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

R E P O R T

CUSTOMS ACT 1901 - PART XV B

INTERNATIONAL TRADE REMEDIES BRANCH

STATEMENT OF ESSENTIAL FACTS NO.172d

REVIEW OF

ANTI-DUMPING MEASURES

CONSUMER PINEAPPLE

EXPORTED FROM

THAILAND

3 August 2011

PUBLIC RECORD

TABLE OF CONTENTS

1.	SUMMARY AND RECOMMENDATIONS	3
1.1	Proposed recommendation	3
1.2	Preliminary findings and conclusions	3
1.3	Final report.....	4
2.	INTRODUCTION.....	5
2.1	Review process.....	5
2.2	Notification and participation	6
2.3	Responding to the statement of essential facts.....	6
2.4	History of anti-dumping measures	7
3.	GOODS SUBJECT TO THE REVIEW	9
3.1	Preliminary findings.....	9
3.2	The goods and like goods	9
3.2.1	Tariff classification	9
3.2.2	Like goods	9
3.3	Australian Industry	11
3.3.1	Preliminary findings.....	11
3.3.2	Manufacturing process.....	11
4	MARKET	12
5.	EXPORT PRICE AND NORMAL VALUE	13
5.1	Preliminary findings.....	13
5.2	Importers.....	13
5.3	Australian Industry's claims.....	13
5.4	Exporters.....	13
5.4.1	Export price.....	13
5.4.2	Normal value.....	14
5.4.3	Dumping margin.....	14
6.	NON-INJURIOUS PRICE	15
6.1	Preliminary findings.....	15
6.2	Introduction	15
6.3	Methods of calculating non-injurious price	15
6.4	Australian industry's claims.....	16
6.5	Customs and Border Protection's assessment	16
7	SHOULD MEASURES BE REVOKED	17
7.1	Preliminary findings.....	17
7.2	Introduction	17
7.3	Likelihood dumping would have occurred	17
7.4	Likelihood of dumping causing material injury in the absence of measures.....	17
7.5	Conclusion	19
8	EFFECT OF THE REVIEW	20

PUBLIC RECORD

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 consumer pineapple and food service and industrial (FSI) pineapple exported to Australia from the Republic of the Philippines (Philippines) and 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 consumer pineapple from Thailand.

A separate SEF, SEF 172c, has been issued for the review for FSI pineapple from Thailand.

Customs and Border Protection is also conducting continuation inquiries into the measures applicable to consumer pineapple and FSI pineapple exported from Thailand. SEF 171c has been issued for the continuation inquiry into FSI pineapple from Thailand. SEF 171d has been issued for the continuation inquiry into consumer pineapple from Thailand.

Customs and Border Protection issued separate SEFs on 25 May 2011 for measures applicable to FSI pineapple and consumer pineapple from the Philippines. The final reports for those inquiries and reviews have been provided to the Minister who is considering the recommendations contained within.

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 review would result in the ascertained export price, normal value and non-injurious price for all exporters being increased. The level of the measures in the amount of interim dumping duty imposed would also increase.

1.2 Preliminary findings and conclusions

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

- revised export prices for consumer pineapple for Thai exporters can be determined having regard to all relevant information¹;
- revised normal values for consumer pineapple for Thai exporters can be determined having regard to all relevant information²;

¹ Subsection TAB(3), A reference in this report to a provision of legislation, unless otherwise specified, is a reference to the *Customs Act 1901*.

² Ss TAC(6)

PUBLIC RECORD

- consumer pineapple exported by exporters from Thailand to Australia during the review period was dumped with a dumping margin of 57%;
- the non-injurious price for consumer 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 171d³, the delegate proposes to recommend to the Minister that the measures be varied for all exporters of consumer pineapple.

1.3 Final report

The delegate's final report and recommendation in relation to measures applicable to consumer pineapple from Thailand must be provided to the Minister by **17 September 2011**.

³ SEF 171d relates to the inquiry into the continuation of measures on consumer pineapple from Thailand published on 3 August 2011.

PUBLIC RECORD

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, the delegate 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.

The delegate 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 notice⁴:

- 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.

⁴ Ss. 269ZDA(1)(a)

PUBLIC RECORD

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

2.2 Notification and participation

On 14 January 2011, Golden Circle, the sole Australian manufacturer, lodged an application for a review of the measures⁵ 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. 2011/05 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 consumer pineapple from Thailand which outlines Customs and Border Protection's findings and recommendations is due on or before 17 September 2011.

Customs and Border Protection visited Golden Circle and verified data relating to costs and sales for the reviews and inquiries. A non-confidential report of the visit was placed on the public record.

No exporter cooperated for the review or inquiry. Two importers provided information for the review and inquiry.

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 **23 August 2011** if to do so would prevent the timely preparation of the report to the Minister.

Submissions should be sent to:

The Director
International Trade Remedies Branch 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.

Interested parties intending to respond to the statement of essential facts must include a non-confidential version of their submission for placement on the

⁵ In accordance with s.269ZB

PUBLIC RECORD

public record⁶. 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 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 by following the prompts for “anti-dumping”.

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

2.4 History of anti-dumping measures

On 8 January 2001 Golden Circle lodged an application requesting that the Minister publish a dumping duty notice in respect of certain pineapple products (the goods) from Thailand.

The Minister accepted the recommendations in Trade Measures Report No 41 (REP 41) and published dumping duty notices for consumer pineapple exported to Australia from Thailand and FSI pineapple exported from Thailand with the exception of FSI exported by Malee Sampran Public Co.

On 22 February 2006 following consideration of applications from Golden Circle, continuation inquiries and reviews were initiated into the measures applying to consumer and FSI pineapple.

On 28 September 2006 the Minister accepted the recommendations contained within REP 110 and REP 111 to continue the anti-dumping measures applying to both consumer and FSI pineapple for another five years and fix different variable factors in relation to the anti-dumping measures.

Following a decision of the Federal Court in April 2008 measures applying to exports of consumer pineapple from Thailand by the Thai Pineapple Canning Co (TPC) lapsed.

The measures have not been reviewed since the reviews in 2006.

The current measures for Thailand are due to expire on 17 October 2011.

On 15 April 2011 following consideration of an application by Golden Circle an investigation was initiated into the alleged dumping of:

- consumer pineapple exported from the Republic of Indonesia (Indonesia), and exported from Thailand by TPC; and
- FSI pineapple exported from Indonesia.

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

PUBLIC RECORD

The SEFs for the above investigation are due by 3 August 2011, or such later date as the Minister may allow, and the final reports to the Minister are due by 17 September 2011 or such later date as the Minister may allow.

PUBLIC RECORD

PUBLIC RECORD

3. GOODS SUBJECT TO THE REVIEW

3.1 Preliminary findings

The Australian industry produces consumer pineapple that has characteristics closely resembling those of consumer pineapple manufactured in Thailand and exported to Australia therefore consumer pineapple manufactured by the Australian industry are like goods⁷.

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

There is currently no general duty imposed on goods exported from Thailand in accordance with the Thailand-Australia free trade agreement.

Special safeguard measures on canned pineapple were imposed from the date of entry into force of the Thailand-Australia Free Trade Agreement, until 31 December 2008.

Section 16A of the Tariff Act specified the quantities of Thai safeguard goods that could be imported into Australia in a particular calendar year (between 2005 through to 2008) with a 'Free' rate of customs duty, provided that other requirements of the Thailand-Australia Free Trade Agreement were met. Any safeguard goods imported in excess of these quantities during that calendar year were dutiable at the full rate of customs duty, being 5%.

3.2.2 Like goods

The issue of like goods was considered during the original investigation into consumer pineapple exported from Thailand in REP 41.

⁷ In terms of s.269T.

PUBLIC RECORD

In REP 41 for consumer 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 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 not exceeding one litre (typically 225g, 425-450g, and 825-850g, although other sizes are available) sold into retail stores for the consumer market.

Physical Likeness

Golden Circle stated that it produces a range of pineapple products in the above container sizes.

The range includes (but is not limited to) pineapple pieces, pineapple thins, pineapple slices and crushed pineapple.

The products can be sold in containers in either syrup or natural juice.

Sales of consumer pineapple by 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

Golden Circle says that prepared or processed pineapple fruit is a price-sensitive product that competes directly with imports in the consumer market segment.

Customs and Border Protection collected information during the review that confirmed this direct competition.

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 under consideration.

PUBLIC RECORD

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:

- 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 Australia⁸.

Golden Circle is the sole manufacturer of consumer pineapple in Australia, no other interested party has claimed during this review to be an Australian producer of consumer 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 consumer pineapple is carried out in Australia, and therefore consumer pineapple is manufactured in Australia.

⁸ Ss 269T(2) and 269T(3).

PUBLIC RECORD

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 consumer pineapple.

Customs and Border Protection established the market for consumer pineapple for the review 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 consumer pineapple and FSI pineapple had been incorrectly classified and these errors have been taken into account in establishing the market.

Consumer pineapple from Thailand is primarily sold to large retailers or to wholesalers that on-sell to independent stores. The goods exported contain pineapple in the form of thins, slices, pieces and crushed. The fruit is packed in either syrup or natural juice. Sales are predominantly in steel cans in sizes of 225g, 410-450g and 810-850g but may also be packaged in plastic containers.

Consumer pineapple is generally labelled and marketed as either:

- branded product (eg Golden Circle, Dole, Heinz, Del Monte etc); or
- generic/housebrand or private label product (eg Homebrand, Coles Savings, Black and Gold ,Coles Choice, Aldi etc).

Each market segment generally has a distinct price point relative to the other in the market, with branded product being the most expensive and generic/housebrand (generic) product being the least expensive. Consumers generally regard branded products as being of better quality and as such a price premium is attached to the branded goods.

Therefore, whilst the pineapple fruit on the retailer's shelves competed against each other, the price points for each product varied. Branded pineapple product such as Golden Circle and Dole would always be priced above generic product such as Homebrand. Woolworths has previously stated that price points were set according to consumer demand.

Imports of consumer pineapple from Thailand in 2005 were largely generic product and held a significant share of the retail market at that time with the majority of consumer pineapple exported by TPC.

Exports of consumer pineapple from Thailand by exporters other than TPC appear to have been relatively stable in the last calendar three years apart from a significant increase in 2010.

PUBLIC RECORD

5. EXPORT PRICE AND NORMAL VALUE

5.1 Preliminary findings

- The export price for consumer pineapple exported by all exporters can be determined having regard to all relevant information⁹;
- The normal value for consumer pineapple exported by all exporters can be determined having regard to all relevant information¹⁰; and
- Consumer pineapple exported by all exporters during the review period was dumped, with a dumping margin of 57%.

5.2 Importers

Customs and Border Protection examined data from its import database and contacted importers of consumer pineapple from Thailand.

One importer provided documents and worksheets relating to the imports and sales but did not provide further requested information. Another importer provided requested information relating to imports and sales and was visited, a visit report was prepared but the company declined further participation.

Customs and Border Protection did not receive responses for information from the other identified importers.

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 changed¹¹.

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

The applicants also claimed that the export price of consumer pineapple from Thailand was stable when compared with the original investigation.

5.4 Exporters

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

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

5.4.1 Export price

Customs and Border Protection considered that sufficient information was not

⁹ Ss 269TAB(3)

¹⁰ Ss 269TAC(6)

¹¹ In accordance with s.269ZC(2)

PUBLIC RECORD

furnished to enable Customs and Border Protection to establish the export price using:

- the price paid or payable for the goods by the importer¹²;
- the price paid at which the goods were sold by the importer less prescribed deductions¹³; or
- the price determined having regard to all the circumstances of the exportation¹⁴.

Customs and Border Protection therefore considers that export prices for all exporters subject to measures can be determined having regard to all relevant information¹⁵, using relevant information supplied by importers and information from the Customs and Border Protection import database.

5.4.2 Normal value

Customs and Border Protection did not receive information from exporters subject to the review in regards to domestic selling prices for consumer pineapple in Thailand.

Customs and Border Protection considers that the normal value for consumer pineapple exported by all other exporters can be determined having regard to all relevant information¹⁶.

Customs and Border Protection has had regard to the normal value calculated for TPC in the current investigation into the alleged dumping of consumer pineapple exported from Thailand by TPC, SEF 173b refers.

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 consumer pineapple exported by all exporters over the review period based upon a comparison of the quarterly normal values and the export prices¹⁷. The dumping margin calculated was 57%.

¹² Ss. 269TAB(1)(a)

¹³ Ss. 269TAB(1)(b) t

¹⁴ Ss. 269TAB(1)(c)

¹⁵ Ss. 269TAB(3)

¹⁶ Ss 269TAC(6)

¹⁷ Ss 269TACB(2)(a).

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 NIP provides the mechanism whereby this lesser duty provision is given effect. The NIP is the minimum price necessary to prevent the injury, or a recurrence of the injury, caused to the Australian industry by the dumping¹⁸.

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

6.3 Methods of calculating non-injurious price

The method of calculating a NIP is not given in the legislation, but it is generally derived from Australian industry's unsuppressed selling price (USP). The USP 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 USP 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 USP, Customs and Border Protection then calculates a NIP by deducting the costs incurred in getting the goods from the export FOB point (or another point if appropriate) to the relevant level of trade in Australia.

In the original investigation, REP 112 the USP for consumer pineapple exported from Thailand was determined using Golden Circle's cost to make and sell plus a rate of profit achieved in the same general category of goods.

¹⁸ The non-injurious price is defined in s.269TACA.

PUBLIC RECORD

The USP was subject to a reinvestigation in REP 125, where Customs and Border Protection made a new finding that the USP for consumer pineapple be based on the industry's net weighted average selling price for branded product in 2005.

6.4 Australian industry's claims

Golden Circle claimed in the application that industry's selling prices for consumer 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.

Golden Circle submitted that the most appropriate method for determining the unsuppressed selling price (USP) 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 financial statements.

6.5 Customs and Border Protection's assessment

The USP proposed by Golden Circle is the same USP as proposed for the review into anti-dumping measures on consumer pineapple exported from the Philippines, SEF 172b refers. No submissions were received in regards to the proposed USP for that review.

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.

PUBLIC RECORD

7 SHOULD MEASURES BE REVOKED

7.1 Preliminary findings

Customs and Border Protection proposes recommending 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 dumping would have occurred

The original investigation in 2001 determined that exports of consumer pineapple from Thailand were dumped in the range 32% to 74%. The review in 2006 found that exports of consumer pineapple from Thailand were dumped and the margins were not negligible.

Customs and Border Protection has calculated a dumping margin for consumer pineapple exported from Thailand during the review period of 57%.

Therefore it is reasonable to expect that dumping of consumer pineapple exported from Thailand would likely have occurred had the measures not been taken.

7.4 Likelihood of dumping causing material injury in the absence of measures

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

- exporters of consumer pineapple in Thailand have maintained distribution links and continued to supply the Australian market during the period covered by the anti-dumping measures;
- the Thai pineapple processing industry has significant capacity from which it can increase export volumes to Australia in the absence of anti-dumping measures;
- Thailand was affected by drought in 2010 which reduced its volume of pineapple available for supply but when the drought ends in Thailand then more volume from the Thai producers will enter the Australian market;

PUBLIC RECORD

- the Australian industry's sales volumes in the consumer pineapple market have deteriorated in 2009 and 2010;
- imports from Thailand have undercut industry prices;
- should the measures be allowed to expire, the Australian industry will likely experience further lost sales volumes and loss of market share caused by price undercutting;
- Material injury will also likely be experienced through price depression (as export prices decline in the absence of the floor price imposed by the current measures) and price suppression, resulting in a deterioration of profits and profitability; and
- it is unable to compete with the imported selling prices for private label business as landed duty into store prices are below Golden Circle's variable costs of production.

Golden Circle also submitted that:

- private label (generic) sales are a significant portion of total consumer pineapple sales in Australia;

Customs and Border Protection's Assessment

During the original dumping investigation against Thailand in 2001 (REP 41) Customs and Border Protection found that dumped consumer pineapple exports from Thailand had of itself caused material injury to the Australian Industry producing like goods.

In the review and continuation of the measures in 2006 (REP 110 and 111) Customs and Border Protection found that Thai generic brand consumer pineapple products were purchased at dumped prices that significantly undercut the Australian industry's 'Golden Circle' brand. In general, consumers buy the 'Golden Circle' brand for a number of reasons including perceptions of quality and 'Australian made', and brand loyalty. A premium can therefore be charged for the Golden Circle brand. Purchasers of generic product tend to be driven by price rather than other factors.

Customs and Border Protection also found that generic brand product does compete with branded product to some degree. If anti-dumping measures expired on Thai exports, importer/retailers would have increased capacity to decrease prices. If retail prices of generic brand were to drop, retail sales of generic brand would be expected to increase at the expense of the Golden Circle brand and other branded product.

In absence of cooperation from relevant exporters and importers of consumer pineapple from Thailand subject to measures, there is little information to establish the types or quality of consumer pineapple being imported or the degree to which those dumped goods are competing against Golden Circle's branded product. However, Customs and Border Protection has been able to confirm that a substantial proportion of imports comprised goods that were the subject of a successful tender by one of the large retailers.

After having regard to all relevant information and in particular previous findings that dumped exports subject to measures continued to cause material injury to the Australian industry, Customs and Border Protection considers that retailers

PUBLIC RECORD

shelf prices of consumer pineapple were lower than they would have otherwise been had the goods not been dumped by 57% of the export price.

These discounted prices continued to contribute to the material injury being experienced by the Australian industry through either lost volume as consumers purchased the cheaper dumped imported goods or price depression and/or suppression as Golden Circle responded by discounting its own branded product. Ultimately the dumped imports contributed to the losses experienced by Golden Circle during the 2010 review period.

Customs and Border Protection has also had regard to information available for the investigation into the alleged dumping of consumer pineapple from Indonesia and from Thailand by TPC.

In SEF 173b for that investigation Customs and Border Protection considered the available information shows that there is a strong price/volume link between the standard generic and brand products and that price is a key factor in the purchasing decisions of consumers.

Customs and Border Protection also found a strong relationship between the purchase price of imported consumer pineapple and the retail prices of generic and branded pineapple and considered there is sufficient evidence to consider that retail selling prices for standard generic consumer pineapple were lower than what they would have otherwise been had the goods not been exported at significantly dumped prices

Therefore Customs and Border Protection preliminarily concludes that dumped consumer pineapple from Thailand that are subject to measures continued to cause material injury to the Australian industry. Customs and Border Protection also finds that had the measures not been taken, material injury caused by dumping would have continued and therefore the Minister would be entitled to take such measures.

7.5 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 consumer pineapple from Thailand were dumped during the review period;
- imports of consumer pineapple from Thailand have undercut industry prices;
- industry appear to have lost sales volumes to imports from Thailand; and
- exports of consumer pineapple from Thailand would increase at dumped prices that would cause material injury to the industry.

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 considers that the export price and normal value for all exporters of consumer pineapple to Australia have increased since the original investigation. The non-injurious price has also increased.

As a result of this review of the variable factors, the normal value is the operative¹⁹ measure for consumer pineapple exported from Thailand. The outcome of the review will see the level of interim dumping duties increasing.

PUBLIC RECORD

¹⁹ 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.