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

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R E P O R T

*CUSTOMS ACT 1901 - PART XVB*

**INTERNATIONAL TRADE REMEDIES BRANCH**

**STATEMENT OF ESSENTIAL FACTS NO.173a**

**INVESTIGATION**

**INTO THE ALLEGED DUMPING OF  
FOOD SERVICE AND INDUSTRIAL PINEAPPLE  
EXPORTED FROM  
INDONESIA**

3 August 2011

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## 1. SUMMARY AND RECOMMENDATIONS

This investigation is in response to an application by Golden Circle Limited (Golden Circle) into the alleged dumping of food service and industrial (FSI) pineapple exported to Australia from the Republic of Indonesia (Indonesia).

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) in relation to the application.

A separate SEF, SEF 173b, has been issued for the investigation into the alleged dumping of consumer pineapple exported from Indonesia and from Thailand by the Thai Pineapple Canning Corp Ltd (TPC).

Customs and Border Protection is also conducting reviews and continuation inquiries into the measures applicable to consumer pineapple and FSI pineapple exported from Thailand and from the Republic of the Philippines (Philippines).

### 1.1 Preliminary findings and conclusions

Customs and Border Protection has made the following preliminary findings:

- Exports of FSI pineapple from Indonesia by PT Great Giant Pineapple (Great Giant) were not dumped; and
- exports of FSI pineapple from Indonesia by all other exporters were dumped, but the dumping margins were negligible.

Based on these preliminary findings, and subject to any submissions received in response to this SEF the delegate proposes to terminate the investigation into FSI pineapple exported from Indonesia.

### 1.2 Application of law to facts

#### 1.2.1 Authority to make decision

Division 2 of Part XVB of the *Customs Act 1901*<sup>1</sup> (the Act) sets out, among other matters, the procedures to be followed and the matters to be considered by the Chief Executive Officer (CEO) in conducting investigations in relation to the goods covered by an application. The CEO's powers under this Division have been delegated to certain officers of Customs and Border Protection.

#### 1.2.2 Application

On 24 March 2011, Golden Circle, the sole producer of pineapple fruit in Australia, lodged an application for the publication of a dumping duty notice in

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<sup>1</sup> A reference to a division, section or subsection in this report is a reference to a provision of the Act, unless otherwise specified.

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respect of consumer pineapple fruit exported to Australia from Indonesia and from Thailand by the Thai Pineapple Canning Industry Corporation Ltd (TPC) and for FSI pineapple fruit exported to Australia from Indonesia.

## 1.2.3 Initiation of investigation

After examining the application, the delegate was satisfied that:

- the application complied with subsection 269TB(4);
- there is an Australian industry in respect of like goods; and
- there appears to be reasonable grounds for the publication of a dumping duty notice in respect of goods the subject of the application.

Following consideration of the application an investigation was initiated with public notification made on 15 April 2011 in *The Australian* newspaper. Australian Customs Dumping Notice (ACDN) No. 2011/15 was also published.

## 1.2.4 Statement of essential facts

The CEO must, within 110 days after the initiation of an investigation, or such longer period as the Minister allows, place on the public record a statement of the facts on which the CEO proposes to base his recommendation in relation to the application.

In formulating the statement of essential facts, the CEO must have regard to the application concerned, any submissions concerning publication of the notice that are received by Customs and Border Protection within 40 days after the date of initiation of the investigation and any other matters considered relevant.

## 1.3 Preliminary findings and conclusions

Customs and Border Protection has made the following preliminary findings and conclusions based on available information at this stage of the investigation.

### 1.3.1 The goods and like goods (chapter 3 of this report)

Locally produced FSI pineapple are like goods to the goods the subject of the application.

### 1.3.2 Australian industry (chapter 3 of this report)

There is an Australian industry producing like goods, comprising one Australian producer, Golden Circle.

### 1.3.3 Market (chapter 4 of this report)

The size of Australian market for FSI pineapple was over 16,000 tonnes in 2010. FSI pineapple is primarily sold to wholesalers/distributors or end users, with customers being less concerned with brand and driven primarily by price.

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## 1.3.4 Dumping (chapter 5 of this report)

Customs and Border Protection has determined the following dumping margins for FSI pineapple exported to Australia from Indonesia

PT Great Giant Pineapple (Great Giant)	-3.2%
All other exporters	1.8%

## 1.3.5 Economic condition of the industry (chapter 6 of this report)

The Australian industry suffered injury in the form of:

- price suppression;
- price depression;
- loss of sales volumes;
- reduced profits;
- reduced profitability;
- reduced return on investment;
- reduced investment in the industry;
- reduced revenue;
- reduced capacity utilisation; and
- reduced employment.

## 1.3.5 Has dumping caused material injury (chapter 7 of this report)

Injury suffered by the Australian industry has been caused by other factors, being primarily exports of FSI pineapple from Thailand and the Philippines.

## 1.4 Final report

The delegate's final report and recommendation in relation to the investigation into FSI pineapple from Indonesia must be provided to the Minister by **17 September 2011**.

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## 2. BACKGROUND

### 2.1 Previous investigations

On 8 January 2001 Golden Circle lodged an application for a dumping duty notice in respect of FSI pineapple from Indonesia. In Trade Measures Report No 41 (REP 41) Customs and Border Protection found that exports of FSI pineapple from Indonesia were not dumped. The investigation in regards to exports of FSI pineapple from Indonesia was terminated in October 2001<sup>2</sup>.

### 2.2 This investigation

On 24 March 2011, Golden Circle, the sole producer of consumer and FSI pineapple in Australia, lodged an application for the publication of a dumping duty notice in respect of consumer pineapple exported to Australia from Indonesia and Thailand by TPC and for FSI pineapple exported to Australia from Indonesia.

Following consideration of the application an investigation was initiated with public notification made on 15 April 2011 in *The Australian* newspaper. Australian Customs Dumping Notice (ACDN) No. 2011/15 was also published.

An investigation period of 1 January 2010 to 31 December 2010 was advised for the investigation. Customs and Border Protection examined exports to Australia of the goods during that period to determine whether dumping has occurred. Customs and Border Protection examined details of the Australian market from 1 January 2008 for injury analysis.

Customs and Border Protection visited Golden Circle for the reviews and continuations into pineapple advised above. At that visit data relating to costs and sales was verified covering the calendar years 2008 to 2010, a report of the visit was placed on the public record for the reviews and continuations.

Customs and Border Protection used the data verified from the visit to Golden Circle for this investigation.

### 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

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<sup>2</sup> s. 269TDA(1)

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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>3</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 and other information. These documents should be read in conjunction with this statement of essential facts. The public record may be viewed at Customs House Canberra by contacting International Trade Remedies administration on (02) 6275 6547.

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”.

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<sup>3</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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## 3. GOODS SUBJECT TO THE INVESTIGATION

### 3.1 Preliminary findings

The Australian industry produces FSI pineapple that has characteristics closely resembling those of FSI pineapple manufactured in Indonesia and exported to Australia therefore FSI pineapple manufactured by the Australian industry are like goods<sup>4</sup>.

### 3.2 The goods and like goods

The goods subject to the investigations (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 Indonesia is 5 percent.

#### 3.2.2 Like goods

##### 3.2.2.1 FSI and consumer pineapple separate goods

###### Exporter claims

Great Giant exported both consumer and FSI canned pineapple to Australia. It claimed that both of these products were the goods. They were exported to two separate market segments and that they should be treated separately for the purpose of examining the Australian market. However, any dumping margin should be calculated for the goods, and not separately calculated for two product categories within the definition of the goods.

Great Giant stated that Customs and Border Protection had adopted this approach in other investigations, such as hollow steel structural sections, clear float glass and aluminium extrusions. In these cases there was one initiation notice, but the investigation examined the different market segments. At the

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<sup>4</sup> In terms of s.269T.

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conclusion of the investigation, Customs and Border Protection calculated a product dumping margin for the goods. Great Giant claimed that this principle should also be applied to the canned pineapple investigation and that a product dumping margin should be calculated for canned pineapple.

## Customs and Border Protection's assessment

Customs and Border Protection considered the issue of whether consumer pineapple and FSI pineapple were separate goods in Consideration Report 173 (CON 173) issued in regards to the application by Golden Circle.

Chapter 4.1.1 of Con 173 notes that:

The application notes that REP 41 identified two broad segments in the pineapple fruit market, namely consumer pineapple and FSI pineapple, and that REP 110, REP 111 and REP 112 affirmed the view that there were "two distinct segments" of the pineapple fruit market. These two market segments are consumer pineapple fruit and FSI pineapple.

The issue of whether the consumer pineapple and FSI pineapple were separate goods was also considered in REP 125.

REP 125 affirmed the methodology and findings in investigation REP 112, that consumer pineapple and FSI pineapple are separate goods for the purpose of analysis of the domestic market.

No information has been presented to detract from the previous findings that consumer pineapple and FSI pineapple are separate goods.

Having regard to the application and other available information Customs and Border Protection considers that consumer pineapple and FSI pineapple are separate goods.

REP 41 refers to Customs and Border Protection's investigation into consumer pineapple and FSI pineapple. That investigation considered that FSI pineapple and consumer pineapple were separate goods.

REP 110 and REP 111 refer to Customs and Border Protection's inquiry and review into consumer pineapple and FSI pineapple. That inquiry and review considered that FSI pineapple and consumer pineapple were separate goods.

REP 112 refers to Customs and Border Protection's investigation into consumer pineapple and FSI pineapple. That investigation considered that FSI pineapple and consumer pineapple were separate goods.

REP 125 refers to Customs and Border Protection's re-investigation of certain findings in REP 112. The re-investigation affirmed the finding that FSI pineapple and consumer pineapple were separate goods.

Customs and Border Protection does not consider that Great Giant has presented information to detract from previous findings and from CON 173 that consumer pineapple and FSI pineapple are separate goods.

## **Customs and Border Protection's assessment of like goods**

### Like Goods

The issue of like goods was considered during the original investigation into FSI pineapple exported from Indonesia in REP 41. In REP 41 for FSI pineapple

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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 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.

## 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 investigation that confirmed the locally produced product and imported product were substitutable for each other.

## Production Likeness

Verified information from industry and exporter visits 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.

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## 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 Australia<sup>5</sup>.

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

A verification visit was undertaken to Golden Circle for the review of measures and continuation inquires 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>5</sup> Subsections 269T(2) and 269T(3).

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## 4 AUSTRALIAN MARKET

### 4.1 Preliminary finding

The size of Australian market for FSI pineapple was over 16,000 tonnes in 2010. FSI pineapple is primarily sold to wholesalers/distributors or end users, with customers being less concerned with brand and driven primarily by price.

### 4.2 Market structure

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.

### 4.3 Market supply

Customs and Border Protection established that the Australian FSI market is supplied by the Australian industry, as well as imports from a number of countries. 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 Indonesia has been decreasing since 2008.

Pan Pacific International Trading Pty Ltd (Pan Pacific), an importer of FSI pineapple from Indonesia, stated that it is not currently in competition with Golden Circle for provision of A10 size canned pineapple to its sole customer in the FSI market. It stated that its main competitors within this market are importers of Thai FSI products.

FTA Food Solutions Pty Ltd (FTA Food) an importer of FSI pineapple from Thailand advised that it supplies to numerous customers in the FSI sector. FTA Food stated that the Australian market in the FSI sector was extremely competitive and was cost based driven.

FTA Food believes that the Australian industry is unable to supply the Australian FSI market and concentrates on the consumer market. FTA Food only supplies to the FSI market.

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

Juremont Pty Ltd (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 has a strong brand position (like the Golden Circle product) based on a consistent high quality product.

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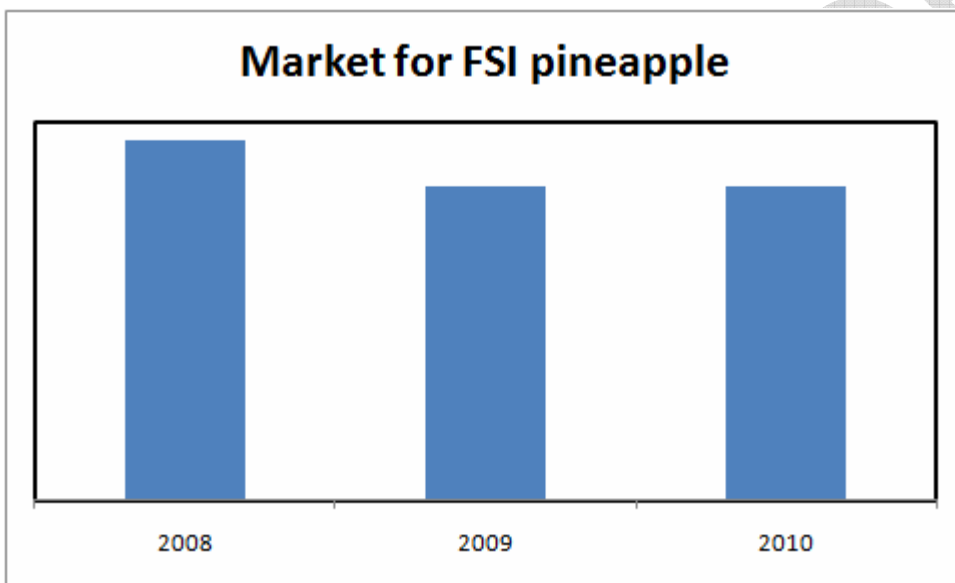
The market conditions and determinants of demand for FSI pineapple appear unchanged from previous investigations with price being pivotal to customers purchasing decisions.

## 4.4 Market size

Customs and Border Protection established the market for FSI pineapple using information from its import database and information supplied by the industry, importers, and cooperating exporters.

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 Australian market for FSI pineapple over the calendar years 2008 to 2010 is shown in the following chart.



The available data shows that the FSI pineapple market in Australia experienced a decline from 2008 to 2009 but was relatively stable from 2009 to 2010.

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## 5. DUMPING INVESTIGATION

### 5.1 Preliminary Findings

- The export price for FSI pineapple exported by PT Great Giant Pineapple (Great Giant) can be established using the price paid for the goods by the importer to the exporter.<sup>6</sup>
- The export price for FSI pineapple exported by all other exporters can be determined having regard to all relevant information<sup>7</sup>.
- The normal value for FSI pineapple exported by Great Giant can be determined using the cost of production and amounts for selling, general and administrative expenses<sup>8</sup>;
- The normal value for FSI pineapple exported by all other exporters can be determined having regard to all relevant information<sup>9</sup>;
- FSI pineapple exported by Great Giant during the investigation period was not dumped, with a dumping margin that was - 3.2%; and
- FSI pineapple exported by all other exporters during the investigation period was dumped, however the dumping margin was negligible at 1.8%.

### 5.2 Introduction

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 goods are determined under sections 269TAB and 269TAC respectively.

This chapter explains the preliminary results of investigations by Customs and Border Protection into whether FSI pineapple was exported from Indonesia at dumped prices during the investigation period.

### 5.3 Exporters

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

Great Giant provided a completed response to the questionnaire and the information was verified during a visit to Great Giant. A non-confidential copy of the verification report is available on the public record. Great Giant exports represented more than 80% of the total export volume of FSI pineapple from Indonesia.

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

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<sup>6</sup> s. 269TAB(1)(a)

<sup>7</sup> s. 269TAB(3)

<sup>8</sup> s. 269TAC(2)(c)

<sup>9</sup> s. 269TAC(6)

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## 5.3.1 Export price

The export price for FSI pineapple exported by Great Giant can be established using the price paid for the goods by the importer less any post exportation expenses<sup>10</sup>.

Export prices have been calculated for each export transaction using the price between Great Giant 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.

Export prices for Great Giant have been calculated at an ex-factory price.

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

- the price paid or payable for the goods by the importer<sup>11</sup>;
- the price paid at which the goods were sold by the importer less prescribed deductions<sup>12</sup>; or
- the price determined having regard to all the circumstances of the exportation<sup>13</sup>.

Customs and Border Protection therefore established export prices for all other exporters having regard to all relevant information<sup>14</sup>. Export prices for all other exports have been calculated at a free on board (FOB) price using information from importers and Customs and Border Protections import database.

## 5.3.2 Normal value

Great Giant did not have any domestic sales in 2010, either of like goods or a similar category of goods. No other Indonesian producer cooperated with the investigation and Customs and Border Protection did not receive information from any other exporter in regards to domestic selling prices for FSI pineapple in Indonesia.

Customs and Border Protection is satisfied that it is unable to establish normal values under subsection 269TAC(1) of the Act and considers that 'constructed' normal values should be determined under subsection 269TAC(2)(c) of the Act.

Customs and Border Protection used verified quarterly production costs from Great Giant for each pineapple product exported to Australia in the investigation period. Customs and Border Protection used verified sales, general and administration (SG&A) costs for export sales and added these costs to the constructed normal value.

Customs and Border Protection considered the issue of what profit should be added to the constructed costs to calculate normal values.

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<sup>10</sup> s. 269TAB(1)(a)

<sup>11</sup> s. 269TAB(1)(a) of the Act

<sup>12</sup> s. 269TAB(1)(b) of the Act

<sup>13</sup> s. 269TAB(1)(c) of the Act

<sup>14</sup> s. 269TAB(3) of the Act

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The amount of profit to be added to a constructed normal value must be worked out in accordance with regulation 181A of the Act.<sup>15</sup>

Great Giant did not have any domestic sales of like goods or sales in the same general category of goods and Customs and Border Protection did not receive information from any other exporter in regards to domestic selling prices for FSI pineapple in Indonesia to allow a profit to be determined under regulation 181A(3)(a) and (b).

Regulation 181A(3)(c) allows for a profit to be determined using any other reasonable method and having regard to all relevant information.

Customs and Border Protection is currently considering whether measures applying to the Philippines should be continued. A Philippines producer was visited during that inquiry and it had domestic sales of both consumer and FSI pineapple.

Customs and Border Protection considered using the profit achieved by the producer on its sales of FSI pineapple in the Philippines, however there is little evidence to confirm that the Philippines FSI domestic market is an appropriate market to compare with the domestic market in Indonesia. In fact, the volume and nature of the domestic sales in Philippines indicates that the market differs substantially. Therefore, profits achieved by Philippine exporters of domestic sales of FSI are not considered suitable.

Customs and Border Protection next considered using a profit achieved in the same general category of goods using available information from the internet. The same general category was for fruit and vegetable processors in Indonesia. However that information was unverified and did not disclose whether the amounts were for domestic sales only.

Customs and Border Protection considers that there is no reliable information to demonstrate that domestic sales of FSI pineapple would be profitable. Therefore Customs and Border Protection's preliminary view is that no profit should be added to the constructed normal value.

Customs and Border Protection considers that a normal value can be determined at the ex-factory price using the information verified at the visit to Great Giant. Adjustments to the normal value are not required as the export price and normal value can be established and determined at the ex-factory price.

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>16</sup>.

Customs and Border Protection has used the normal value for Great Giant as the normal value for all other exporters.

Customs and Border Protection adjusted the normal value for all other exporters to bring it to a FOB price using information verified from Great Giant.

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<sup>15</sup> Subsection 269 TAC(5B)

<sup>16</sup> Subsection 269TAC(6)

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## 5.3.3 Dumping margin

A dumping margin has been calculated for FSI pineapple by Great Giant over the investigation period based upon a comparison of the quarterly normal values and the export prices<sup>17</sup>.

The calculations showed the goods were not dumped, the dumping margin calculated for Great Giant was negative at -3.2%.

A dumping margin has been calculated for FSI pineapple exported by all other exporters over the investigation period.

The dumping margin calculated for all other exporters was negligible at 1.8%.

Subject to responses to this SEF Customs and Border Protection proposes to terminate the investigation into FSI pineapple from Indonesia as it applies to Great Giant and all other exporters as the dumping margins calculated are less than 2%<sup>18</sup>.

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<sup>17</sup> Subsection 269TACB(2)(a).

<sup>18</sup> Subsection 269TDA(1)(ii)

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## 6 ECONOMIC CONDITION OF THE INDUSTRY

Industry claimed that the FOB export prices for FSI pineapple imported from Indonesia were the lowest of the three largest source countries (i.e. Thailand, Philippines and Indonesia) supplying the Australian market during 2010 and considers that material injury from dumped Indonesian FSI pineapple commenced in 2010.

### 6.1 Applicants claims

Golden Circle claimed that the allegedly dumped exports of FSI pineapple from Indonesia caused injury in the form of:

- Price depression;
- Price suppression;
- Reduced profits and profitability;
- Reduced revenues;
- Reduced return on investment;
- Reduced attractiveness to reinvest; and
- Reduction in employee numbers

Customs and Border Protection examined data for the period 1 January 2008 to 31 December 2010 in order to assess the industry injury claims and has examined Golden Circle's performance on a calendar year basis.

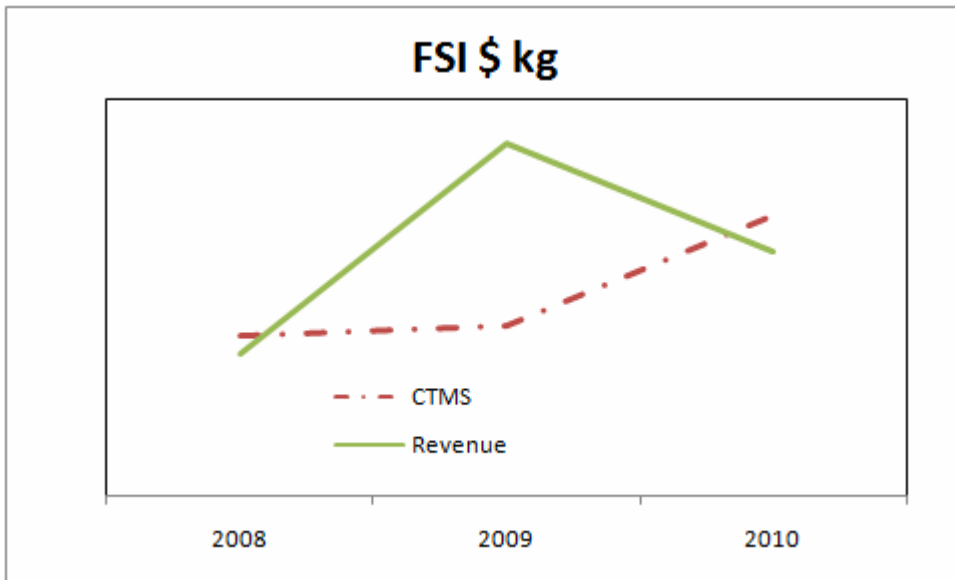
### 6.2 Price effects

#### 6.2.2 Price depression and suppression

Price depression occurs when a company, for some reason, lowers its prices. Price suppression occurs when price increases for the applicant's product, which otherwise would have occurred, have been prevented.

Golden Circle's selling prices for FSI pineapple increased from 2008 to 2009 and declined from 2009 to 2010, whilst costs were steady from 2008 to 2009 before increasing above prices in 2010.

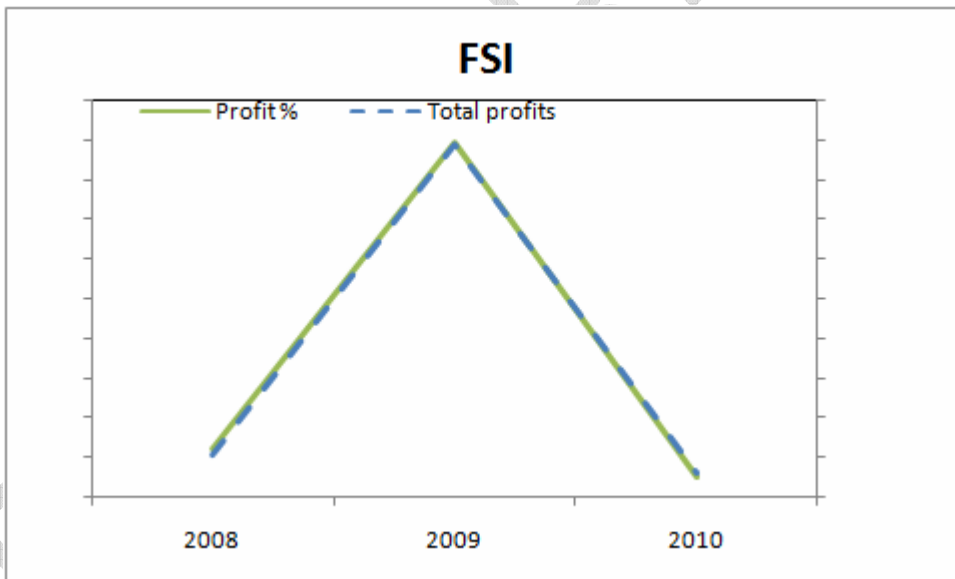
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Customs and Border Protection considers that Golden Circle has suffered injury in the form of price depression and price suppression in regards to FSI pineapple.

### 6.2.2 Profit and profitability

Golden Circle's total profits and profitability for FSI pineapple increased from 2008 to 2009 and declined from 2009 to 2010 below the level of 2008.



Customs and Border Protection considers that Golden Circle has suffered injury in the form of reduced profits and profitability in regards to FSI pineapple.

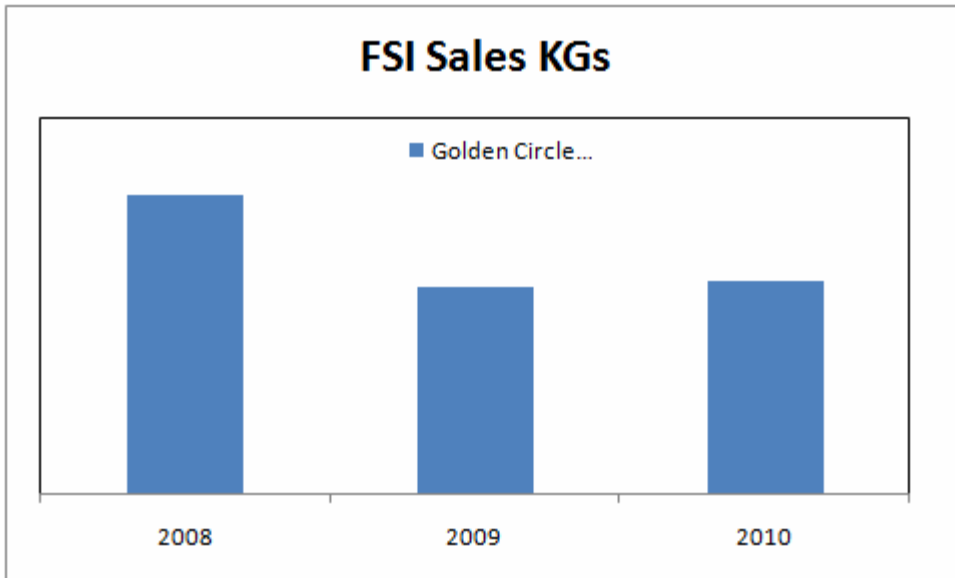
### 6.3 Volume effects

Golden Circle did not claim volume related injury, however Customs and Border Protection has examined volume factors in its overall assessment of injury to the industry.

# PUBLIC RECORD

## 6.3.1 Sales volumes

Golden Circle has lost sales volumes, however a significant part of Golden Circles sales volumes in 2008 was sales of imported FSI by Golden Circle.

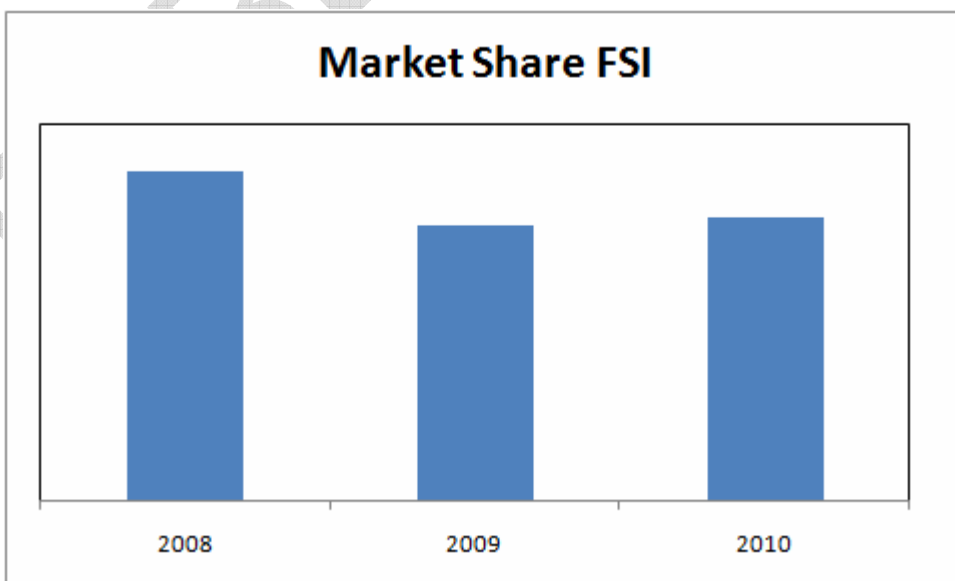


The data also shows that Golden Circle lost volumes of its sales of its own production of FSI from 2008 to 2010. Golden Circle increased sales volumes of its own production from 2009 to 2010 but volumes were not at the levels it had in 2008.

Customs and Border Protection considers that Golden Circle has suffered injury in the form of lost sales volumes for FSI pineapple.

## 6.3.2 Market share

Golden Circle has lost market share since 2008. However a significant part of Golden Circles market share in 2008 was due to sales of imported FSI by Golden Circle.



# PUBLIC RECORD

An examination of sales of FSI pineapple produced by Golden Circle shows that Golden Circle's market share has remained relatively steady over the past three years.

Customs and Border Protection does not consider that Golden Circle has suffered injury in the form of lost market share for FSI pineapple.

## 6.4 Other economic factors

Section 269TAE(3) provides a reference to the other relevant economic factors to have regard to in determining material injury to an Australian industry has been caused.

### Reduced return on investment

Golden Circle provided data for return on investment (ROI) for 2009 and 2010 which shows a reduced ROI. The data also shows that Golden Circle incurred losses in relation to the FSI and consumer pineapple produced by Golden Circle.

Customs and Border Protection considers that Golden Circle has suffered injury in the form of reduced return on investment.

### Reduced attractiveness to reinvest

Golden Circle claimed that the returns from consumer and FSI pineapple fruit impact on its parent company's ability to reinvest in the industry thereby diverting investment to more attractive elements of the portfolio that is/are capable of returns above the company's target weighted average cost of capital.

### Assets

Golden Circle's data shows that assets have declined from 2009 to 2010.

### Capital investment

Golden Circle's data shows that capital investment has declined from 2009 to 2010.

### Research and development

Golden Circle's data shows that research and development expenses have declined from 2009 to 2010.

### Sales revenue

Golden Circle's data shows sales revenue for FSI pineapple has shown a decline from 2008 to 2010. The decline in revenue is evident for sales of FSI pineapple including that which it imported as well as for sales of FSI pineapple of its own production.

### Capacity utilisation

Golden Circle's data shows that the capacity utilisation in regards to FSI and consumer pineapple has decreased from 2008 to 2010.

### Employment

Golden Circle's data shows that the number of workers associated with the production of FSI and consumer pineapple has decreased from 2008 to 2010.

# PUBLIC RECORD

## 6.5 Conclusion of the economic performance of the industry

Based on the data submitted by Golden Circle and verified by Customs and Border Protection, Customs and Border Protection considers that Golden Circle has experienced injury in the form of:

- price suppression;
- price depression;
- loss of sales volumes;
- reduced profits;
- reduced profitability;
- reduced return on investment;
- reduced investment in the industry;
- reduced revenue;
- reduced capacity utilisation; and
- reduced employment.

PUBLIC RECORD

# PUBLIC RECORD

## 7 HAS DUMPING CAUSED MATERIAL INJURY

In Chapter Five Customs and Border Protection found the FSI exported from Indonesia was not dumped or exported at margins that were negligible.

Customs and Border Protection considers that material injury has not been caused to Golden Circle by exports of FSI pineapple from Indonesia.

### 7.1 Government of Indonesia submission

The Government of Indonesia (GOI) submitted in regards to the investigation into FSI pineapple that:

- the rise in imports from Indonesia in 2010 is due to the recent drought in Thailand and this increase indicates that the Australian industry could not readily supply the domestic market;
- the Indonesian canned pineapple market is not representative for normal values as it has a very small number of consumers that leads to highly inflated domestic prices;
- the acquisition of Golden Circle by Heinz Australia has led to increased cost of production due to service charges from Heinz Australia and it is unreasonable to expect the market to absorb these charges in higher prices; and
- the export performance of the industry slumped in 2010 and this may be the major reason for injury to the industry.

### 7.2 Indonesian FSI exports

Customs and Border Protection has preliminarily determined that the majority of FSI pineapple exports from Indonesia were not dumped during the investigation period, and the remaining exports were dumped at negligible levels.

### 7.3 Other factors that may have contributed to injury

Customs and Border Protection has recently completed an inquiry and review into FSI pineapple exported from the Philippines and is also currently conducting an inquiry and review into FSI pineapple exported from Thailand.

Customs and Border Protection's preliminary view in SEF 172a in regards to the review of the measures for FSI pineapple exported from the Philippines was that:

- exports of FSI pineapple from the Philippines were dumped during the review period;
- importers have maintained distribution links with exporters of FSI pineapple from the Philippines, and
- imports of FSI pineapple from the Philippines have significantly undercut industry's prices contributing to lost sales volumes, market share, reduced revenues and profits.

## PUBLIC RECORD

Customs and Border Protection's preliminary view in SEF 172c in regards to the review of the measures for FSI pineapple exported from Thailand is that:

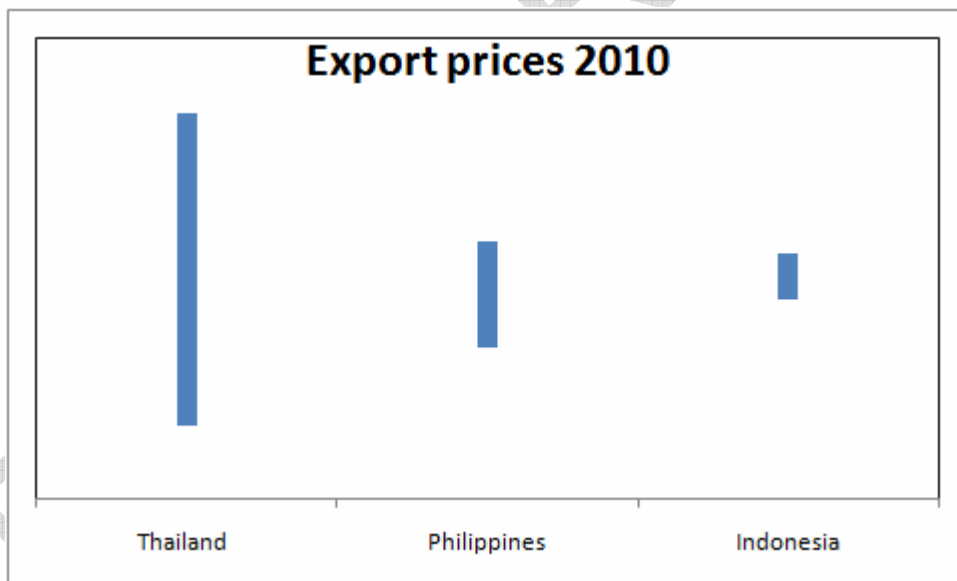
- exports of FSI pineapple from Thailand were dumped during the review period;
- importers have maintained distribution links with exporters of FSI pineapple from Thailand, and
- imports of FSI pineapple from Thailand have significantly undercut industry prices contributing to lost sales volumes reduced revenues and profits.

Customs and Border Protection considers that the available evidence points to exports of dumped FSI pineapple from Thailand and the Philippines as contributing to the injury experienced by Golden Circle.

Customs and Border Protection used information from its import database and information gathered from the industry, exporters and importers to assess the competitiveness of Indonesian exports of FSI pineapple in the Australian market against exports from Thailand and the Philippines.

The information shows a range of export prices from each country, Thai exports are the lowest priced and appear to be setting the price in the market, the majority of Thai exports are priced at the mid to low end of the price range. Philippine exports sit within the range of prices in the market and are competitive in the market.

The Indonesian exports are within a narrower band and are also competitive in the market.



# PUBLIC RECORD

## 8 NON-INJURIOUS PRICE

### 8.1 Preliminary findings

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

### 8.2 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. This lesser duty provision is contained in the World Trade Organisation Anti-Dumping Agreement and the Tariff Act<sup>19</sup>.

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 dumping<sup>20</sup>.

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

### 8.3 Unsuppressed selling price

Customs and Border Protection generally derives the NIP by first establishing a price at which the local industry might reasonably sell its product in a market unaffected by dumping. This price is referred to as the unsuppressed selling price (USP).

Customs and Border Protection's preferred approach to establishing a USP observes the following hierarchy:

- industry selling prices at a time unaffected by dumping;
- constructed industry prices – industry cost to make and sell plus profit; or
- selling prices of un-dumped 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. The deductions normally include overseas freight, insurance, into store costs and amounts for importer expenses and profit.

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<sup>19</sup> Subsection 8(5A) of the Tariff Act

<sup>20</sup> The NIP is defined in section 269TACA

# PUBLIC RECORD

## 8.4 Australian industry's claims

Golden Circle submitted that the most appropriate method for determining the unsuppressed selling price for FSI pineapple was to use its cost to make and sell (CTMS) during the review period plus the profit it achieved on FSI 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 in 2009.

## 8.5 Customs and Border Protection's assessment

The USP proposed by Golden Circle is the same USP proposed by Golden Circle for the review of FSI pineapple exported from the Philippines. Customs and Border Protection did not receive any submissions in regards to the proposed USP.

Accordingly Customs and Border Protection preliminary view is that the USP methodology proposed by Golden Circle is appropriate.

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