



SIAM FOOD PRODUCTS PUBLIC CO., LTD.

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NON-CONFIDENTIAL FOR PUBLIC RECORD

Submission to:

ADRP Review No. 145 – Food Service and Industrial Pineapple exported from
the Republic of the Philippines and the Kingdom of Thailand

Submitted by:

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President

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Role of the party making the submission:

Thailand exporter



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February 3, 2022

The Director, Investigations 2
Anti-Dumping Commission
GPO Box 2013
Canberra ACT 2601

To the Director,

Submission in relation to ADRP Review No. 145 – Food Service and Industrial Pineapple exported from the Republic of the Philippines and the Kingdom of Thailand

We, Siam Food Products Public Company Limited and its subsidiary Siam Food (2513) Company Limited hereby wish to make our submission in relation to the matter as follows:

1. The application by Golden Circle Limited (GC) for review of the Minister's decisions published on 6 October 2021 not to secure the continuation of the anti-dumping measures applied to FSI pineapple exported to Australia from Thailand is not justifiable and without any sufficient supporting evidence.
2. We support the reviewable decisions of the Minister and do not agree with GC grounds as mentioned in the Application for Review of a Ministerial Decision on the following grounds;
 - 2.1. The Commission found that the volume of imports from exporters from Thailand subject to measures amounted to only about 5% of the Australian market. No evidence has been provided by GC demonstrating how such a small volume of exports has caused or is causing material injury and consequently a scenario involving recurrence is without any justifiable ground. In addition, it is clear from the Commission's analysis that material injury, if any, to GC has been caused by the rapid growth over the past years of FSI pineapple exports not subject to measures from countries not covered by the dumping duty notice. Countries not subject to the anti-dumping tariff have market shares in Australian pineapple market that are increasing dramatically while the market share of Thai pineapple subject to measures sold in Australia has gradually declined. GC, however, has not applied for the initiation of an inquiry under Part XVB into FSI exports from those sources even though they are amongst the lowest price products.
 - 2.2. We wish to note that [REDACTED] [name of customer redacted for commercial interests], is our primary customer who has imported the majority of our FSI pineapple to support its local FSI sales. We, therefore, have seen no ground on how our export of FSI pineapple has caused or will cause



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material injury to said customer or any local pineapple producers, or will result in any impact on the price of FSI pineapple in the Australian market.

3. We do not agree with GC's argument in relation to Section 269ZHF(2) of the Custom Act claiming that the ADC erred in law in its application of s.269ZHF(2) of the Act in stating that the threat of future material injury is not part of the test for the continuation of the measures. To consider whether there is a threat of material injury may involve an assessment to the extent that there is a "possibility" or "likelihood" of such material injury as a result of our future export of FSI pineapple. The statutory test requires that such possibility must be established to the satisfaction of the Minister. Based upon the reason we provided in Clause 3 above, there is no possibility or likelihood that GC will suffer material injury in the future as a result of our export of FSI pineapple to Australia.
4. We conclude that, based upon the reason we mentioned herein-above and GC has produced neither evidence nor argument to overturn the proposition of reviewable decision, the reviewable decision concerning FSI pineapple was, therefore, the correct and preferable decision in accordance with the statutory test set out in s269ZHF(2) of the Act which provides that: "The Commissioner must not recommend that the Minister take steps to secure the continuation of the anti-dumping measures unless the Commissioner is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping or subsidization and the material injury that the anti-dumping measure is intended to prevent."

We, therefore, request that the Panel recommend to the Minister that the reviewable decisions be affirmed.

Yours faithfully,

Charnvit S.

Mr. Charnvit Subsanyakorn

President,

Siam Food Products Public Company Limited

