refers.

<sup>17</sup> ADN No. 2016/83 refers.

## 2.3 Current measures

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

Country	Exporter	Dumping margin	Type of measures
Thailand	Siam Agro-Food Industry Public Co. Ltd	22.0%	combination of fixed and variable duty method
	Dole Thailand	13.8%	combination of fixed and variable duty method
	Natural Fruit Co Ltd	9.6%	combination of fixed and variable duty method
	All other exporters	28.6%	combination of fixed and variable duty method
Philippines	All other exporters	18.7%	combination of fixed and variable duty method

**Table 1: Current measures applying to exports of the goods**

The commission notes that the following exporters from Thailand are exempt from the measures:

- Malee Sampran Public Co Limited<sup>18</sup>
- Kuiburi Fruit Canning Co Ltd<sup>19</sup> and
- Prime Products Industry Co Ltd.<sup>20</sup>

## 2.4 Conduct of the inquiries

### 2.4.1 Australian industry

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

The commission conducted verification of the information and data Golden Circle provided. The report made in relation to the verification process is available on the EPR for these inquiries.<sup>21</sup>

### 2.4.2 Importers

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

The commission received one questionnaire response from Juremont Pty Ltd (Juremont), an agent selling FSI pineapple exported from Thailand and the Philippines. In addition, Golden Circle, through its parent entity Heinz/Kraft is a large importer of the goods from

<sup>18</sup> Following Trade Measures Report No. 41.

<sup>19</sup> Following an ADRP review of the findings in continuation inquiry 334.

<sup>20</sup> Following the findings in Review 477 (a single exporter review).

<sup>21</sup> EPR 573 and 574, document 11 refers.

Thailand. The commission verified these imports during the Australian industry verification.

### **2.4.3 Traders and wholesalers**

To gain additional understanding of the FSI pineapple market the commission also identified key wholesalers and importers of FSI pineapple and invited these entities to respond to a questionnaire. The commission received a response to this questionnaire from Juremont.

### **2.4.4 Exporters**

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

The commission received a complete response from Siam Food Products Public Co Ltd (Siam Food), an exporter of the goods from Thailand.

The commission did not receive a response from any exporter of the goods in the Philippines.

### **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 uncooperative exporters in accordance with this definition.

## **2.5 Concurrent Inquiries**

The commission is also undertaking inquiries into whether the anti-dumping measures applying to consumer pineapple imported from the Philippines and Thailand should continue or expire. Further information in relation to these inquiries is available on the EPR for inquiries 571 and 572.

## **2.6 Submissions received from interested parties**

The commission received the following submissions from interested parties:

<b>Interested Party</b>	<b>Date Published on EPR</b>	<b>Document Number</b>
Golden Circle	11 June 2021	5
Australian Pineapple Growers	21 June 2021	6
Government of the Republic of Philippines	27 July 2021	9
Dole Philippines & Thailand	10 August 2021	12
Golden Circle	18 August 2021	13

**Table 2: Submissions received**

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

### 3 THE GOODS, LIKE GOODS AND THE AUSTRALIAN INDUSTRY

#### 3.1 Finding

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

#### 3.2 Legislative framework

In order to be satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or recurrence of, dumping or subsidisation, the Commissioner firstly determines whether the goods the Australian industry produces are 'like' to the imported goods. Section 269T(1) defines like goods as:

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

The definition of like goods is relevant in the context of this inquiry in determining the Australian industry and whether the expiration of the measures would lead to a continuation of, or a recurrence of, the dumping and material injury that the measures are intended to prevent. Chapter 2 of the *Dumping and Subsidy Manual* (the Manual) outlines the commission's framework for assessing like goods.<sup>22</sup>

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

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

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

#### 3.3 The goods subject to the measures

The goods that are the subject of the application are:

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

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<sup>22</sup> 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	27	Canned pineapples in containers exceeding one litre
2008.20.00	28	Pineapples other than canned

**Table 3: Tariff classifications of the goods**

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

### 3.4 Model control code

On 9 August 2018, the commission announced that a model control code (MCC) structure would apply in new investigations, reviews of exporters generally or continuations for cases initiated after this date (see ADN No. 2018/128).<sup>23</sup>

The proposed MCC structure described in ADN No. 2021/005 is below in Table 4.

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 <sup>10</sup>	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 4: MCC Structure**

<sup>23</sup> For full guidance regarding the commission's application of an MCC structure, refer to ADN No. 2018/128 on the commission website at: <https://www.adcommission.gov.au>.

The commission did not receive submissions regarding the MCC structure from interested parties.

### **3.5 Like goods**

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

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

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

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

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

#### **3.5.1 Conclusion – Like goods**

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

### **3.6 Australian industry**

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

#### **3.6.1 Production process**

The commission has previously observed the production processes relevant to FSI pineapple as part of inquiry 334.<sup>24</sup> 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 334 and this inquiry.

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<sup>24</sup> EPR 334, [document 30](#).

### **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<sup>25</sup> and
- there is an Australian industry which produces like goods in Australia.<sup>26</sup>

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<sup>25</sup> Section 269T(2) refers.

<sup>26</sup> Section 269T(4) refers.

## 4 AUSTRALIAN MARKET

### 4.1 Finding

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

- the Australian industry
- imports from Thai exporters that are exempt from the measures
- imports from the Philippines (in minor volumes) and
- imports from other countries, including Indonesia and Vietnam.

The commission estimates that the Australian market for FSI pineapple has progressively decreased in size during each year since the continuation of the anti-dumping measures in 2016.

### 4.2 Approach to analysis

The analysis in this chapter considers verified financial information which Golden Circle submitted, import data from the ABF import database, verified importer and exporter information, information obtained during the commission's previous cases into FSI pineapple and global trade patterns sourced from ITC Trade data, an independent international supplier of trade statistics.<sup>27</sup>

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

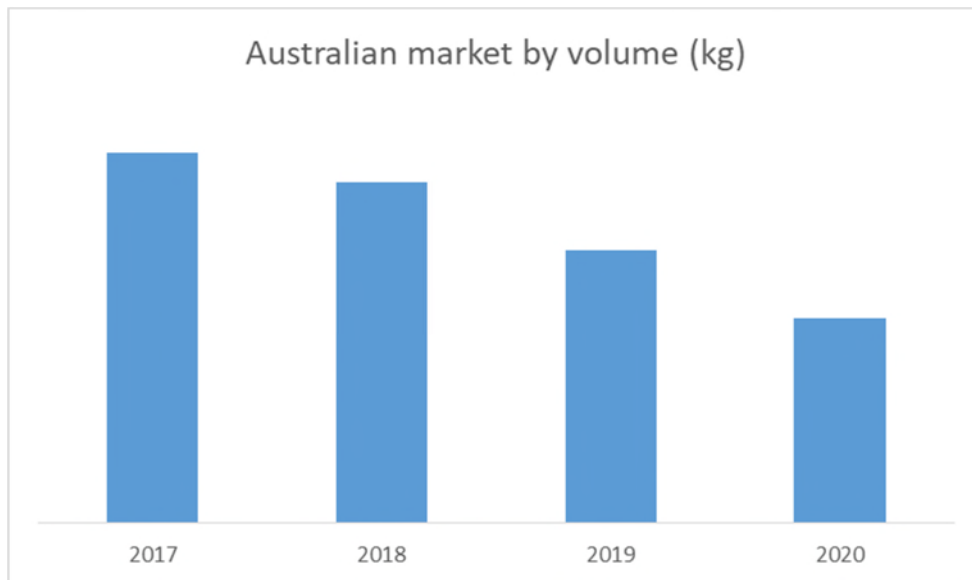
### 4.3 Market size

In its application, Golden Circle estimated the size of the Australian market using Australian Bureau of Statistics import data, data from an independent recognised international supplier of trade statistics, and its own sales data broken down in self-manufactured and imported goods.

Based on the verified sales data of Golden Circle, import data obtained from the ABF import database and data from the cooperating exporter, Figure 1 illustrates the size of the market for FSI pineapple.

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<sup>27</sup> International Trade Centre, '[Trade Map](#)', accessed 4 July 2021.



**Figure 1: Australian market size**

Figure 1 shows that the size of the market has progressively decreased since 2017.

#### **4.4 Market share**

Imports from Thailand, Indonesia and Vietnam represent the majority of the Australian market for FSI pineapple. With regards to imports of the goods from Thailand, exporters that are exempt from the measures account for 90% of this import volume. Imports of FSI pineapple from the Philippines made up less than 1% of the market during the inquiry period. Golden Circle's Australian-made FSI pineapple made up 3% of the market in 2020.

As outlined in Figure 2 below Golden Circle's self-manufactured goods make up a small proportion of the market. The proportion of Golden Circle's sales of FSI pineapple that is self-manufactured has progressively decreased across the injury period.

Figure 2 also demonstrates that there has been a significant shift in the market share of manufacturers supplying the market since two key Thai exporters became exempt from the measures in 2017 and 2018.

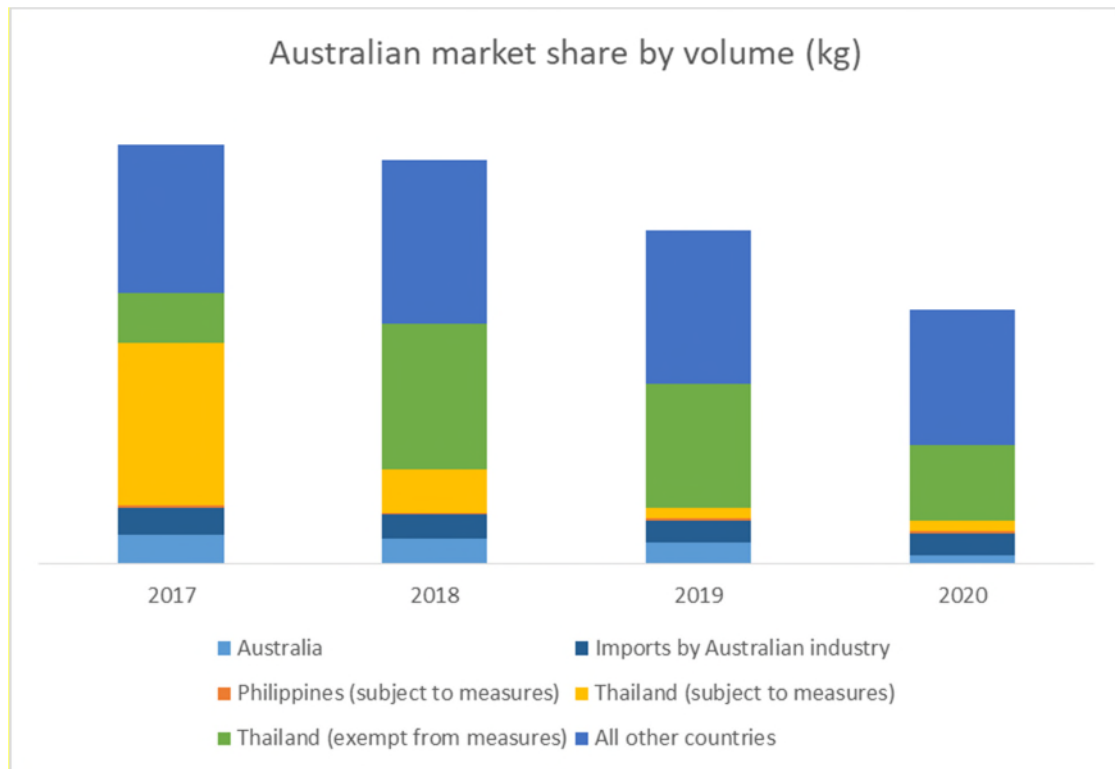


Figure 2: Australian market by size and share

## 4.5 Market structure

### 4.5.1 Australian market

Golden Circle is the sole Australian manufacturer of FSI pineapple.

The Australian market for FSI pineapple consists of fast food outlets, cafes, bakeries and the broader food manufacturing industry. Typically customers issue request for tenders and select a supplier based on a number of factors, including price, quality and ability to supply. Based on discussions with the Australian industry and importers, it is the commission's understanding that FSI pineapple is a commodity, and that price is the main factor for purchasing decisions. Since the customers buying the end-product do not know the source of the pineapple, there is no premium attached to branding or Australian-made status.

Wholesalers and importers supply the Australian market. Golden Circle advised the commission that it no longer participates in the tender process and instead sell directly to wholesalers.

### 4.5.2 Factors affecting supply and demand

The main production input in the processing of FSI pineapple is raw pineapple sourced from Australian growers. Australian industry and exporters have stated that they place 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 the full growth cycle of a pineapple takes 18 months from planting to harvest of the fruit. Pineapple processing takes place within three days of picking. Processors do not have the option to stockpile raw material when there is surplus supply.

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

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

#### **4.5.3 Conditions in Australia**

Australian pineapples grow primarily in Queensland, with the major growing regions being south-east Queensland (particularly the Sunshine Coast hinterland, Maryborough and Wide Bay areas), the Yeppoon area and North Queensland, including Mareeba and Mossman.<sup>28</sup>

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

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

#### **4.6 Global supply**

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

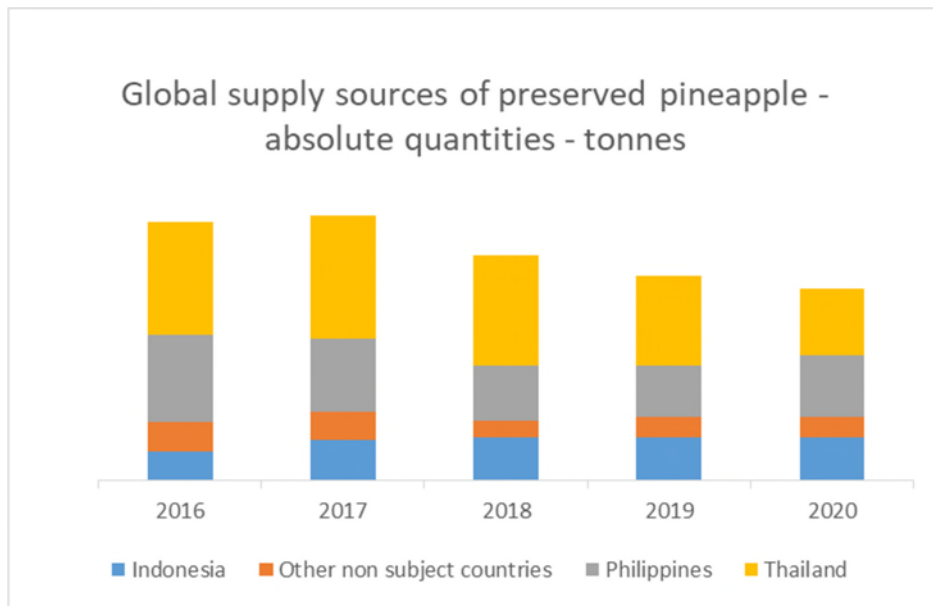
The commission has analysed this data to identify high level trade trends in the global market and to identify the general capacity of exporters from Thailand and the Philippines to increase their exports to Australia in the absence of the measures.

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<sup>28</sup> <https://australianpineapples.com.au/growing/>

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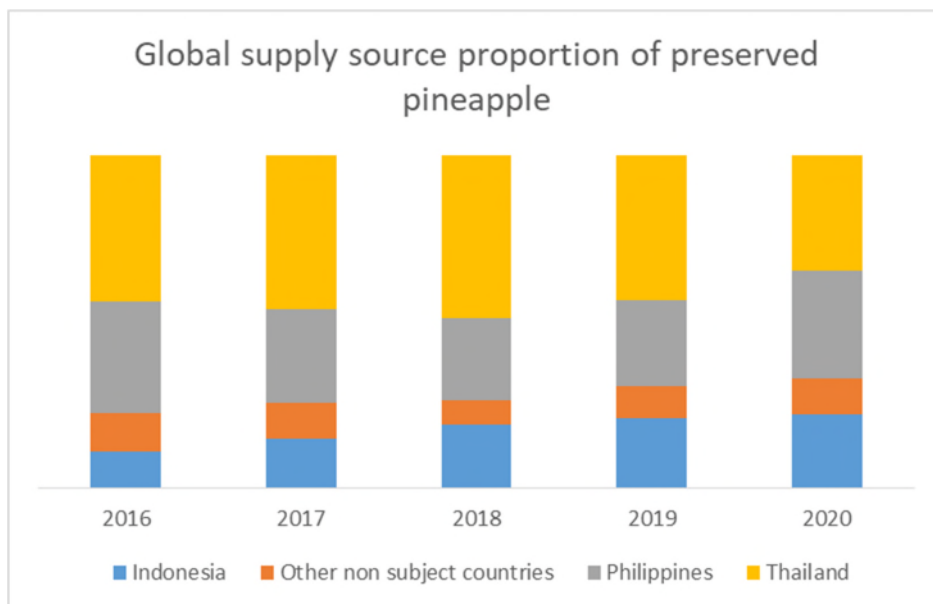
Thailand, the Philippines and Indonesia are the key countries exporting preserved and prepared pineapple.



**Figure 3: Global supply sources of preserved pineapple – absolute**

Figure 3 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.



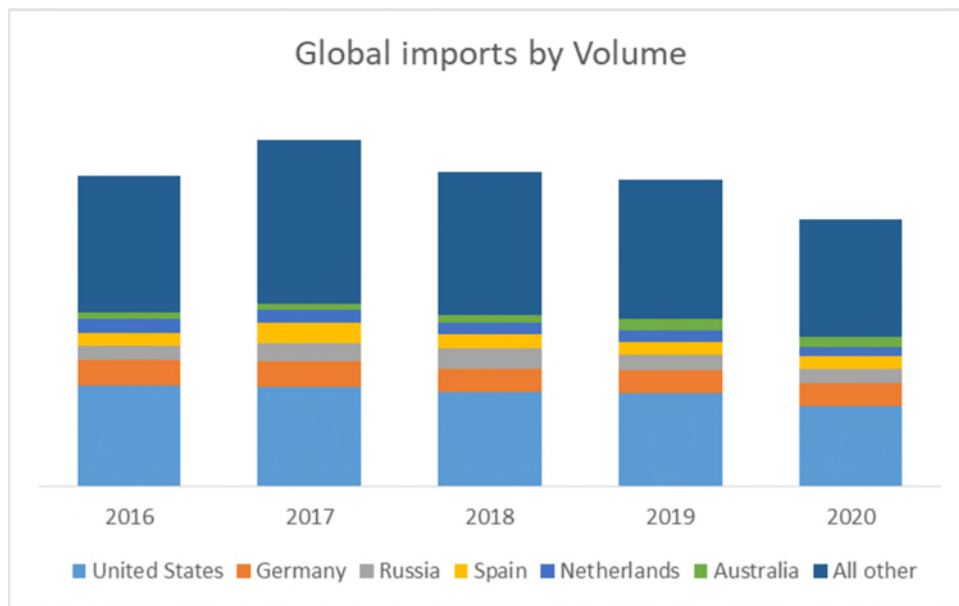
**Figure 4: Global supply sources by country – by market share %**

Figure 4 charts how Indonesia has gained market share in each year since 2016 while Thai exporters have reduced their market share in 2019 and 2020.

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

#### **4.7 Global demand**

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

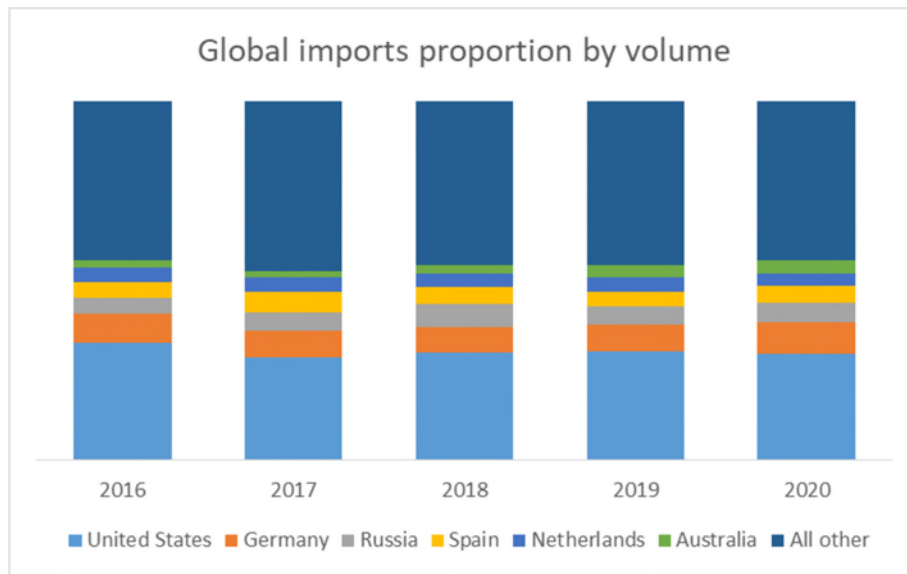


**Figure 5: Global imports by volume**

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

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The commission in addition charted the same source data as a proportion of total global exports in Figure 6 below.



**Figure 6: Global imports by proportion**

Figure 6 above shows in greater detail that Australia's proportion of total world imports has doubled from 2018 to 2020. However Australia's total share of world imports is still well below 5%.

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

## 5 ECONOMIC CONDITION OF THE INDUSTRY

### 5.1 Approach to analysis

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

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

The data and analysis on which the commission has relied to assess the economic condition of the Australian industry is at **Confidential Attachment 4**.<sup>29</sup>

### 5.2 Volume effects

#### 5.2.1 Sales Volume

Figure 7 charts the Australian industry's sales volume.

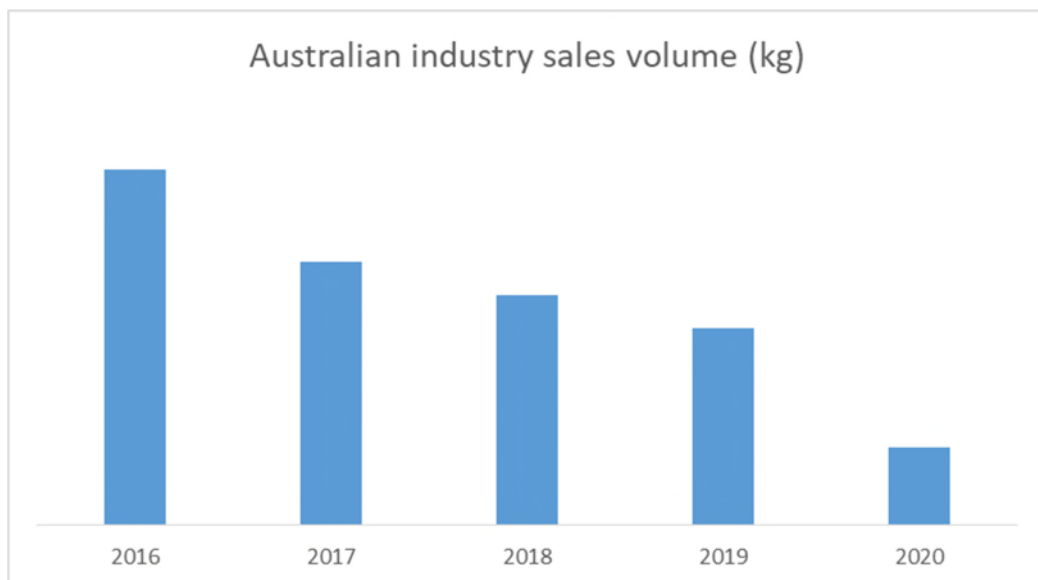


Figure 7: Sales volume

The chart indicates that Golden Circle's sales in Australia have decreased significantly since 2016, with 2020 volumes amounting to approximately 22% of those in 2016.

#### 5.2.2 Market share

Figure 8 charts, for the period since 2017, the proportion of the Australian market sourced from:

- the Australian industry
- the Philippines and Thailand and

<sup>29</sup> During the inquiry period Golden Circle imported FSI pineapple from the subject countries. Where possible the analysis of injury effects has focussed on Golden Circle's sales of self-manufactured goods only.

- countries not subject to measures.

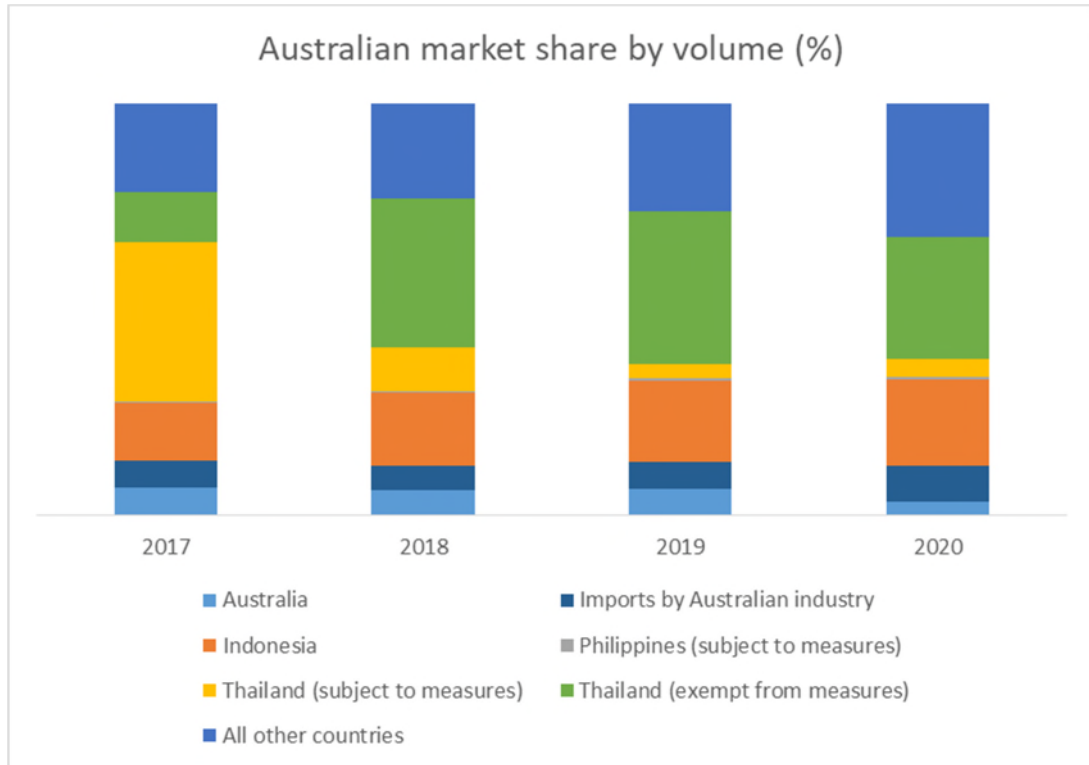


Figure 8: Market share as a proportion of total annual sales volume

The chart indicates that:

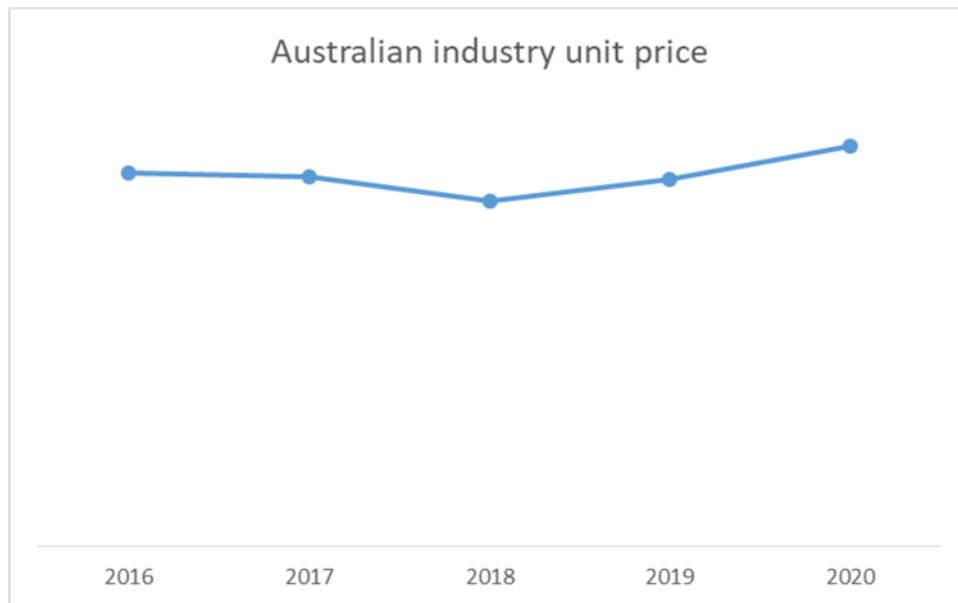
- The Australian industry holds a minority of the market since 2017, with its share reducing year-on-year
- Since 2018, the majority of goods imported from Thailand are from exempt exporters
- Since 2017, goods imported from the Philippines are a negligible proportion of the Australian market
- Since 2017, an increasing proportion of goods are imported from countries not subject to measures, primarily Indonesia.

## 5.3 Price effects

### 5.3.1 Price depression

Price depression occurs when a company, for some reason, lowers its prices. Figure 9 charts Golden Circle's per unit selling price from 2016 to 2020.

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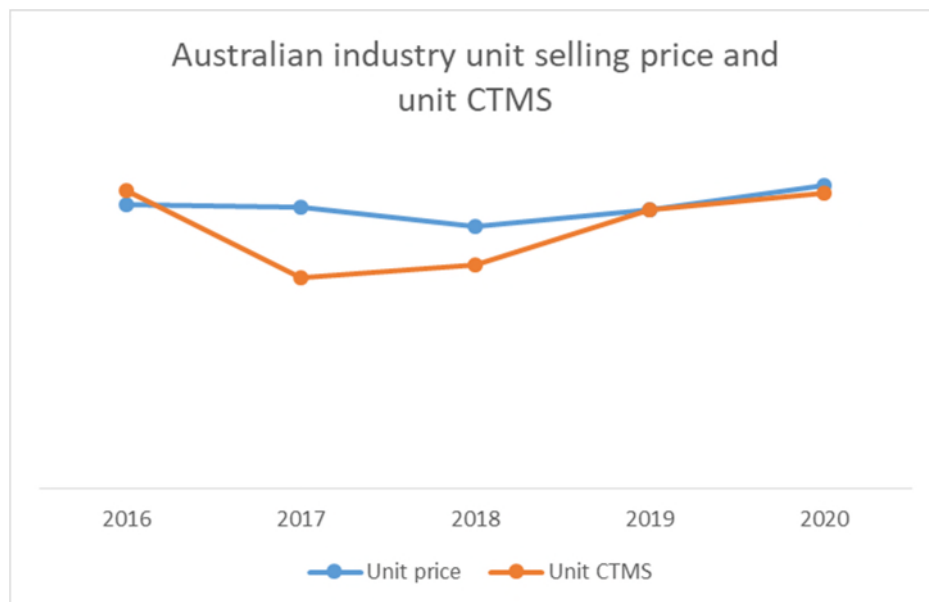
**Figure 9: Unit selling price**

The chart indicates that Golden Circle's unit selling price has remained relatively stable since 2016, with a slight price increase in 2020 compared to previous years overall.

### 5.3.2 Price suppression

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

The commission has compared Golden Circle's per unit selling prices and cost to make and sell (CTMS) in Figure 10 below.



**Figure 10: Unit price and CTMS**

Having regard to the relationship between the trends in the above chart, the commission makes the following observations:

- Unit CTMS was higher than the unit price in 2016, with the unit CTMS being at or below the unit price in subsequent years.
- Unit CTMS dropped significantly in 2017, with CTMS then increasing between 2018 and 2020.
- The margin between unit CTMS and unit price increased significantly between 2016 and 2017, with the margin narrowing so that unit pricing was close to the same as unit CTMS in 2019 and 2020.
- Both the unit CTMS and unit pricing increased in 2019 and 2020.

In summary, the commission observes that, from 2019 onwards, Golden Circle has been able to increase unit selling prices when the unit CTMS has increased, although the margin between unit CTMS and unit pricing was very narrow in 2019 and 2020. Based on these observations, the commission has concluded that, since 2017, price suppression is evident.

## 5.4 Profit and profitability

### 5.4.1 Profit and profitability

Figure 11 charts Golden Circle's profit and profitability across the period of analysis.

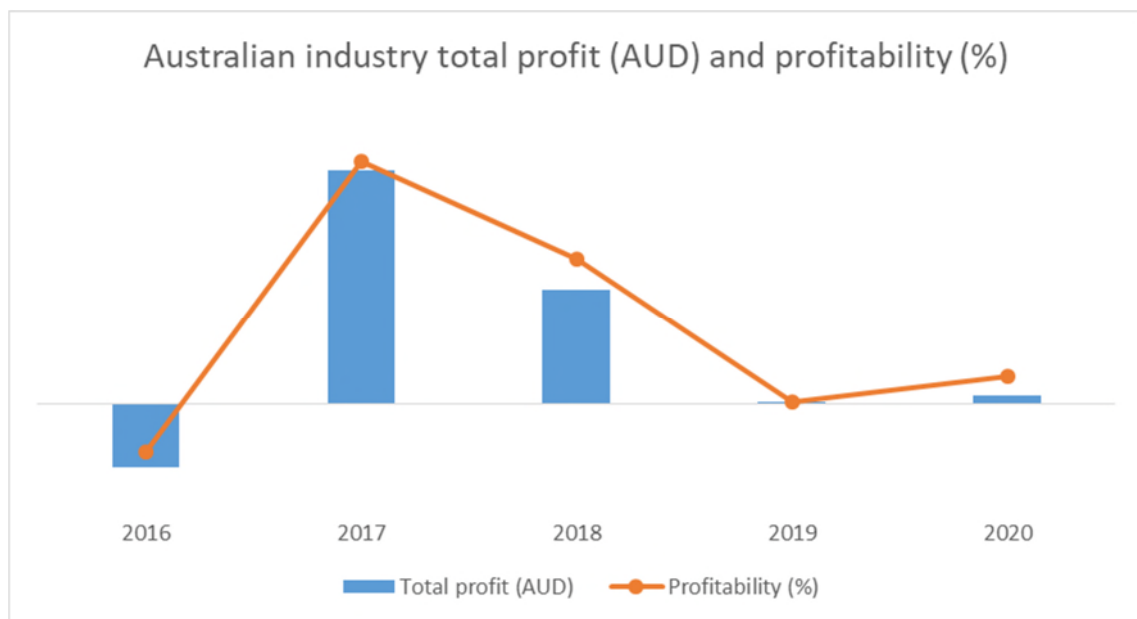


Figure 11: Profit and profitability

The chart indicates that:

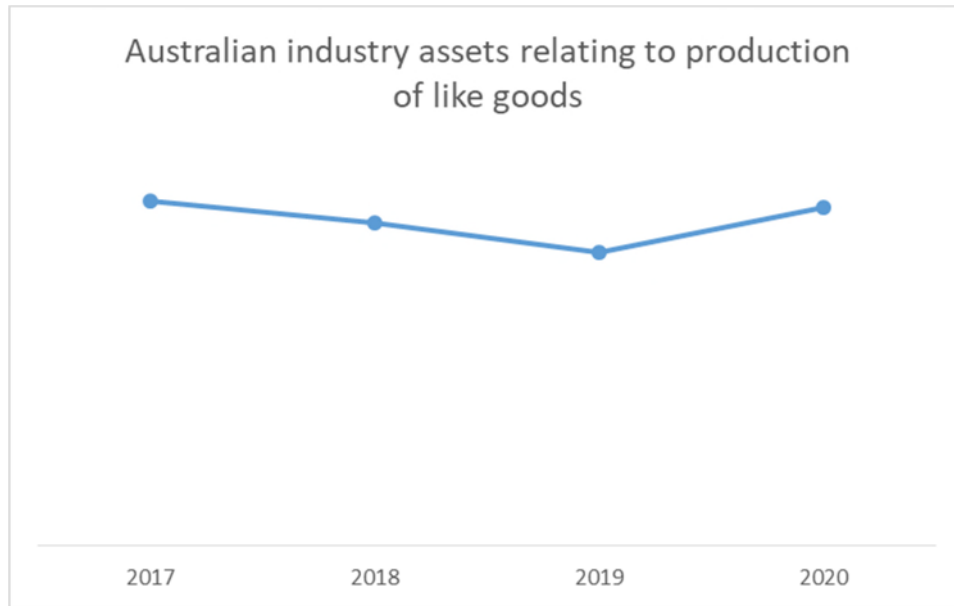
- Golden Circle was unprofitable in 2016 and profitable in all subsequent years.
- Golden Circle experienced fluctuating profit and profitability between 2016 and 2020, with low overall profit and profitability in 2019 and 2020.

## 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 12 charts Golden Circle's assets across the period of analysis.

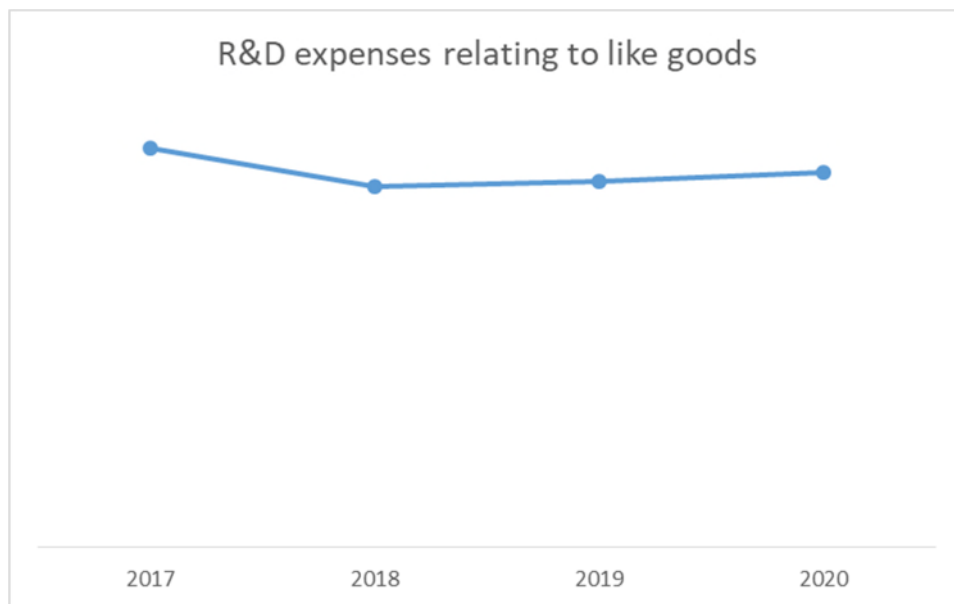


**Figure 12: Assets**

The chart 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 13 charts Golden Circle's research and development (R&D) expenses relating to like goods across the period of analysis.



**Figure 13: Research and development expenditure**

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The chart indicates that R&D expenditure has reduced slightly following 2017, although generally R&D expenditure has remained stable.

### 5.5.3 Revenue

Figure 14 charts Golden Circle's revenue in respect of FSI pineapple across the period of analysis.

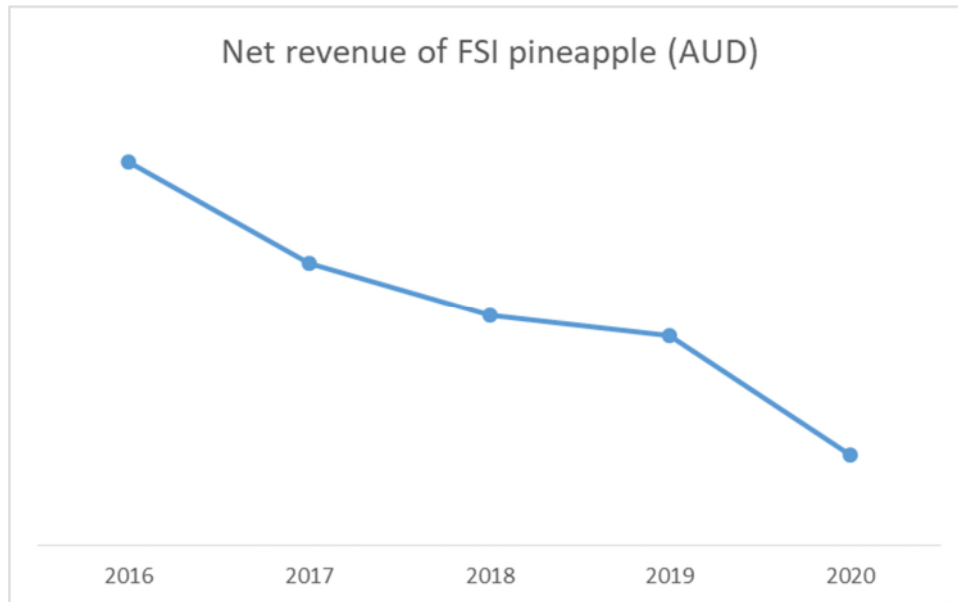


Figure 14: Revenue

The chart indicates that net revenue has reduced significantly year-on-year since 2016.

### 5.5.4 Capacity utilisation

Figure 15 charts Golden Circle's capacity utilisation across the period of analysis as relates to the production of like goods.

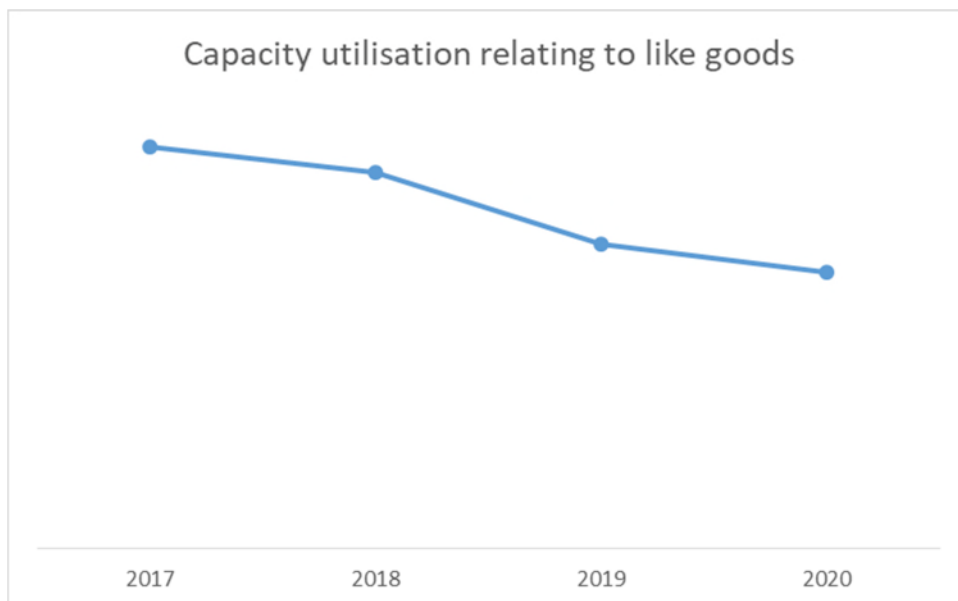


Figure 15: Capacity utilisation

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The chart indicates that capacity utilisation has steadily decreased between 2017 and 2020, based on Golden Circle's claimed actual production divided by its production capacity for like goods. However, Golden Circle advised it is able to process all of the raw pineapple it acquires and is able to sell all canned pineapple that it manufactures. The commission therefore considers that Golden Circle is operating at 100% of their real capacity in relation to the goods.

### 5.5.4.1 Submission from Golden Circle

Following the publication of SEF 573 and 574, Golden Circle provided a submission querying the commission's finding regarding production capacity. Golden Circle stated that it has an under-utilised processing plant in Queensland, in which the production capacity is limited by the supply of raw pineapple fruit available for processing. Golden Circle stated that the reduced through-put of the plant due to the lower supply of pineapple fruit results in a reduced capacity utilisation of the plant.

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

### 5.5.5 Employment

Figure 16 charts Golden Circle's employment numbers from 2017 to 2020 as they relate to the production of like goods.

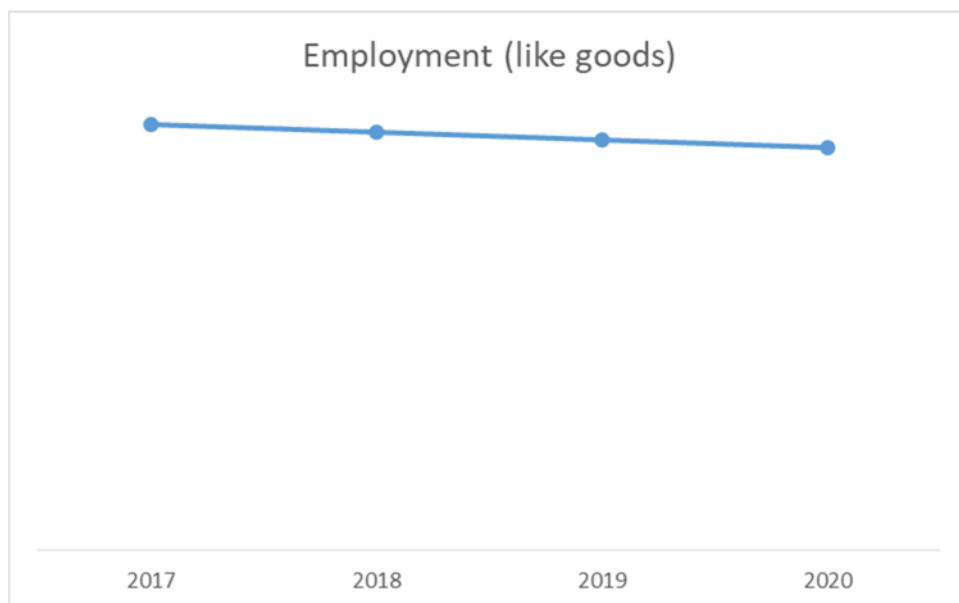


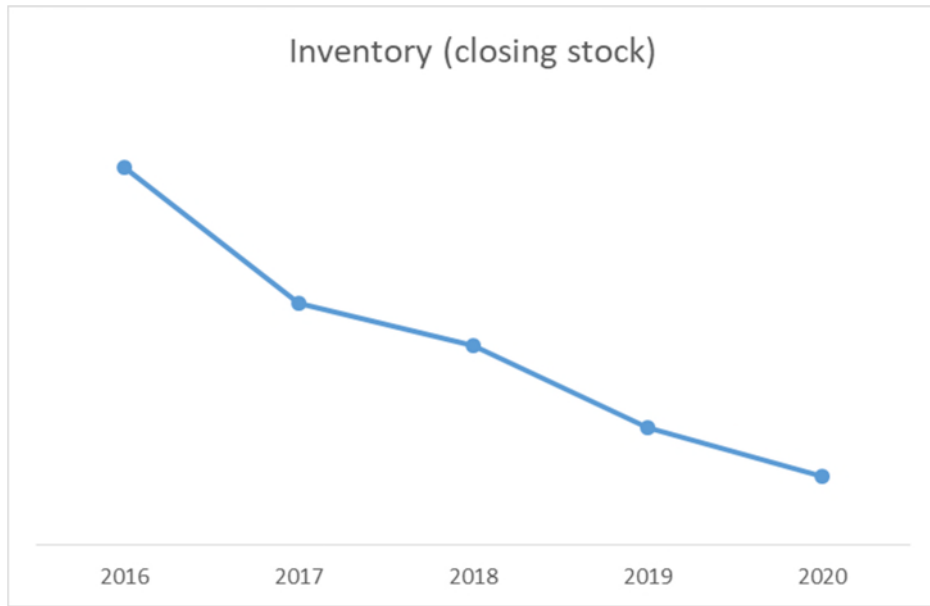
Figure 16: Employment

The chart 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 17 charts Golden Circle's closing stock from 2016 to 2020.

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**Figure 17: Closing inventory**

The chart 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.

## 6 DUMPING IN THE INQUIRY PERIOD

### 6.1 Finding

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

The Commissioner has found that the variable factors in relation to all exporters have changed. The Commissioner has ascertained dumping margins as summarised in Table 5.

Country	Exporter	Dumping margin
Philippines	Uncooperative and all other exporters	22.9%
Thailand	Siam Food	14.5%
	Uncooperative and all other exporters	14.8%

Table 5: Summary of dumping margins<sup>30</sup>

### 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, Siam Food provided a detailed REQ, including data relating to Australian sales (where applicable), domestic sales, and details of the CTMS.

The commission undertook desktop verification of the data Siam Food provided.

#### 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

<sup>30</sup> These dumping margins have changed since SEF 573 and 574 following further review of the calculations.

Commissioner considered to be reasonable or where the Commissioner is satisfied that an exporter significantly impeded the inquiry.

The *Customs (Extensions of Time and Non-cooperation) Direction 2015* (the Direction) states that the Commissioner must determine an exporter to be an uncooperative exporter, on the basis that no relevant information was provided in a reasonable period, if that exporter fails to provide a response or fails to request a longer period to do so within the legislated period.<sup>31</sup>

After having regard to the Direction, the Commissioner determined that all exporters that did not provide a response to the exporter questionnaire, or which did not request a longer period to provide a response within the legislated period (being 37 days, concluding on 20 January 2021), are uncooperative exporters for the purposes of this inquiry. As no exporter in the Philippines provided a response to the exporter questionnaire, all exporters in the Philippines are uncooperative exporters. Exporters in Thailand who did not provide a response to the exporter questionnaire are also uncooperative exporters.

As provided for in section 269TACAB(1), for uncooperative exporters, the export price and normal value are worked out in accordance with section 269TAB(3) and section 269TAC(6) respectively, having regard to all relevant information (refer chapter 6.6).

### **6.3 Verification of cooperative exporter**

The commission established the suitability of the data in the REQ of Siam Food by calculating the variable factors relating to Siam Food'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 the exporter in 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 was inconsistent with other relevant information, the commission has undertaken further analysis and where necessary reported the outcome of this analysis accordingly.

### **6.4 Calculation of dumping margins**

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

## **6.5 Variable factors – Siam Food**

### **6.5.1 Verification**

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

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<sup>31</sup> Section 8 of the Direction.

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

### **6.5.2 Export price**

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

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

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

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

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

- there was any consideration payable for, or in respect of, the goods other than price
- the price appeared to be influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller or
- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.

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

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

The export price calculations are at **Confidential Appendix 1**.

### **6.5.3 Normal value**

The commission found that while Siam Food did have domestic sales of like goods during the inquiry period, none of these sales were found to be in the ordinary course of trade, for the purpose of ascertaining the normal value under section 269TAC(1).

Section 269TAC(2) provides alternative methods for calculating the normal value of goods exported to Australia where there is an absence, or low volume, of relevant sales of like goods in the market of the country of export.

The normal value has been ascertained under section 269TAC(2)(c), using the sum of:

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- the cost to make of the exported goods based on the company's records in accordance with section 43(2) of the Regulation
- an amount for SG&A in accordance with section 44(2) of the Regulation, having regard to the SG&A amount that Siam Food incurred for domestic sales of like goods and
- an amount for profit based on the weighted average of the amounts realised by other exporters or producers from the sale of the same general category of goods, in accordance with section 45(3)(c) of the Regulation.

The normal value calculations are at **Confidential Appendix 3**.

### 6.5.4 Adjustments

The commission is satisfied there is sufficient information to justify the following adjustments in accordance with section 269TAC(9). 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 6 – Summary of adjustments – Siam Food**

### 6.5.5 Dumping margin

The dumping margin in respect of Siam Food's exports of the goods to Australia during the inquiry period is **14.5%**.

The dumping margin calculation is at **Confidential Appendix 4**.

## 6.6 Uncooperative and all other exporters

As detailed in chapter 6.2.2, the commission considers all exporters of FSI 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.

### 6.6.1 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 weighted average FOB export price for FSI pineapple from the cooperative exporter in the inquiry period.

### Normal value

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 FSI pineapple from the cooperative exporter, less favourable adjustments, in the inquiry period.

### Dumping Margin

The dumping margin for uncooperative and all other exporters of FSI pineapple from Thailand is **14.8%**.

The commission's calculations are included at **Confidential Appendix 5**.

## **6.6.2 Philippines**

The commission did not receive a response to the exporter questionnaire from any exporters of the goods in the Philippines. All exporters from the Philippines are uncooperative exporters.

### Export prices

The Act specifies that for uncooperative exporters, export prices are to be calculated under section 269TAB(3).<sup>32</sup> The commission has therefore established an export price pursuant to section 269TAB(3), having regard to all relevant information.

The commission considered the information in the ABF import database for imports of the goods from the Philippines. The FOB export prices for these imports were significantly higher than other imports (from both subject countries and countries not subject to the measures), and significantly higher than the import prices from the subject countries in the previous continuation inquiry. The commission is unable to verify the precise nature of these goods and what has contributed to this price. As the commission is unable to verify these details, the commission considers these prices to be unreliable.

In the absence of available information, the commission proposes to determine the export price for all other exporters as the export price determined for uncooperative and all other exporters in continuation inquiry 334.

### Normal values

The Act specifies that for uncooperative exporters, normal values are to be calculated under section 269TAC(6).<sup>33</sup> The commission has therefore established the normal value under section 269TAC(6), having regard to all relevant information.

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<sup>32</sup> Section 269TACAB(1)(d).

<sup>33</sup> Section 269TACAB(1)(e).

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Given the absence of information regarding domestic sales of the goods, the commission has taken the weighted average normal value determined for exporters of the goods in Thailand during the inquiry period.<sup>34</sup>

### Dumping margin

The dumping margin for uncooperative and all other exporters of FSI pineapple from the Philippines is **22.9%**.

The commission's calculations are included at **Confidential Appendix 6**.

## 6.7 Summary of dumping margins

Country	Exporter	Dumping Margin
Thailand	Siam Food	14.5%
	Uncooperative and all other exporters	14.8%
Philippines	Uncooperative and all other exporters	22.9%

**Table 7: Dumping margin summary**

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<sup>34</sup> Consistent with chapter 13.3 of the Dumping and Subsidy Manual, which permits the use of information gathered from other countries subject of the same investigation in establishing normal values under section 269TAC(6).

## 7 LIKELIHOOD THAT DUMPING AND MATERIAL INJURY WILL CONTINUE OR RECUR

### 7.1 Finding

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

### 7.2 Legislative framework

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

The commission notes that its assessment of the likelihood of certain events occurring and their anticipated effect, as is required in a continuation inquiry, necessarily requires an assessment of a hypothetical situation. The Anti-Dumping Review Panel has supported this view, noting that the commission must consider what will happen in the future should a certain event, being the expiry of the measures, occur. However, the Commissioner's conclusions and recommendation must nevertheless be based on facts.<sup>35</sup>

The commission also notes the *Ministerial Direction on Material Injury 2012* and its application to the commission's consideration of claims of material injury in this inquiry.<sup>36</sup>

### 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.<sup>37</sup> The commission's view is that the relevance of each factor varies depending on the nature of the goods under examination and the market for sales of the goods. No one factor can necessarily provide decisive guidance. The following analysis therefore examines a range of factors that the commission considers relevant to this inquiry.

### 7.4 Australian industry's claims

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

- Exporters of FSI pineapple in the Philippines and Thailand have maintained distribution links and active supply into the Australian market, and possess production capacity to supply the whole of the Australian market.
- Exports of FSI pineapple from the Philippines and Thailand were at dumped prices during the inquiry period.
- Processors of FSI pineapple in the Philippines have significantly increased production capacity, demonstrating long term intentions to export these goods.

<sup>35</sup> [ADRP Report No. 44](#) (Clear Float Glass) refers.

<sup>36</sup> ADN No. 2021/024 refers

<sup>37</sup> The Manual, pages 175 to 176.

- The Australian industry manufacturing like goods would be exposed to a recurrence of the material injury through price undercutting, loss of sales volume and market share, and reduced profits and profitability if the measures were allowed to expire.

#### **7.4.1 Submission received**

##### Australian Pineapples

The commission received a submission from Australian Pineapples, a member of Queensland Fruit and Vegetables Ltd, prior to the publication of SEF 573 and 574. 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).
- Australian Pineapple support the request for the continuation of anti-dumping measures applying to FSI pineapple.

##### Department of Agriculture (Philippines)

The commission received a submission from the Department of Agriculture (Philippines) following publication of SEF 573 and 574. This submission raised the following points:

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

The commission has noted these points in preparing this report.

##### Dole Philippines and Dole Thailand

The commission received a submission from Dole Philippines and Dole Thailand following publication of the SEF 573 and 574. This submission raised the points noted below:

- SEF 573 and 574 supports a reasonable satisfaction that expiry of the measures would not lead or would not be likely to lead to a recurrence of material injury.
- There are other factors that are likely to influence the economic performance of Golden Circle. These factors include the significant presence of exports from other countries, exempt exports from Thailand, the continuing success of Golden Circle in achieving premium prices and the shortage of raw material for processing as Australian growers have shifted their focus to the more lucrative fresh fruit market.
- There has been a dramatic reduction in exports of FSI pineapple subject to measures in recent years, leading to a market share of less than 5%. Exempt exports and exports from other countries hold an entrenched position in the market. This situation is incompatible with any suggestion that in future years

exports formerly subject to measures are likely to cause material injury to the Australian industry.

- The commission must have regard to Article 11 of the Anti-Dumping Agreement (ADA), concerning the duration of anti-dumping duties. Specifically, the submission claims that the continuation of the measures applying to consumer pineapple from the Philippines and Thailand is inconsistent with Australia's obligations under Article 11 of the ADA.

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

The commission also received a submission from Golden Circle in response to SEF 573 and 574. The commission has addressed the specific points raised in this submission throughout this report.

## **7.5 Are exports likely to continue or recur?**

To determine whether exports of FSI 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 FSI pineapple since 1 January 2016:

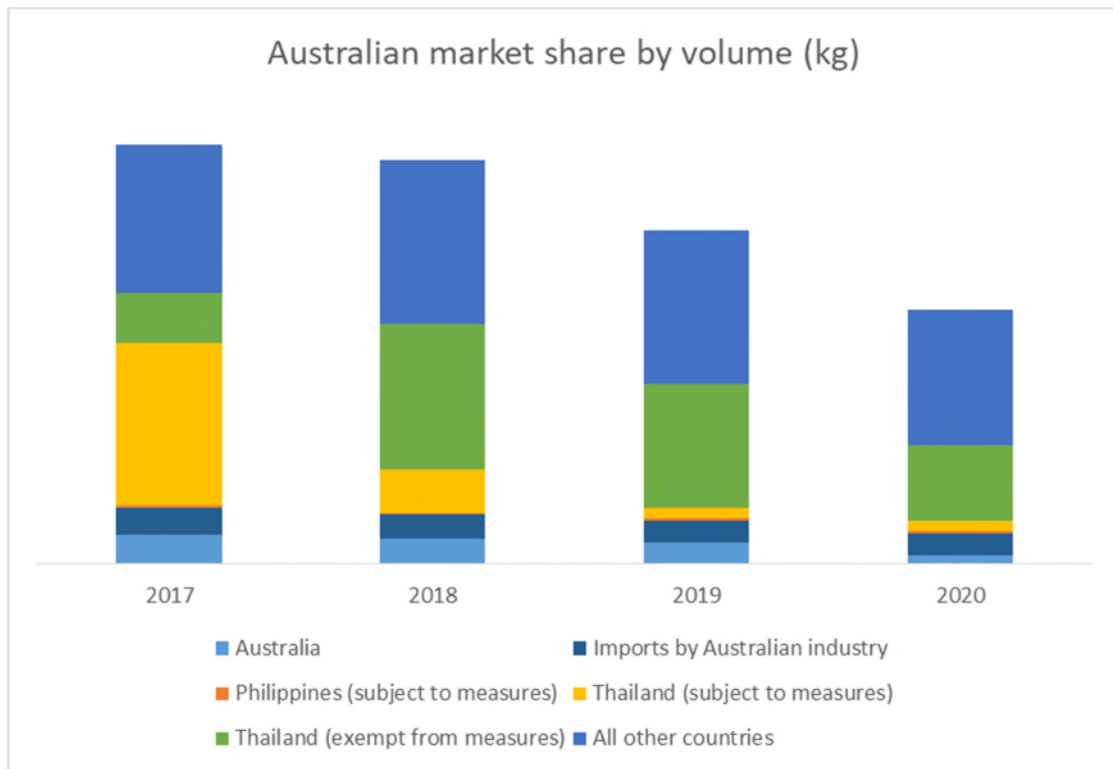
	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
Thailand – subject to measures	100	76	20	5	5
Thailand – not subject to measures	100	237	682	576	348
Philippines	100	16	10	18	12
All other countries	100	170	175	164	155

**Table 8: Index of changes in imports from 1 January 2016<sup>38</sup>**

The commission notes that the indexed values may be misleading, as the volumes from certain countries are immaterial. For this reason, the commission has reproduced the charts detailing the Australian market size and market share, first included at section 5.2.2 above.

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<sup>38</sup> The commission has filtered the data from the ABF import database to capture those consignments that meet the goods description.



**Figure 18: Australian market size and market share in absolute terms**

Figure 18 above demonstrates how the Australian market in totality has gradually decreased during the injury period.

Figure 19 below charts the market share of each source country expressed as a proportion. It is notable that exempt Thai exporters and exporters from countries not subject to the measures have increased market share at the expense of exporters subject to the measures, and to some extent Australian industry.

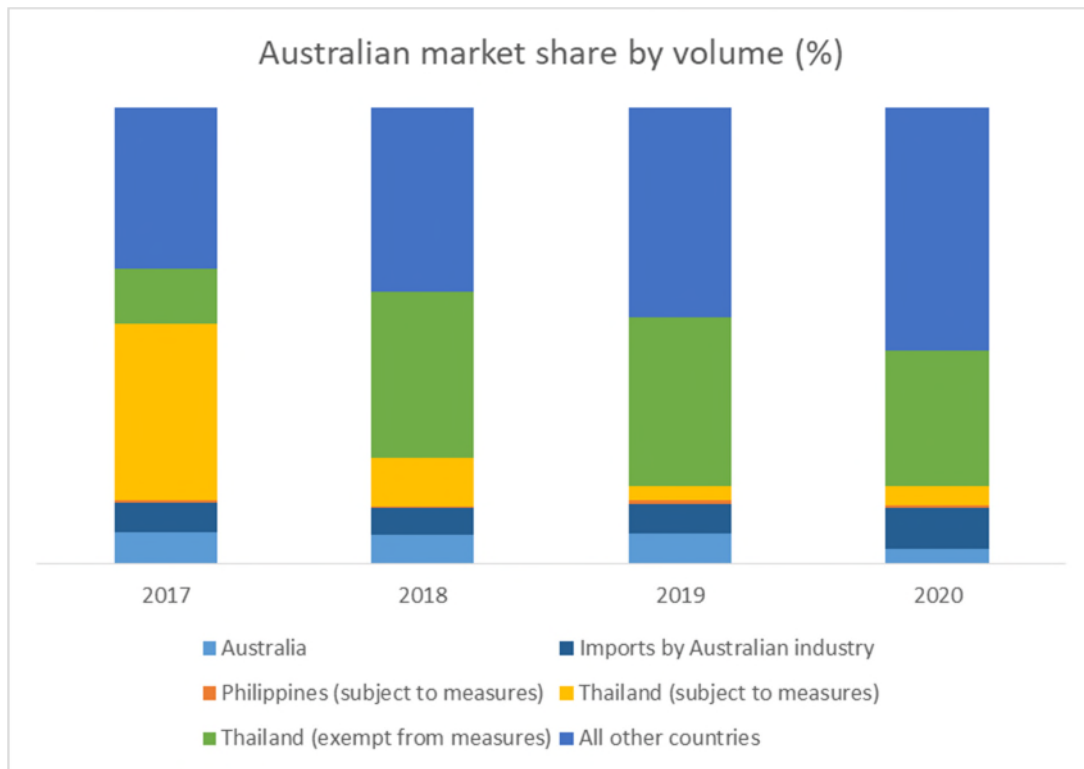


Figure 19: Market share (expressed in %)

Table 8 and Figures 18 and 19 indicate that, following the continuation of the measures applying to FSI pineapple in 2016:

- The volume of imports from the Philippines has remained immaterial, representing less than one % of the Australian market in each year since 2016.
- The volume of imports from exporters in Thailand that are subject to the measures has significantly reduced, and during the inquiry period represented approximately 5% of the Australian market.
- The volume of imports from exporters in Thailand that are not subject to the measures has significantly increased, and has accounted for almost 30% of the Australian market since 2017.
- The volume of imports from all other countries has steadily increased.

The commission notes that of the imports from Thailand which are subject to measures, the parent company of the Australian industry is one of the key customers. Having removed this volume from the imports from Thai exporters subject to the measures, the remaining volume represents less than 4% of the Australian market during the inquiry period.

### 7.5.2 Maintenance of distribution links to the Australian market

The Australian industry claims exporters from the Philippines and Thailand have maintained active supply into the Australian market.

The commission has considered information from the cooperating exporter from Thailand as well as information from the ABF import database.

### Philippines

Imports of the goods from the Philippines has represented approximately 0.5% of the Australian market in each year during the injury analysis period. During the inquiry period, Juremont Pty Ltd imported these goods.

### Thailand

As noted above, the vast majority of imports from Thailand are from exporters who are not subject to the measures. The commission observes in the ABF import database that there are 7 exporters in Thailand who exported the goods to Australia during the inquiry period and who are subject to the measures.

On this basis, the commission considers that exporters from each of the subject countries have maintained distribution links into the Australian market, albeit in minor volumes in the case of Thailand, and immaterial volumes in the case of Philippines.

#### **7.5.3 Excess production capacity of exporters in subject countries**

The Australian industry claims exporters from the Philippines and Thailand have sufficient production capacity to supply the entire Australian market.

The commission has analysed the excess capacity available for the cooperating exporter from Thailand. Refer to **Confidential Attachment 5**. Based on this analysis there is sufficient production capacity available in Thailand to increase the volume of exports to Australia.

The commission is unable to confirm the production capacity available for exporters in the Philippines as no exporters in the Philippines cooperated with this inquiry.

#### **7.5.4 Conclusion**

The commission has established the following:

- 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 in Thailand maintain excess production capacity.

Therefore, the commission considers that if the anti-dumping measures applying to the goods were to expire, exports from the subject countries to Australia will continue.

### **7.6 Will dumping continue or recur?**

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

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

The commission's view is that the relevance of each factor will vary depending on the nature of the goods under examination and the market for sales of the goods. No one

factor can necessarily provide decisive guidance. The following analysis therefore examines a range of factors that the commission considers are relevant to this inquiry.

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

#### **7.6.1 Analysis of dumping within inquiry period**

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

Country	Exporter	Dumping Margin
Philippines	Uncooperative and all other exporters	22.9%
Thailand	Siam Food Products	14.5%
	Uncooperative and all other exporters	14.8%

**Table 9: Summary of dumping margins**

The commission has determined that, during the inquiry period, the goods exported to Australia from both the Philippines and Thailand were at dumped prices.

#### **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 Thailand the commission considers that dumping would be likely to continue if the anti-dumping measures expired, on the basis of the points outlined below:

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

#### **7.6.3 Impact of trade remedies in other jurisdictions**

The commission is not aware of anti-dumping measures applying to exports of FSI pineapple exported from the Philippines and Thailand applying in other jurisdictions.

#### **7.6.4 Summary**

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

- During the inquiry period, the goods exported to Australia from the Philippines and Thailand were at dumped prices.
- 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 is 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.<sup>39</sup> It further provides that the materiality of injury caused by a given degree of dumping can be judged differently, depending on the economic condition of the Australian industry suffering the injury. In considering the circumstances of each case, the commission must consider whether an industry that at one point in time is healthy and could shrug off the effects of the presence of dumped products in the market, could at another time, weakened by other events, suffer material injury from the same amount of dumping.

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

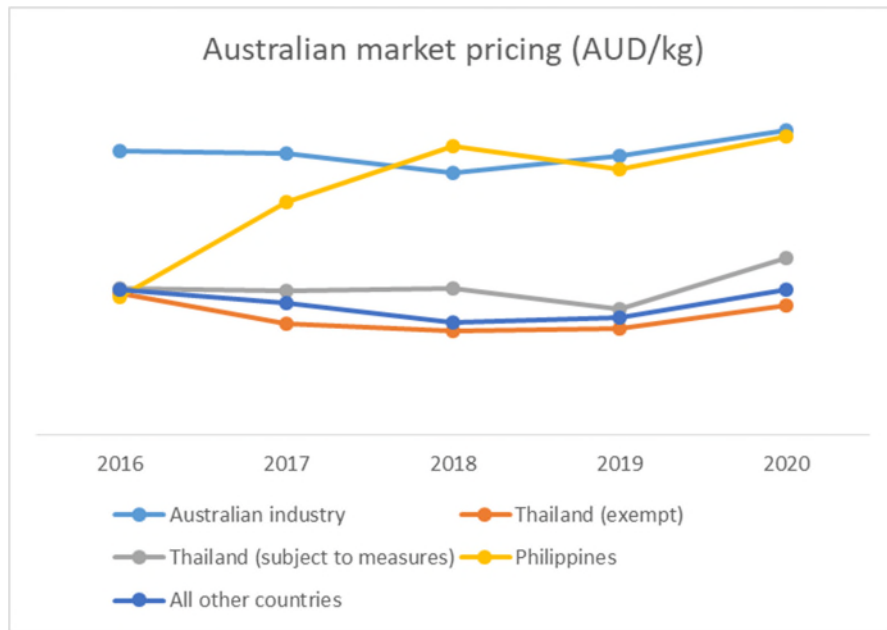
### **7.7.1 Likely effect on prices**

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.

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<sup>39</sup> ADN No. 2021/024 refers

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



**Figure 20: Export prices compared to Golden Circle selling prices**

Figure 20 indicates that:

- Exports from Thailand that are not subject to measures were the lowest priced product throughout the injury analysis period.
- There appears to be price competition between exports from Thailand (both subject to measures and not subject to measures) and exports from other countries.
- Exports from the Philippines have the highest FOB export price from 2016 onwards, at a price approaching or higher than the Australian industry's selling price.<sup>40</sup>
- Golden Circle maintains a high selling price throughout the injury analysis period.

The commission considers that Figure 20 demonstrates that despite lower priced FSI pineapple being available from Thailand and from other countries not subject to measures, Golden Circle has been able to achieve a consistently higher sales price on its sales of FSI pineapple. The commission considers that if the measures expire, future imports from Thailand and the Philippines will compete at the lower price point, and not impact the prices that Golden Circle is able to achieve.

#### 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

<sup>40</sup> As noted at section 6.6.2, the FOB export prices for imports from the Philippines were significantly higher than other imports (from both subject countries and countries not subject to the measures), and significantly higher than the import prices from the subject countries in the previous continuation inquiry. Due to a lack of cooperation from exporters in the Philippines the commission is unable to provide further clarity.

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 goods on a like for like basis.

The commission determined a landed value for exports for the cooperating exporter 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 commission's undercutting analysis indicates that Siam Food's imports of the goods undercut the Australian industry's selling prices. Further, all import sources of the goods (except for the Philippines in 2018) undercut the Australian industry's selling prices. Goods from those countries not subject to the measures (predominantly Indonesia) undercut the Australian industry by the greatest amount.

#### 7.7.1.2 Price depression and price suppression

The commission understands that the Australian market for FSI pineapple has predominantly operated on a tender basis. Both the Australian industry and the cooperative importer indicated that customers tend to enter into long-term contracts following a competitive tender process, though Golden Circle advised that recently it has moved away from participating in tender processes and is supplying to wholesalers. Golden Circle did not identify any examples, nor provide any evidence to the Commission, illustrating lost tenders to imports from the subject countries during the inquiry period, nor pricing pressure in its sales to wholesalers. Although the commission observes from Figure 20 above that selling prices of goods subject to the measures from Thailand has undercut the Australian industry, this does not appear to have had an effect on the selling prices which Golden Circle is able to achieve.

#### 7.7.1.3 Submission from Golden Circle

In a submission following publication of SEF 573 and 574, Golden Circle stated the following:

- The commission's assessment of future dumping is definitive.
- The presence of imports that undercut the Australian industry must be considered a significant influence on market selling prices.

- The commission established that Golden Circle suffered price suppression and low profit and profitability.
- It is not within the wholesalers' interests to disclose the source of competitive prices or supplying parties as this would disclose commercially-sensitive negotiating arrangements that the customers are prevented from doing so.
- The exports of dumped FSI pineapple impacts Golden Circle's selling prices and thereby the prices at which Golden Circle can provide to growers for raw pineapple fruit.
- It is incorrect to decouple the price for raw material pineapple from the selling price for processed FSI pineapple.

#### **7.7.1.4 The commission's assessment**

The commission must base its assessment regarding the likely effects on prices on the evidence gathered during the course of these inquiries. In its response to SEF 573 and 574, Golden Circle has not provided additional evidence for the commission to assess. As noted in chapter 6, the commission found that exporters of FSI pineapple from both subject countries did dump the goods during the inquiry period. However, the analysis in section 7.7.1 (above) indicates that this dumping has not impacted the selling prices which Golden Circle achieved. Golden Circle continue to maintain a consistently higher sales price since the measures were last continued in 2016.

#### **7.7.2 Likely effects on volumes**

As noted above, the commission has not identified evidence to indicate that the Australian industry has had to compete with lower priced FSI pineapple from the subject countries, nor that it has lost sales volumes due to being unable to compete with lower priced offerings. The commission is of the view that due to limited supply of raw pineapple in Australia, Golden Circle has focussed on the consumer pineapple market rather than the FSI pineapple market. This would explain its declining sales volumes for FSI pineapple. The commission has not identified sufficient evidence to support a conclusion that imports of the goods from the subject countries impacts the supply of raw pineapple.

The commission has observed a pattern of behaviour from exporters who are subject to the measures, with exports from the Philippines being immaterial in each year of the injury analysis period, while exports from Thailand that are subject to the measures have declined considerably and represent a minor part of the Australian market.

Golden Circle claimed that processors of FSI pineapple in the Philippines have significantly increased production capacity, and that this demonstrated long term intentions to export these goods. The commission was unable to confirm these claims directly with exporters as there were no cooperative exporters from the Philippines. The commission has considered these claims and notes that an increase in production capacity does not necessarily indicate an intention to increase export volumes to Australia, particularly given a pattern of behaviour over an extended period suggesting that the Australian market is not a key focus for exporters in the Philippines.

Therefore, the commission considers there is insufficient evidence to find that the expiry of the measures is likely to lead to volume injury to the Australian industry.

Golden Circle advised the commission that it is able to process all of the raw pineapple it acquired during the inquiry period, confirmed through verification of the data Golden Circle provided. Golden Circle also advised that its production capacity is limited to the volumes of raw pineapple sourced from pineapple farmers. While this has the potential to impact on the sales volumes Golden Circle can achieve, the commission has not identified sufficient evidence to support a conclusion that this is attributable to imports of the goods from the subject countries.

Golden Circle claims that the expiration of the measures on both 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’.<sup>41</sup> The commission has considered this submission from Golden Circle. 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 dumped imports from the subject countries will limit Golden Circle’s future supply volumes. The commission also notes that ‘threat of future material injury’ is not part of the legislative test for whether measures should continue or expire.

The commission has also considered Australian Pineapples’ submission (noted at section 7.4.1 above) in the conduct of this inquiry.<sup>42</sup> The commission considers that there is insufficient evidence to indicate that dumped imports from the subject countries will limit supply certainty as Australian Pineapples claimed.

## **7.8 Conclusion**

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

The Commissioner is satisfied that imports of the goods from the Philippines and Thailand were at dumped prices during the inquiry period, and that there is sufficient evidence to indicate that imports from the Philippines and Thailand will continue to be at dumped prices upon the expiration of the measures.

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

Specifically, the Commissioner has found that:

- Golden Circle has been able to achieve a consistently higher sales price on its FSI pineapple, despite imports from the subject countries and other countries being at lower prices.
- Future imports from Thailand and the Philippines are likely to compete on price with each other and with imports from other countries (not subject to the measures). This competition is at a much lower price point than Golden Circle’s sales price. There is insufficient evidence before the commission indicating that the price of imported goods impacts the prices Golden Circle achieves.

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<sup>41</sup> EPR 573 and 574, [document 5](#).

<sup>42</sup> EPR 573 and 574, [document 6](#).

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- Due to limited supply of raw pineapple (not attributable to imports from the subject countries), Golden Circle has focussed on the consumer pineapple market rather than the FSI pineapple market, a factor which has led to its declining sales volume for FSI pineapple.
- There is no evidence that Golden Circle has lost sales volumes to imported products or would lose sales volumes if the measures expire, with the data indicating that Golden Circle is able to process all of the raw pineapple it acquires.

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

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

## 8 RECOMMENDATIONS

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

As a result, pursuant to section 269ZHF(1)(a)(iv) the Commissioner recommends that the notice in so far as it relates to exporters from Thailand expires on 17 October 2021 and that the notice in so far as it relates to exporters from the Philippines expires on 13 November 2021.

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

- in accordance with subsection 269ZHG(1)(a), that he has decided not to secure the continuation of the anti-dumping measures concerned.

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

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

The Commissioner recommends the Minister **determine**:

- being satisfied that subsection 269TAB(1)(a) applies, that the export price of goods exported to Australia from Thailand by Siam Food is the price paid or payable for the goods by the importer, other than any part of that price that represents a charge in respect of any other matter arising after exportation, as set out in **confidential appendix 1**
- in accordance with subsection 269TAB(3), having regard to all relevant information, that the export prices for uncooperative exporters from Thailand and the Philippines are as set out in **confidential appendices 5 and 6**
- in accordance with subsection 269TAC(2)(c), that the normal value of FSI pineapple exported from Thailand by Siam Food is the sum of:
  - the cost of production or manufacture of FSI pineapple in Thailand as set out in **confidential appendix 2** and
  - on the assumption that FSI pineapple, instead of being exported, had been sold

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for home consumption in the ordinary course of trade in Thailand, the administrative, selling and general costs associated with the sale and the profit on that sale as set out in **confidential appendix 2**,

as adjusted in accordance with subsection 269TAC(9), as set out in Table 6, to ensure that the normal value of the goods so ascertained is properly comparable to with the export price of the goods

- in accordance with subsection 269TAC(6), having regard to all relevant information, that the normal values for uncooperative exporters from Thailand and the Philippines is as set out in **confidential appendices 5 and 6**
- having applied subsection 269TACB(2)(a) and in accordance with subsections 269TACB(1) and (4):
  - that the FSI pineapple exported to Australia from Thailand and the Philippines are taken to have been dumped and
  - the dumping margins for Siam Food and uncooperative exporters from Thailand and the Philippines in respect of those goods is the difference between the weighted average export prices of the FSI pineapple over the inquiry period and the weighted average of corresponding normal values over that period as set out in chapter 6.

The Commissioner recommends the Minister **direct**:

- in accordance with 269TAC(9), adjustments, as listed in Table 6, are necessary to ensure a fair comparison of normal values and export prices for consumer pineapple exported to Australia by Siam Food, as set out in **confidential appendix 3**.

## **9 APPENDICES AND ATTACHMENTS**

<b>Confidential Attachment 1</b>	Australian market
<b>Confidential Attachment 2</b>	Global supply - pineapples
<b>Confidential Attachment 3</b>	Global demand - pineapples
<b>Confidential Attachment 4</b>	Economic condition of the industry
<b>Confidential Attachment 5</b>	Siam Food – excess production capacity
<b>Confidential Appendix 1</b>	Siam Food dumping margin – appendix 1
<b>Confidential Appendix 2</b>	Siam Food dumping margin – appendix 2
<b>Confidential Appendix 3</b>	Siam Food dumping margin – appendix 3
<b>Confidential Appendix 4</b>	Siam Food dumping margin – appendix 4
<b>Confidential Appendix 5</b>	Uncooperative dumping margin - Thailand
<b>Confidential Appendix 6</b>	Uncooperative dumping margin - Philippines