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**Australian Government**  
**Australian Customs and  
Border Protection Service**

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R E P O R T

## **TRADE MEASURES BRANCH STATEMENT OF ESSENTIAL FACTS NO.172a**

### **REVIEW OF ANTI-DUMPING MEASURES**

#### **FSI PINEAPPLE EXPORTED FROM THE REPUBLIC OF THE PHILIPPINES**

25 May 2011

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## 1. SUMMARY AND RECOMMENDATIONS

This review is in response to an application by Golden Circle Limited (Golden Circle) seeking a review of the anti-dumping measures applying to food service and industrial (FSI) pineapple exported to Australia from the Republic of the Philippines (Philippines) and the Kingdom of Thailand (Thailand).

This statement of essential facts (SEF) sets out the facts on which the delegate of the Chief Executive Officer (the delegate) of the Australian Customs and Border Protection Service (Customs and Border Protection) proposes to base his recommendation to the Minister for Home Affairs (Minister) for measures applicable to FSI pineapple from the Philippines.

A separate SEF, SEF 172b, has been issued for the review for consumer pineapple from the Philippines.

Customs and Border Protection is also conducting continuation inquiries into the measures applicable to consumer pineapple and FSI pineapple exported from the Philippines.

SEF 171a has been issued for the continuation inquiry into FSI pineapple from the Philippines.

SEF 171b has been issued for the continuation inquiry into consumer pineapple from the Philippines.

Customs and Border Protection will issue separate SEFs on 3 August 2011 for measures applicable to FSI pineapple and consumer pineapple from Thailand.

### 1.1 Proposed recommendation

The delegate proposes to recommend to the Minister that the dumping duty notice have effect in relation to exporters generally as if different variable factors had been ascertained.

The result of the review would be that ascertained export prices, normal values and the non-injurious price for all exporters would increase and the level of the measures in the amount of interim dumping duty imposed would increase.

### 1.2 Preliminary findings and conclusions

Based on all available information Customs and Border Protection's preliminary findings are:

- the export price for FSI pineapple exported by DPI via its affiliate Dole Packaged Foods Asia (DPFA) has been determined under s.269TAB(1)(c), having regard to all the circumstances of the exportation.
- revised export prices for FSI pineapple for all other Philippine exporters have been determined having regard to all relevant information;

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- the normal value for consumer pineapple exported by DPI can be determined using domestic sales by DPI in the Philippines<sup>1</sup> adjusted for comparison with the export price<sup>2</sup>;
- revised normal values for consumer pineapple for all other Philippine exporters have been determined having regard to all relevant information;
- FSI pineapple exported by exporters from the Philippines to Australia during the review period were dumped (dumping margins ranged from 22% to 47%);
- the non-injurious price for FSI pineapple can be established by using industry cost to make and sell during the review period plus the profit adjusted down achieved in 2009; and
- there are grounds to be satisfied that had the measures not been taken, the Minister would now be entitled to take them.

Based on these preliminary findings, and subject to any submissions received in response to this SEF and SEF 171a<sup>3</sup>, the delegate proposes to recommend to the Minister that the measures be varied for all exporters for FSI pineapple.

## 1.3 Final report

The delegate's final report and recommendation in relation to measures applicable to FSI pineapple from the Philippines must be provided to the Minister by **9 July 2011**.

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<sup>1</sup> Subsection 269TAC(1)

<sup>2</sup> Subsection 269TAC(8)

<sup>3</sup> SEF 171a relates to the inquiry into the continuation of measures on FSI pineapple from the Philippines published on 25 May 2011.

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## 2. INTRODUCTION

### 2.1 Review process

If anti-dumping measures have been taken in respect of certain goods, an affected party may consider it appropriate to review those measures as they affect a particular exporter or exporters generally.

Accordingly the affected party may apply for, or the Minister may request that the Chief Executive Officer conduct, a review of those measures if one or more of the variable factors has changed. The Minister may initiate a review at any time, however, no other interested party may apply for a review to take place earlier than 12 months since the publication of the dumping duty notice or the publication of a notice declaring the outcome of the last review of the notice.

If an application for a review of anti-dumping measures is received and not rejected, Customs and Border Protection has up to 155 days, or such longer time as the Minister may allow, to inquire and report to the Minister on the review of the measures. Within 110 days of the initiation, or such longer time as the Minister may allow, Customs and Border Protection must place on the public record a statement of essential facts on which it proposes to base its recommendation to the Minister concerning the review of the measures.

In making recommendations in its final report to the Minister, Customs and Border Protection must have regard to:

- the application for a review of the anti-dumping measures;
- any submission relating generally to the review of the measures to which the delegate has had regard for the purpose of formulating the statement of essential facts;
- this statement of essential facts; and
- any submission made in response to this statement of essential facts that is received by Customs and Border Protection within 20 days of being placed on the public record.

Customs and Border Protection may also have regard to any other matter that it considers to be relevant to the review.

In respect of a dumping duty notice, the delegate must provide a proposed recommendation to the Minister that the dumping duty notice<sup>4</sup>:

- remain unaltered; or
- be revoked in its application to a particular exporter or to a particular kind of goods or revoked generally; or
- have effect in relation to a particular exporter or to exporters generally as if different variable factors had been ascertained.

Following the Minister's decision, a notice will be published advising interested parties of the decision.

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<sup>4</sup> s. 269ZDA(1)(a) of the *Customs Act 1901* (the Act)

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## 2.2 Notification and participation

On 14 January 2011, Golden Circle, the sole Australian manufacturer, lodged an application for a review of the measures<sup>5</sup> applicable to pineapple, consumer and FSI, from Thailand and the Philippines.

Following consideration of the application the review of the measures commenced on 4 February 2011. The period of 1 January 2010 to 31 December 2010 was set as the review period.

Public notification of initiation of the review was made on 4 February 2011 in *The Australian* newspaper. Australian Customs Dumping Notice (ACDN) No. 2011/34 was also published.

Following an extension from the Minister, Customs and Border Protection is required to place the statements of essential facts for measures relating to pineapple, consumer and FSI, exported from Thailand on the public record on or before 3 August 2011.

The final report to the Minister for pineapple FSI from the Philippines which outlines Customs and Border Protection's findings and recommendations is due on or before 9 July 2011.

## 2.3 Responding to the statement of essential facts

Interested parties may wish to make submissions in response to this statement of essential facts. However Customs and Border Protection is not obliged to have regard to any submissions received after **14 June 2011** if to do so would prevent the timely preparation of the report to the Minister.

Submissions should be sent to:

The Director  
Trade Measures Operations 1  
Australian Customs and Border Protection Service  
5 Constitution Avenue  
CANBERRA ACT 2601  
AUSTRALIA

Submissions can also be faxed to (02) 6275 6990 or emailed to [tmops1@customs.gov.au](mailto:tmops1@customs.gov.au).

Interested parties intending to respond to the statement of essential facts must include a non-confidential version of their submission for placement on the public record<sup>6</sup>. Submissions provided in confidence must be clearly marked "**IN-CONFIDENCE**".

The public record contains non-confidential submissions already received from interested parties, this statement of essential facts, non-confidential versions of Customs and Border Protection's visit reports and other publicly available documents such as Customs and Border Protection's initiation report, notices

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<sup>5</sup> In accordance with s.269ZB of the Act.

<sup>6</sup> In preparing a non-confidential version interested parties should take account of the requirements set out in ACDN 2006/54.

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and other information. These documents should be read in conjunction with this statement of essential facts.

All documents on the public record are available on Customs and Border Protection's electronic public record which may be accessed on the internet at [www.customs.gov.au](http://www.customs.gov.au) by following the prompts for "anti-dumping".

The public record may also be viewed at Customs House Canberra by contacting Trade Measures Branch administration on (02) 6275 6547.

## 2.4 History of anti-dumping measures

On 21 March 2006 Golden Circle lodged an application with Customs and Border Protection requesting that the Minister publish dumping duty notices in respect of certain pineapple products from the Philippines.

The Minister accepted the recommendations in Trade Measures Report No 112 (REP 112) and published dumping duty notices for consumer pineapple exported to Australia from the Philippines and FSI pineapple exported from the Philippines.

REP125, the reinvestigation of certain findings, made a new finding in relation to the determination of an unsuppressed selling price for consumer pineapple and affirmed the other findings subject to the reinvestigation.

On 11 January 2011 the Australian industry lodged an application for a continuation of measures in regards to the Philippines. Following the consideration of this application, a continuation inquiry was initiated on 4 February 2011. On 14 January 2011 the Australian industry lodged an application for a review of measures in regards to the Philippines. Following the consideration of this application, a review was initiated on 4 February 2011.

The current measures applicable to consumer pineapple exported from the Philippines are due to expire on 10 October 2011, whilst the measures for FSI pineapple from the Philippines are due to expire on 13 November 2011.

The measures have not been reviewed since their imposition in 2006.

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## 3. GOODS SUBJECT TO THE REVIEW

### 3.1 Preliminary findings

The Australian industry produces FSI pineapple fruit that has characteristics closely resembling those of FSI pineapple fruit manufactured in the Philippines and exported to Australia and as such FSI fruit produced by the Australian industry are like goods<sup>7</sup>.

### 3.2 The goods and like goods

The goods subject to measures (the goods) are:

- Pineapple prepared or preserved in containers not exceeding one litre (consumer pineapple): and
- Pineapple prepared or preserved in containers exceeding one litre (food service & industrial pineapple).

Consumer pineapple and FSI pineapple are two separate goods.

#### 3.2.1 Tariff classification

The goods are classified to the following tariff classifications in Schedule 3 to the *Customs Tariff Act 1995*:

2008.20.00	Pineapples
2008.20.00/26	Canned, in containers not exceeding one litre
2008.20.00/27	Canned, in containers exceeding one litre
2008.20.00/28	Other

The rate of duty for the goods exported from the Philippines up to 31 December 2009 was 5 percent.

From 1 January 2010 goods falling within subheading 2008.20 of the Harmonized System that are imported from the Philippines and are Originating Goods under the ASEAN-Australia-New Zealand Free Trade Agreement are entitled to receive the FTA preferential rate of duty which is "Free".

#### 3.2.2 Like goods

The issue of like goods was considered during the original investigation into pineapple FSI exported from the Philippines in REP 112.

In REP 112 for FSI pineapple Customs and Border Protection was satisfied that there was an Australian industry producing like goods to the goods under consideration.

Subsection 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

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<sup>7</sup> In terms of s.269T.

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respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration’.

In assessing like goods, Customs and Border Protection uses an analytical framework, which identifies different ways of examining likeness, namely physical likeness, commercial likeness, functional likeness and production likeness.

Golden Circle describes the locally produced (like) goods as prepared or preserved pineapple fruit in container sizes exceeding one litre (typically 3.0-3.2kg) which are sold into the FSI market.

## Physical Likeness

Golden Circle produces a range of pineapple products in the above container sizes for FSI pineapple.

The range includes (but is not limited to) pineapple pieces, pineapple thins, pineapple slices, crushed pineapple and pineapple pizza cuts. The products can be sold in containers in either syrup or natural juice.

Sales of FSI pineapple by the Australian industry and importers that met the description of the goods and like goods were verified by Customs and Border Protection during the review.

## Commercial Likeness

Prepared or processed pineapple fruit is a price-sensitive product that competes directly with imports in the FSI market segment. This was confirmed by distributor catalogues displaying a mix of locally produced and imported goods.

## Functional Likeness

Golden Circle stated that its locally produced products are directly substitutable for the imported goods.

Customs and Border Protection collected information during the review that confirmed the locally produced product and imported product were substitutable for each other.

## Production Likeness

Verified information from industry and exporter visits during the review shows that the locally produced goods and imported goods are manufactured from similar raw materials using a similar manufacturing process.

Customs and Border Protection remains satisfied that there is an Australian industry producing like goods to the goods.

## **3.3 Australian Industry**

### 3.3.1 Preliminary findings

There is an Australian industry that is producing like goods, consisting of Golden Circle.

### 3.3.2 Manufacturing process

For goods to be taken as produced in Australia:

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- they must be wholly or partly manufactured in Australia; and
- for the goods to be partly manufactured in Australia, at least one substantial process in the manufacture of the goods must be carried out in Australia<sup>8</sup>.

Golden Circle is the sole manufacturer of FSI pineapple in Australia, no other interested party has claimed during this review to be an Australian producer of FSI pineapple.

A verification visit was undertaken to Golden Circle during the review where the manufacturing process was observed and data was verified. A non-confidential version of the industry visit report is available on the public record.

Customs and Border Protection considers that at least one substantial process in the manufacture of FSI pineapple is carried out in Australia, and therefore FSI pineapple is manufactured in Australia.

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<sup>8</sup> Subsections 269T(2) and 269T(3).

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## 4. MARKET

Customs and Border Protection used information from past investigations and information collected during the review in its examination of the Australian market for FSI pineapple.

Customs and Border Protection established the market for FSI pineapple during the review period using information from its import database and information supplied by the industry, importers, and the sole cooperating exporter.

Customs and Border Protection identified that some imports of FSI pineapple had been incorrectly classified and took account of those errors in establishing the market.

The FSI market comprises the food service and industrial sectors and the goods are typically supplied in 3.0 to 3.2 kg cans, although sometimes supplied in large aseptic plastic bags and drums.

The food service sector includes pizza outlets, quick service restaurants and institutions. The industrial sector includes customers that use the product as an ingredient for other processed foods including fruit salads, frozen pizzas, sauces, packaged meals, confectionery etc.

FSI pineapple is primarily sold to wholesalers/distributors or end users, with customers being less concerned with brand and driven primarily by price.

The market conditions and determinants of demand for FSI pineapple are unchanged from the original investigation period with price being pivotal to customers purchasing decisions.

The majority of imports of FSI pineapple are principally sourced from Thailand, with smaller volumes from Indonesia and the Philippines. Import data shows that the volume of FSI pineapple imported from the Philippines has been declining.

Riviana, an importer of FSI pineapple, stated that the Australian market in the food services sectors was extremely competitive and was cost based driven. Riviana advised that the pineapple fruit market was relatively mature and stable, and it did not envisage much change in the total market size.

Juremont, an importer of FSI pineapple, advised it has been supplying FSI pineapple fruit over a long period. Juremont stated that FSI pineapple it imports, like Golden Circle, has a strong brand position based on a consistent high quality product.

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## 5. EXPORT PRICE AND NORMAL VALUE

### 5.1 Preliminary findings

- The export price for FSI pineapple exported by Dole Philippines Inc (DPI) can be determined having regard to all the circumstances of the exportation<sup>9</sup>.
- The export price for FSI pineapple exported by all other exporters can be determined having regard to all relevant information<sup>10</sup>.
- The normal value for FSI pineapple exported by DPI can be determined using domestic sales by DPI in the Philippines<sup>11</sup> adjusted for comparison with the export price<sup>12</sup>;
- The normal value for FSI pineapple exported by all other exporters can be determined having regard to all relevant information<sup>13</sup>;
- FSI pineapple exported by DPI during the review period was dumped, with a dumping margin that was 22%; and
- FSI pineapple exported by all other exporters during the review period was dumped, with a dumping margin of 47%.

### 5.2 Importers

Customs and Border Protection examined data from its import database and identified three significant importers of FSI pineapple from the Philippines during this period. Only one importer fully co-operated providing verified information on imports and sales. Customs and Border Protection received limited or no co-operation from the other importers who represented the majority of importations of FSI pineapple from the Philippines.

### 5.3 Australian Industry's claims

The Australian industry claims that one or more of the variable factors relevant to the taking of anti-dumping measures have changed<sup>14</sup>.

The applicant states that industry's selling prices for FSI pineapple have increased from the prices established in the original investigation in 2006 and that this has resulted in a change in the non-injurious price for the Australian industry.

The applicants claim that the normal value for FSI pineapple exported from the Philippines is now higher than during the original investigation.

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<sup>9</sup> Subsection 269TAB(1)(c)

<sup>10</sup> Subsection 269TAB(3)

<sup>11</sup> Subsection 269TAC(1)

<sup>12</sup> Subsection 269TAC(8)

<sup>13</sup> Subsection 269TAC(6)

<sup>14</sup> In accordance with s.269ZC(2)

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The applicants also claimed that the price of FSI pineapple exported from the Philippines is also higher when compared with the original investigation.

## 5.4 Exporters

Exporter questionnaires were sent to companies identified as suppliers of FSI pineapple from the Philippines during the review period.

DPI provided a completed response to the questionnaire and the information was verified during a visit to DPI. A non-confidential copy of the verification report is available on the public record. DPI exports represented less than 10% of the total export volume of FSI pineapple from the Philippines.

Del Monte Philippines Inc (Del Monte) advised it would respond but did not provide any requested information.

Customs and Border Protection did not receive responses from other identified exporters.

### 5.4.1 Export price

The export price for FSI pineapple exported by DPI via its affiliate Dole Packaged Foods Asia (DPFA) has been determined under s.269TAB(1)(c), having regard to all the circumstances of the exportation.

Export prices have been calculated for each export transaction using the price between DPFA and the Australian customers. The individual transactions have been used to determine a weighted average export price for all shipments exported during the investigation period.

For all other exporters Customs and Border Protection considered that sufficient information was not furnished or was not available to enable Customs and Border Protection to establish the export price using:

- the price paid or payable for the goods by the importer<sup>15</sup>;
- the price paid at which the goods were sold by the importer less prescribed deductions<sup>16</sup>; or
- the price determined having regard to all the circumstances of the exportation<sup>17</sup>.

Customs and Border Protection therefore established export prices for all other exporters having regard to all relevant information<sup>18</sup>, being the export price determined for DPI.

### 5.4.2 Normal value

Customs and Border Protection found that DPI's domestic sales of FSI pineapple were representative, arms length and in the ordinary course of trade.

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<sup>15</sup> s. 269TAB(1)(a) of the Act

<sup>16</sup> s. 269TAB(1)(b) of the Act

<sup>17</sup> s. 269TAB(1)(c) of the Act

<sup>18</sup> s. 269TAB(3) of the Act

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Customs and Border Protection considers that the normal value for FSI pineapple exported by DPI can be determined using domestic sales by DPI in the Philippines<sup>19</sup> adjusted for comparison with the export price<sup>20</sup>;

Adjustments were made for; specification (where applicable), timing (where applicable), selling expenses, domestic administration expenses, domestic merchandising and promotion expenses, import duties paid on raw materials, export selling expenses, export general and administration expenses, domestic inland freight and credit terms.

Customs and Border Protection did not receive information from any other exporter in regards to domestic selling prices for FSI pineapple in the Philippines.

Customs and Border Protection considers that the normal value for FSI pineapple exported by all other exporters cannot be determined under any of the preceding sections to s.269TAC(6), therefore normal values have been determined having regard to all relevant information<sup>21</sup>.

Customs and Border Protection has relied on the normal value determined for DPI adjusted for comparison with the export price. Customs and Border Protection did not adjust the normal value for any favourable claims specific to DPI. These included adjustments for credit terms, import duties paid on raw materials, specification adjustments where applicable and domestic merchandising and promotion expenses.

## 5.4.3 Dumping margin

Measurement of a dumping margin is not required for the purposes of revising the variable factors, however, it may be relevant to the consideration of whether measures should be revoked (refer section 7).

A dumping margin has been calculated for FSI pineapple exported by DPI over the review period based upon a comparison of the quarterly normal values and the export prices<sup>22</sup>. The dumping margin calculated for DPI was 22%..

A dumping margin has been calculated for FSI pineapple exported by all other exporters over the review period by comparing the weighted average of export prices over the whole of the review period with the weighted average of corresponding normal values over the whole of that period<sup>23</sup>.

The dumping margin calculated for all other exporters was 47%.

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<sup>19</sup> Subsection 269TAC(1)

<sup>20</sup> Subsection 269TAC(8)

<sup>21</sup> Subsection 269TAC(6)

<sup>22</sup> Subsection 269TACB(2)(aa).

<sup>23</sup> Subsection 269TACB(2)(a).

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## 6. NON-INJURIOUS PRICE

### 6.1 Preliminary findings

The non-injurious price (NIP) can be established for consumer pineapple by using industry's cost to make and sell during the review period plus the profit adjusted down it achieved on consumer pineapple in 2009.

### 6.2 Introduction

Dumping duties may be applied where it is established that dumped imports have caused or threaten to cause injury to the Australian industry producing like goods. The level of dumping duty cannot exceed the margin of dumping, but a lesser duty may be applied if it is sufficient to remove the injury.

The calculation of the non-injurious price provides the mechanism whereby this lesser duty provision is given effect. The non-injurious price is the minimum price necessary to prevent the injury, or a recurrence of the injury, caused to the Australian industry by the dumping<sup>24</sup>.

Anti-dumping duties are usually based on FOB prices in the country of export. Therefore a non-injurious price is calculated in FOB terms for the country of export.

### 6.3 Methods of calculating non-injurious price

The method of calculating a non-injurious price is not given in the legislation, but it is generally derived from Australian industry's unsuppressed selling price. The unsuppressed selling price is a price at which the Australian industry might reasonably be able to sell the goods in a market unaffected by dumped imports.

Customs and Border Protection's preferred approach to establishing the unsuppressed selling price observes the following hierarchy:

1. Industry selling prices at a time unaffected by dumping (known as an unsuppressed selling price).
2. Constructed industry prices – industry cost to make and sell plus an appropriate profit.
3. Selling prices of undumped imports

Having calculated the unsuppressed selling price, Customs and Border Protection then calculates a non-injurious price by deducting the costs incurred in getting the goods from the export FOB point (or another point if appropriate) to the relevant level of trade in Australia.

In the original investigation the unsuppressed selling price for FSI pineapple was determined using Golden Circle's cost to make and sell plus a rate of profit achieved in the same general category of goods. The profit rate used was the

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<sup>24</sup> The non-injurious price is defined in s.269TACA.

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Australian Bureau of Statistics profitability for the fruit and vegetable processing sector.

## 6.4 Australian industry's claims

Golden Circle submitted that the most appropriate method for determining the unsuppressed selling price for consumer pineapple was to use its cost to make and sell (CTMS) during the review period plus the profit it achieved on consumer pineapple in 2009. Golden Circle acknowledged that the profit for 2009 should be adjusted down to account for certain costs that were not accounted for in Golden Circle's accounts.

## 6.5 Customs and Border Protection's assessment

A current investigation is underway into the alleged dumping of FSI pineapple from Indonesia. A review and continuation inquiry into FSI pineapple from Thailand is also in progress.

Customs and Border Protection therefore considers it does not have information to establish whether the industry selling prices have been affected by dumping during the review period.

Accordingly Customs and Border Protection considers that the USP methodology proposed by Golden Circle for the review period is appropriate.

Customs and Border Protection proposes to use Golden Circle's CTMS for 2010 for consumer pineapple plus a profit. The profit has been calculated by deducting the certain costs from the 2009 profit achieved on consumer pineapple

To determine the non-injurious price at the FOB level, deductions have been made from the unsuppressed selling price for:

- overseas freight and marine insurance;
- Australian landing and port charges;
- Customs and quarantine clearances;
- delivery charges from the port to the warehouse and to the customer; and
- sales and administration expenses and profit.

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## 7 SHOULD THE MEASURES BE REVOKED

### 7.1 Preliminary findings

Customs and Border Protection considers that if the anti-dumping measures to which this review relates had not been taken, the Minister would be entitled to take such measures.

### 7.2 Introduction

After reviewing the variable factors Customs and Border Protection considered whether a recommendation to the Minister should be made to revoke the dumping duty notice published under s.269TG(1) and (2) as it applies to a particular exporter or to exporters generally.

This section outlines the factors Customs and Border Protection considers relevant in drawing the preliminary finding stated at 7.1 above.

### 7.3 Likelihood of dumping occurring

The original investigation determined that exports of FSI pineapple from the Philippines were dumped in the range 2 to 20 per cent.

Customs and Border Protection has calculated dumping margins for FSI pineapple exported during the review period ranging from 22% to 47%.

Customs and Border Protection considers that it is reasonable to expect that FSI pineapple would likely have been exported at dumped prices had anti-dumping measures not been taken.

### 7.4 Likelihood of injury in the absence of measures

Golden Circle claimed in its application that material injury will continue and/or recur on the grounds that:

- Golden Circle's processed pineapple operation is vulnerable to dumped exports of pineapple fruit from the Philippines;
- Golden Circle's sales volume in the FSI segments of the processed pineapple market has deteriorated in 2009 and 2010;
- FSI pineapple from the Philippines is undercutting Golden Circle's prices by up to 50%;
- had the measures not been taken, the Australian industry would have suffered an escalation in the level of material injury already sustained in 2009 and 2010;

Golden Circle also submitted that:

- pricing in the FSI market operates differently to that in consumer in that there is no brand visibility;

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- whilst it estimated that it held its market share in 2010 this was due to it reducing its net sale price; and
- the measures are out of date, not having being reviewed since 2006 and exports are at dumped levels.

## Customs and Border Protection's Assessment

It is widely accepted that demand in the FSI pineapple market is primarily driven by price. Brand is not a critical factor as the final consumer is generally not aware of the product brand used. The FSI market is also highly competitive with the main imports being from the Philippines, Thailand, Indonesia and to a lesser extent Vietnam, China and Taiwan.

Sales in the FSI segment are primarily to wholesalers/ distributors and large end users. The wholesalers/ distributors on-sell to customers either through warehouses or delivered. Prices in this sector are generally transparent via advertising catalogues showing the different product brands and pricing. Pricing in the catalogues shows the imported product at 20% - 50% below the Golden Circle product. Information available to Customs and Border Protection from importers and its import database suggests that prices in the market for imported products are at similar levels regardless of the importation source.

Pricing to the larger end users may not be as transparent as sales can involve closed tenders with the unsuccessful parties unaware of the final results. Large end users can include customers in the industrial sector that use the product as an ingredient for other processed foods and also quick service restaurant chains that tender supply for their outlets.

Golden Circle's sales in the FSI market are mainly to the wholesale and distributor sector where prices are more transparent. Customs and Border Protection considers that the size of the dumping margins for FSI pineapple from the Philippines has enabled importers to undercut Golden Circle's prices and compete with other import prices in the market.

Prices for FSI pineapple from the Philippines sold in the Australian market are significantly lower than Golden Circle's prices and significantly lower than what they would have otherwise been had they been imported at prices equal to the normal value.

During the review period Golden Circle has lost sales volume and market share whilst imports of FSI pineapple from the Philippines increased. Golden Circle's prices for FSI pineapple were lower in 2010 as it responded to dumped imports and attempted to regain lost sales. This ultimately led to Golden Circle experiencing reduced revenues and profits.

Therefore, Customs and Border Protection is preliminarily satisfied that:

- had the measures not been taken, imports of FSI pineapple from the Philippines would likely to have been exported at dumped prices, and
- the dumped FSI pineapple would likely had led to the material injury previously experienced by the Australian industry in the form of price undercutting, loss of sales volume, loss of market share, price suppression, and reduced profitability.

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## 7.4.3 Conclusion

Customs and Border Protection's preliminary view is that the following factors support a finding that if the anti-dumping measures had not been taken, the Minister would have been entitled to take such measures:

- Exports of FSI pineapple from the Philippines were dumped during the review period and would likely continue to be dumped in the absence of measures;
- importers have maintained distribution links with exporters of FSI pineapple from the Philippines;
- imports of FSI pineapple from the Philippines have significantly undercut industry prices contributing to lost sales volumes, market share, reduced revenues and profits; and
- had measures not been taken, FSI pineapple exported at dumped prices would likely have led to material injury.

Therefore, subject to responses to the statement of essential facts, Customs and Border Protection does not propose to recommend that the Minister revoke the measures.

# PUBLIC RECORD

## 8 EFFECT OF THE REVIEW

As a result of this variable factors review, Customs and Border Protection has found that export prices and normal values for all exporters of FSI pineapple from the Philippines have increased. The non-injurious price has also increased.

From this review of the variable factors, the normal value is the operative<sup>25</sup> measure for FSI pineapple. The amount of interim dumping duty imposed would also increase.

PUBLIC RECORD

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<sup>25</sup> The operative measure is the lesser of the normal value or non-injurious price. The difference between the revised operative measures and the revised export prices provide for the fixed component of interim dumping duty per unit.