

PUBLIC RECORD



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.173b
INVESTIGATION
INTO THE ALLEGED DUMPING OF
CONSUMER PINEAPPLE
EXPORTED FROM
INDONESIA
AND BY
THE THAI PINEAPPLE CANNING INDUSTRY
CORPORATION LTD
FROM
THAILAND**

3 August 2011

PUBLIC RECORD

PUBLIC RECORD

TABLE OF CONTENTS

1.	SUMMARY AND RECOMMENDATIONS	4
1.1	Preliminary findings and conclusions	4
1.2	Application of law to facts.....	4
1.2.1	Authority to make decision.....	4
1.2.2	Application	5
1.2.3	Initiation of investigation	5
1.2.4	Statement of essential facts.....	5
1.3	Preliminary findings and conclusions	5
1.3.1	The goods and like goods (chapter 3 of this report).....	5
1.3.2	Australian industry (chapter 3 of this report)	5
1.3.3	Market (chapter 4 of this report).....	5
1.3.4	Dumping (chapter 5 of this report)	6
1.3.5	Economic condition of the industry (chapter 6 of this report)	6
1.3.6	Has dumping caused material injury (chapter 7 of this report).....	6
1.4	Final report.....	6
2.	BACKGROUND	7
2.1	Previous investigations.....	7
2.2	This investigation	7
2.3	Responding to the statement of essential facts.....	8
3	GOODS SUBJECT TO THE investigation.....	9
3.1	Preliminary findings.....	9
3.2	The goods and like goods	9
3.2.1	Tariff classification	9
3.2.2	The goods.....	9
3.2.2	Like goods	10
3.3	Australian Industry.....	11
3.3.1	Preliminary findings	11
3.3.2	Manufacturing process	11
4	AUSTRALIAN MARKET	13
4.1	Preliminary finding.....	13
4.2	Market supply	13
4.3	Market size.....	13
4.4	Market structure	14
5	DUMPING INVESTIGATION.....	15
5.1	Preliminary Findings	15
5.2	Introduction	15
5.3	Exporters.....	15
5.3.1	Export price	16
5.3.2	Normal value.....	16
5.3.3	Dumping margin	19
6	ECONOMIC CONDITION OF THE INDUSTRY	20
6.1	Preliminary finding.....	20
6.2	Applicant's claims.....	20
6.3	Price effects	21
6.3.1	Price depression and suppression.....	21
6.3.2	Profit and profitability	21
6.4	Volume effects	22
6.4.1	Sales volumes	22

PUBLIC RECORD

6.4.2	Market share.....	23
6.5	Other economic factors	23
6.6	Preliminary conclusion of the economic performance of the industry..	24
7	HAS DUMPING CAUSED MATERIAL INJURY	25
7.1	Preliminary finding.....	25
7.2	Introduction	25
7.3	Views presented to the investigation by interested parties.....	26
7.3.1	Government of Indonesia	26
7.3.2	TPC	26
7.3.3	Golden Circle.....	26
7.4	Dumping.....	27
7.5	Volume effects	27
7.5.1	Loss of sales volume and market share	27
7.6	Price effects	28
7.6.1	Price undercutting.....	32
7.6.2	Price depression.....	32
7.6.3	Price suppression	33
7.7	Profit effects	34
7.8	Other economic factors	35
7.9	Other possible causes of injury	36
7.10	Is the injury caused by dumping material?.....	36
7.11	Summary – Causal link	37
8	WILL DUMPING AND MATERIAL INJURY CONTINUE?.....	38
8.1	Preliminary findings.....	38
8.2	Introduction	38
8.3	Customs and Border Protection’s assessment.....	38
8.3.1	Will dumping continue?.....	38
8.3.2	Will material injury continue?.....	38
9	NON-INJURIOUS PRICE.....	39
9.1	Preliminary findings.....	39
9.2	Introduction	39
9.3	Unsuppressed selling price	39
9.4	Australian industry’s claims	40
9.5	Customs and Border Protection’s assessment.....	40

PUBLIC RECORD

1. SUMMARY AND RECOMMENDATIONS

This investigation is in response to an application by Golden Circle Limited (Golden Circle) into the alleged dumping of consumer pineapple exported to Australia from the Republic of Indonesia (Indonesia) and by the Thai Pineapple Canning Industry Corporation Ltd (TPC) from 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) in relation to the application.

A separate SEF, SEF 173a, has been issued for the investigation into the alleged dumping of food service and industrial (FSI) pineapple exported from Indonesia.

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 consumer pineapple from Indonesia were not dumped;
- exports of consumer pineapple by TPC were dumped; and
- the dumped exports of consumer pineapple by TPC have caused material injury to the Australian industry.

Based on these preliminary findings, and subject to any submissions received in response to this SEF the delegate proposes to terminate the investigation as it applies to Indonesia and to recommend that the Minister publish a dumping duty notice in respect of exports of consumer pineapple from Thailand by TPC.

1.2 Application of law to facts

1.2.1 Authority to make decision

Division 2 of Part XVB of the *Customs Act 1901*¹ (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 A reference to a division, section or subsection in this report is a reference to a provision of the Act, unless otherwise specified.

PUBLIC RECORD

1.2.2 Application

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 from Thailand by TPC and for FSI pineapple 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 consumer pineapple is 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 consumer pineapple was over 14,000 tonnes in 2010. Consumer pineapple is primarily sold to large retailers or to

PUBLIC RECORD

wholesalers that on-sell to independent stores. Consumer pineapple is generally labelled and marketed as branded product, generic/housebrand or private label product.

1.3.4 Dumping (chapter 5 of this report)

Customs and Border Protection has determined the following dumping margins for consumer pineapple exported to Australia from Indonesia and from Thailand by TPC.

PT Great Giant Pineapple (Great Giant)	-23.5%
TPC	29%

The available information shows that Great Giant is the only export of consumer pineapple from Indonesia during the investigation period.

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

The Australian industry suffered injury in the form of:

- lost market share;
- lost sales volume;
- price suppression;
- reduced profit and profitability;
- reduced revenues;
- reduced return on investment;
- reduced investment in the industry;
- reduction in employee numbers; and
- reduced capacity utilisation.

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

Material injury to the industry has been caused by exports of consumer pineapple by TPC at prices that were dumped.

1.4 Final report

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

PUBLIC RECORD

2. BACKGROUND

2.1 Previous investigations

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, which included consumer pineapple exported by TPC, 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 TPC lapsed.

There has not been any previous investigation in regards to consumer pineapple exported from Indonesia.

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. 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 that visit to Golden Circle for this investigation.

PUBLIC RECORD

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 public record². 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 Branch 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 by following the prompts for “anti-dumping”.

² In preparing a non-confidential version interested parties should take account of the requirements set out in ACDN 2006/54.

PUBLIC RECORD

3 GOODS SUBJECT TO THE INVESTIGATION

3.1 Preliminary findings

The Australian industry produces consumer pineapple that has characteristics closely resembling those of consumer pineapple manufactured in Indonesia and manufactured in Thailand by TPC and exported to Australia therefore consumer pineapple manufactured by the Australian industry are like goods³.

3.2 The goods and like goods

The goods subject of 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).

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.

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 percent.

3.2.2 The goods

Great Giant exported both consumer and FSI canned pineapple to Australia. It claimed that both of these products were covered by the goods description subject of the application. They considered that they should be treated

³ In terms of s.269T.

PUBLIC RECORD

separately for the purpose of examining the Australian market as they were exported to two separate market segments. However, any dumping margin should be calculated for the goods in total, 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 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 disagrees with Great Giant's view that the application lodged by Golden Circle defines the goods subject of the application as all canned pineapple (including both consumer and FSI). The application clearly draws a separate distinction between consumer and FSI pineapple exported from Indonesia. Accordingly, Customs and Border Protection clearly outlined in its public notice that separate investigations had been initiated into consumer and FSI pineapple.

3.2.2 Like goods

The issue of like goods was considered during the original investigation into consumer pineapple exported from Thailand, which included consumer pineapple exported by TPC, in REP 41. In REP 41 for consumer pineapple fruit 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.

PUBLIC RECORD

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 investigation.

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 investigation 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 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.

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 Australia⁴.

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

⁴ Ss 269T(2) and 269T(3).

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.

PUBLIC RECORD

PUBLIC RECORD

4 AUSTRALIAN MARKET

4.1 Preliminary finding

The size of Australian market for consumer pineapple was over 14,000 tonnes in 2010. Consumer pineapple is primarily sold to large retailers or to wholesalers that on-sell to independent stores. Consumer pineapple is generally labelled and marketed as either branded product, or generic/housebrand or private label product.

4.2 Market supply

Customs and Border Protection established that the Australian consumer pineapple market is supplied by the Australian industry, as well as imports from a number of countries. The greater majority of imports of consumer pineapple are principally sourced from Thailand and the Philippines and Indonesia. Imports from Indonesia commenced in 2010 to rank third in size behind Thailand and the Philippines.

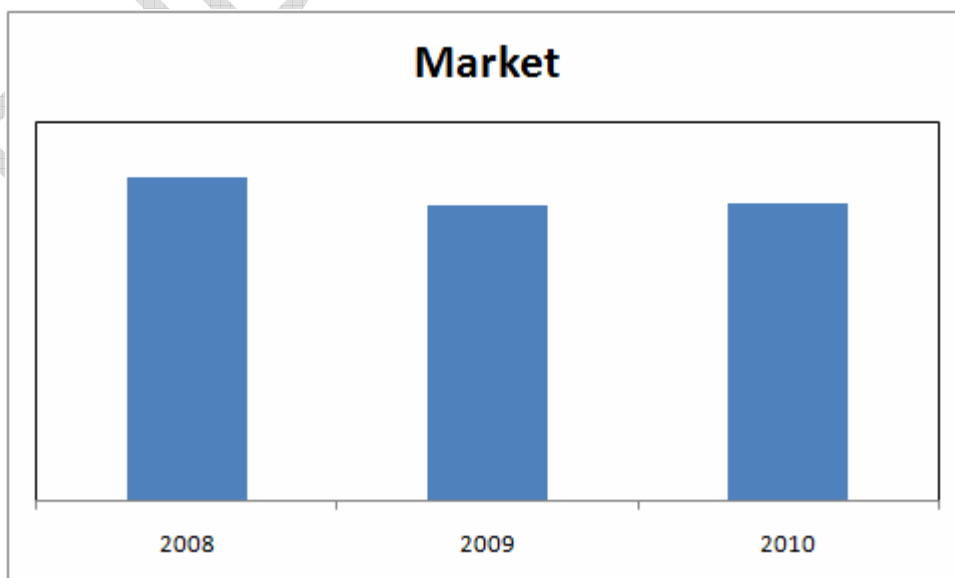
4.3 Market size

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

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

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.

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



PUBLIC RECORD

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

4.4 Market structure

Consumer pineapple 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, 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.

PUBLIC RECORD

5 DUMPING INVESTIGATION

5.1 Preliminary Findings

- The export price for consumer pineapple exported by PT Great Giant Pineapple (Great Giant) can be established using the price paid for the goods by the importer to the exporter⁵;
- The export price for consumer pineapple exported by TPC can be established using the price paid for the goods by the importer to the exporter⁶;
- The normal value for consumer pineapple exported by Great Giant can be determined using the cost of production and amounts for selling, general and administrative expenses⁷;
- The normal value for consumer pineapple exported by TPC can be determined using the cost of production and amounts for selling, general and administrative expenses⁸;
- Adjustments can be made to the normal value for TPC to properly compare it with the export price⁹;
- Consumer pineapple exported by Great Giant during the investigation period was not dumped, with a dumping margin that was – 23.5%; and
- Consumer pineapple exported by TPC during the investigation period was dumped with a dumping margin dumping margin of 29%.

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 consumer pineapple was exported from Indonesia and from Thailand by TPC at dumped prices during the investigation period.

5.3 Exporters

Exporter questionnaires were sent to Great Giant of Indonesia and to TPC. Customs and Border Protection did not identify and is not aware of any other exporter of consumer pineapple from Indonesia during the investigation period.

⁵ Ss 269TAB(1)(b)

⁶ Ss 269TAB(1)(b)

⁷ Ss 269TAC(1)

⁸ Ss 269TAC(1)

⁹ Ss 269TAC(9)

PUBLIC RECORD

5.3.1 Export price

Great Giant

The export price for consumer pineapple exported by Great Giant can be established under s.269TAB(1)(a), using the price paid for the goods by the importer less any post exportation expenses.

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.

TPC

The export price for consumer pineapple exported by TPC can be established under s.269TAB(1)(a), using the price paid for the goods by the importer less any post exportation expenses.

Export prices have been calculated for each export transaction using the price between TPC 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 TPC have been calculated at a free on board (FOB) price.

5.3.2 Normal value

Great Giant

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 consumer 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 paragraph 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.

The amount of profit to be added to a constructed normal value must be worked out in accordance with regulation 181A of the Act.¹⁰

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

¹⁰ Ss 269 TAC(5B)

PUBLIC RECORD

information from any other exporter in regards to domestic selling prices for consumer 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 consumer pineapple in the Philippines, however there is little evidence to confirm that the Philippines consumer pineapple 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 consumer pineapple 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 other reliable information to demonstrate that domestic sales of consumer 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.

TPC

TPC did not sell consumer pineapple on the Thai domestic market in the investigation period. Customs and Border Protection did not receive information from any other exporter in regards to domestic selling prices for consumer pineapple in Thailand.

Customs and Border Protection considers that there is insufficient information to establish normal values under s.269TAC(1) and considers normal values can be determined under s.269TAC(2)(c). Normal values have been calculated using TPC's cost to make and sell information for the exported goods in accordance with s.269TAC(2)(c).

In considering an appropriate amount of profit to be added to the constructed normal value, Customs and Border Protection notes that the nature of the domestic market for consumer canned pineapple is limited to insignificant retail sales aimed at the expatriate community in Bangkok. Given the number of domestic producers and the competition from fresh pineapple at significantly reduced prices on a per kilo basis when compared to canned pineapple,

PUBLIC RECORD

Customs and Border Protection considers that TPC would be unable to make profitable sales on the domestic market.

Customs and Border Protection therefore considers that an amount for profit should not be added to the constructed normal value.

Customs and Border Protection considers adjustments can be made to the normal value to account for bank charges, inland transport, handling and FOB related charges and shipping charges, in accordance with s.269TAC(9).

TPC identified a number of issues in relation to the construction of the normal value. Firstly, the exporter requested that Customs and Border Protection revisit the treatment of TPC's net foreign exchange position, especially in light of these being identified administration expenses that would equally be allocated to the cost of the domestic goods, if they had any.

TPC's claim is dismissed. Customs and Border Protection's view is that the key consideration in determining whether any cost should be allocated to the exported goods, domestic goods or both is understanding what drives the particular cost. In this instance, TPC has no domestic sales and has no purchases of imported inputs that would be relevant to the issue of foreign exchange. It is apparent that the foreign exchange gains and losses incurred by TPC are as a direct result of their exports to third countries. Therefore these expenses are not considered relevant to the construction of a domestic selling price as they would not typically be incurred in the production or sale of domestic goods.

Lastly, TPC requested that Customs and Border Protection reassess its approach to determining the relevant costs for construction in those periods where an export sale took place but no production costs existed for that corresponding period. The verification visit team recommended that the weighted average cost over the whole of the investigation period (or recoverable cost) be used, whilst TPC considered that it was more appropriate to use the costs from the previous quarter.

After further examination, Customs and Border Protection agrees with TPC that the most appropriate costs for constructing a normal value in any given quarter were in the first instance the actual cost in that period, or where no such costs existed, from the prior quarter.

Submissions

Golden Circle submitted that the two Indonesian companies it identified as producers and sellers of consumer pineapple in its application should have been contacted by Customs and Border Protection for information on their domestic selling prices.

Golden Circle also submitted that in the absence of domestic selling prices an amount for profit should have been sourced from either another business unit in Great Giant or from another Indonesian producer.

Golden Circle and TPC also provided submissions in the week before the SEF was due to be placed on the public record. Customs and Border Protection has not given consideration to the submissions as in the delegates opinion to do so may delay the placement of the SEF on the public record. Customs and Border Protection will consider the submissions in full in its report to the Minister.

PUBLIC RECORD

5.3.3 Dumping margin

A dumping margin has been calculated for consumer pineapple exported by Great Giant over the investigation period. The calculations showed that the goods were not dumped. The margin calculated was negative at – 23.5%.

A dumping margin has been calculated for consumer pineapple exported TPC over the investigation period. The calculations showed that the goods were dumped. The margin calculated was 29%.

PUBLIC RECORD

PUBLIC RECORD

6 ECONOMIC CONDITION OF THE INDUSTRY

6.1 Preliminary finding

Customs and Border Protection has made the following preliminary finding that Golden Circle has experienced injury in the form of:

- lost market share;
- lost sales volume;
- price suppression;
- reduced profit and profitability;
- reduced revenues;
- reduced return on investment;
- reduced investment in the industry;
- reduction in employee numbers; and
- reduced capacity utilisation.

6.2 Applicant's claims

Golden Circle claimed that material injury from the allegedly dumped exports of consumer pineapple exported by TPC of Thailand commenced immediately following the revocation of applicable anti-dumping measures in the third quarter of 2008.

Golden Circle also claimed that Indonesian exports of consumer pineapple have emerged from minimal levels in 2009 to account for almost 10 per cent of total import volume in 2010.

Golden Circle claimed that the allegedly dumped exports of consumer pineapple from Indonesia and from Thailand by TPC caused injury in the form of:

- lost market share;
- lost sales volume;
- price suppression;
- reduced profit 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's injury claims and has examined Golden Circle's performance on a calendar year basis.

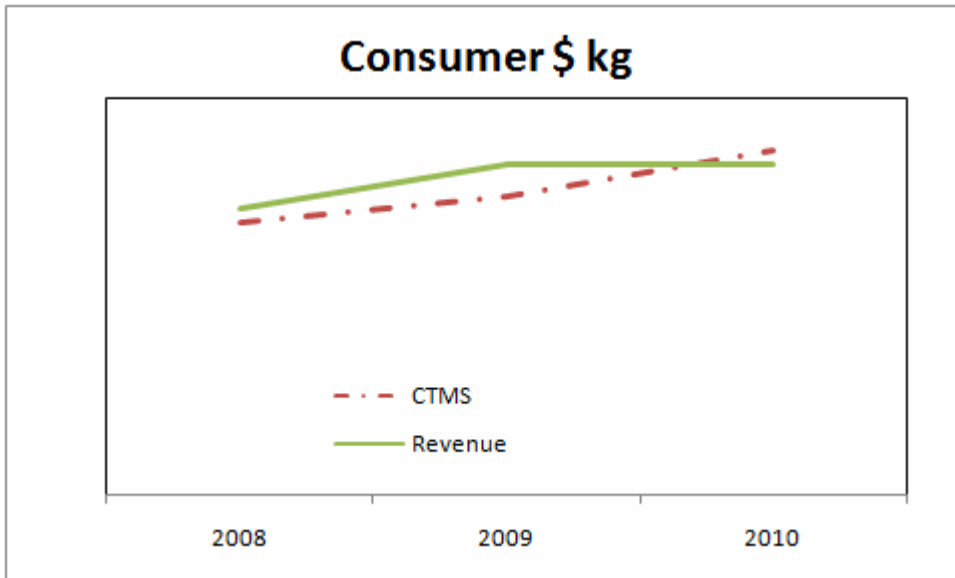
PUBLIC RECORD

6.3 Price effects

6.3.1 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 consumer pineapple increased from 2008 to 2009 and were steady from 2009 to 2010. Costs increased from 2008 to 2009 and increased above prices in 2010.

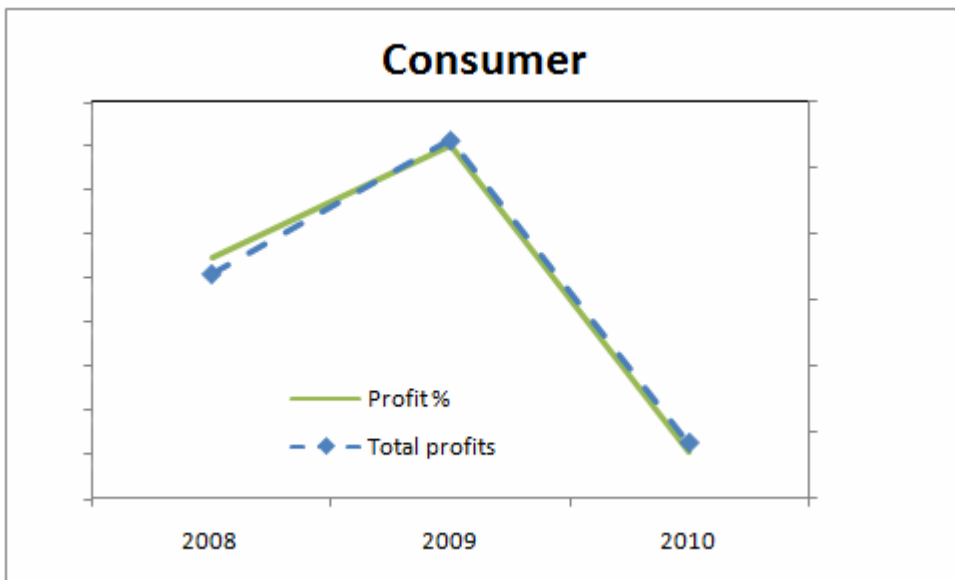


Customs and Border Protection considers that Golden Circle has not suffered injury in the form of price depression but has suffered injury in the form of price suppression in regards to consumer pineapple.

6.3.2 Profit and profitability

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

PUBLIC RECORD



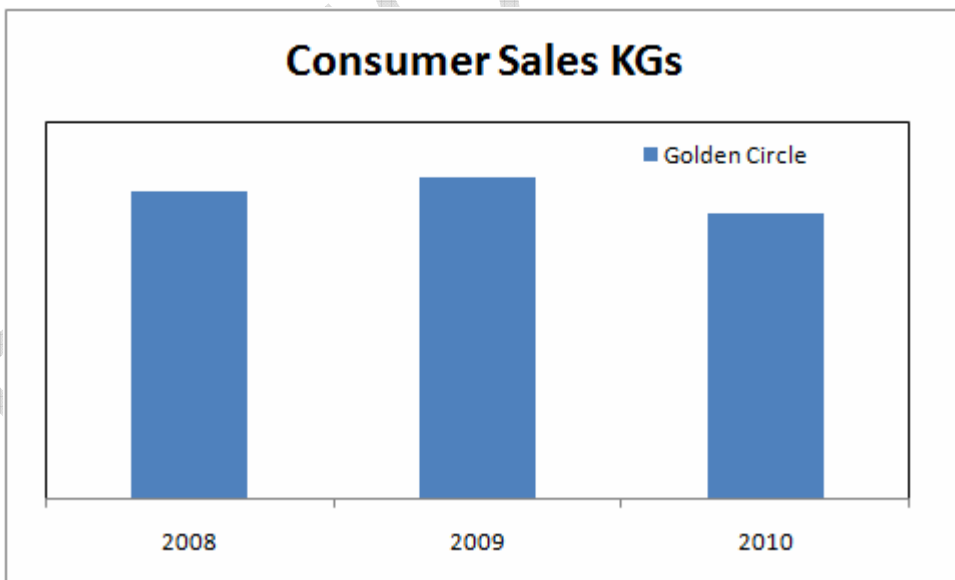
Customs and Border Protection considers that Golden Circle has suffered injury in the form of reduced profits and profitability in regards to consumer pineapple.

6.4 Volume effects

Customs and Border Protection has examined volume factors in its overall assessment of injury to the industry.

6.4.1 Sales volumes

Golden Circle has lost sales volumes since 2008 to 2010 with a noticeable decline from 2009 to 2010.

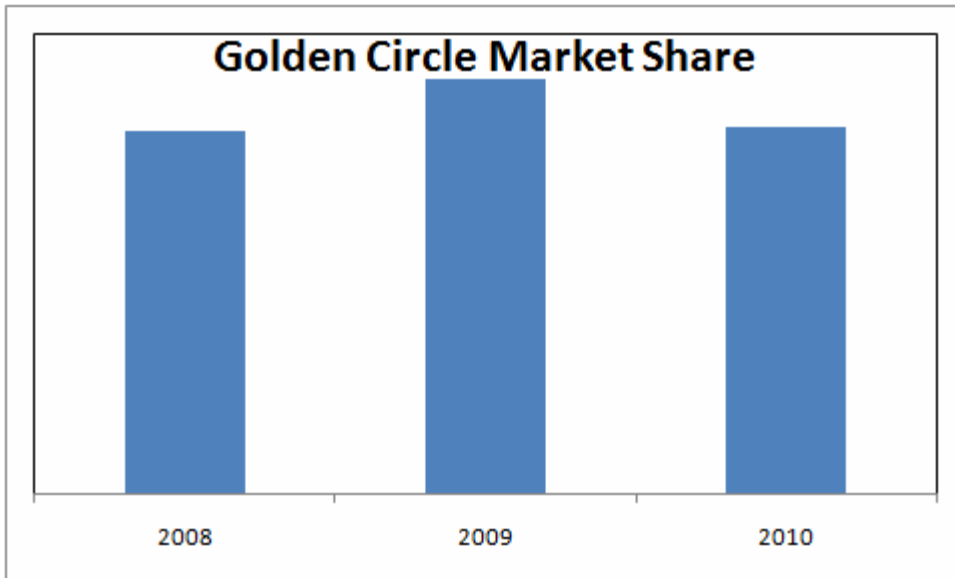


Customs and Border Protection considers that Golden Circle has suffered injury in the form of lost sales volumes

PUBLIC RECORD

6.4.2 Market share

Golden Circle gained market share from 2008 to 2009 and lost market share from 2009 to 2010.



Customs and Border Protection considers that Golden Circle has suffered injury in the form of lost market share for consumer pineapple.

6.5 Other economic factors

Section 269TAE(3) of the Act provides a reference to the other relevant economic factors to have regard to in determining whether 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.

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.

PUBLIC RECORD

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 consumer pineapple has shown an increase in revenue from 2008 to 2009 and a decline from 2009 to 2010.

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.

6.6 Preliminary 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:

- lost market share;
- lost sales volume;
- price suppression;
- reduced profit and profitability;
- reduced revenues;
- reduced return on investment;
- reduced investment in the industry;
- reduction in employee numbers; and
- reduced capacity utilisation.

PUBLIC RECORD

7 HAS DUMPING CAUSED MATERIAL INJURY

7.1 Preliminary finding

Customs and Border Protection has made a preliminary finding that there is a causal link between the material injury experienced by Golden Circle and the dumping of goods from Thailand by TPC.

Customs and Border Protection has made a preliminary finding that material injury has not been caused to Golden Circle by exports of consumer pineapple from Indonesia.

7.2 Introduction

This section examines whether dumped imports of consumer pineapple have caused material injury to the Australian industry.

The Minister may publish a dumping duty notice, and impose anti-dumping measures on future exports of like goods, where the Minister is satisfied that:

- the amount of the export price of the goods is less than the amount of the normal value of those goods; and
- the amount of the export price of like goods that may be exported to Australia in the future may be less than the normal value of the goods; and
- because of that, material injury to the Australian industry producing like goods has been or is being caused or is threatened, or the establishment of an Australian industry producing like goods has been or may be materially hindered¹¹.

Customs and Border Protection sent questionnaires to importers of consumer pineapple from Indonesia and from Thailand by TPC.

Coles provided all requested information as well as submissions to the investigation, Coles was not visited but a non-confidential summary of responses to questions and information provided was placed on the public file.

Woolworths did not respond to requests for information for this investigation, Woolworths had been visited for the reviews and continuations and had provided requested information. Whilst a non-confidential version of the visit report to Woolworths has not been placed on the public file, Customs and Border Protection considers the information provided by Woolworths to be relevant and has had regard to it in assessing the issue of causation.

Customs and Border Protection also received information from a smaller importer and a limited response from another smaller importer.

¹¹ S 269TG

PUBLIC RECORD

7.3 Views presented to the investigation by interested parties

7.3.1 Government of Indonesia

The Government of Indonesia (GOI) submitted in regards to the investigation into consumer 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;
- data and conclusions relating to injury appears contradictory;
- 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.

7.3.2 TPC

TPC submitted that:

- TPC was not the cause of lost sales and volume injury to Golden Circle;
- TPC's export prices increased from 2008 to 2010 and the retail pricing relativity between TPC's exports and Golden Circle's products did not meaningfully change during this period;
- TPC has a comparative cost advantage and its exports have always significantly undercut Golden Circle's brand prices;
- TPC's prices of its exports of Homebrand to Woolworths do not impact on Golden Circle's sales of branded product;
- Lower prices from TPC for Homebrand do not necessarily flow through to lower retail prices for Homebrand;
- Price suppression and loss of profits and profitability cannot be linked to TPC's exports; and
- The mid-range generic products act as a buffer between TPC's generic products and Golden Circle's branded products nullifying any possible price effects between the TPC generic and Golden Circle brand products.

7.3.3 Golden Circle

Golden Circle submitted that:

PUBLIC RECORD

- It is not simply the consumers perceptions of pricing relativities between the three product segments but other commercially sensitive factors that impact the selling prices and volumes; and
- Injury has been caused by low prices on generic consumer pineapple and also was being caused by the loss of and pricing of mid-range generic pineapple.

Golden Circle and TPC also provided submissions in the week before the SEF was due to be placed on the public record. Customs and Border Protection has not given consideration to the submissions as in the delegates opinion to do so may delay the placement of the SEF on the public record. Customs and Border Protection will consider the submissions in full in its report to the Minister.

7.4 Dumping

Customs and Border Protection has preliminary found that consumer pineapple exported to Australia from Indonesia by Great Giant during the investigation period was not dumped. The dumping margin calculated was negative at - 23.5%.

Great Giant was the only known exporter of consumer pineapple from Indonesia. To ensure that any injury caused by undumped exports of consumer pineapple from Indonesia are not attributed to dumped exports by TPC, they will be examined as an other factor.

Customs and Border Protection has preliminary found that consumer pineapple exported to Australia from Thailand by TPC during the investigation period was dumped. The dumping margin calculated for TPC was 29%.

Dumped exports of consumer pineapple by TPC have been examined in this section as to whether they caused material injury to the Australian industry.

7.5 Volume effects

7.5.1 Loss of sales volume and market share

In its application, Golden Circle claimed that the decrease in its sales volumes were attributable to dumped exports from Indonesia and TPC. However it is clear that the main focus of those injury claims centred on a lost contract to supply a mid-range generic product to Woolworths. Prior to the investigation period, those products were produced and supplied by Golden Circle following a successful tender.

During the investigation period, Golden Circle unsuccessfully tendered for renewal of the supply contract. The contract was eventually awarded to Great Giant from Indonesia.

With regards to the supply of standard generic product to the retail sector, Customs and Border Protection understands that Golden Circle has never participated in the tendering process of either the Woolworths or Coles own brands.

PUBLIC RECORD

Analysis of sales volumes from 2009 to 2010 shows that Golden Circle's volumes fell, TPC's volumes remained relatively constant whilst Great Giant's volumes increased significantly.

TPC is the largest exporter of consumer pineapple to the Australian market, Indonesia is the third largest exporter of consumer pineapple after the Philippines.

Therefore Customs and Border Protection considers that lost sales volume and reduced market share experienced by Golden Circle during the investigation period was primarily caused by undumped imports from Indonesia.

7.6 Price effects

Price relativities for consumer pineapple

Customs and Border Protection sought the views of interested parties in understanding the dynamics of the retail sector in relation to consumer pineapple. A paper summarising the current understanding of the consumer market was placed on the public file and interested parties were asked to comment.

The paper outlined Customs and Border Protection's understanding of the marketing of various types of products which generally fell into one of the following product segments:

1. Premium – primarily branded product such Golden Circle, Dole, Del Monte; or
2. Mid-range generic – typically private label product such as Woolworths Select; or
3. Standard generic – typically private label product such as Woolworths Homebrand, Coles Smart Buy, Aldi.

Each product segment appeared to have a distinct price point relative to the others in the market, with branded product being the most expensive and standard generic product being the least expensive.

Previous comments on the public record from Coles noted that prices for standard generic were set in competition at a considerable discount to premium branded product and that there was limited competition between these segments.

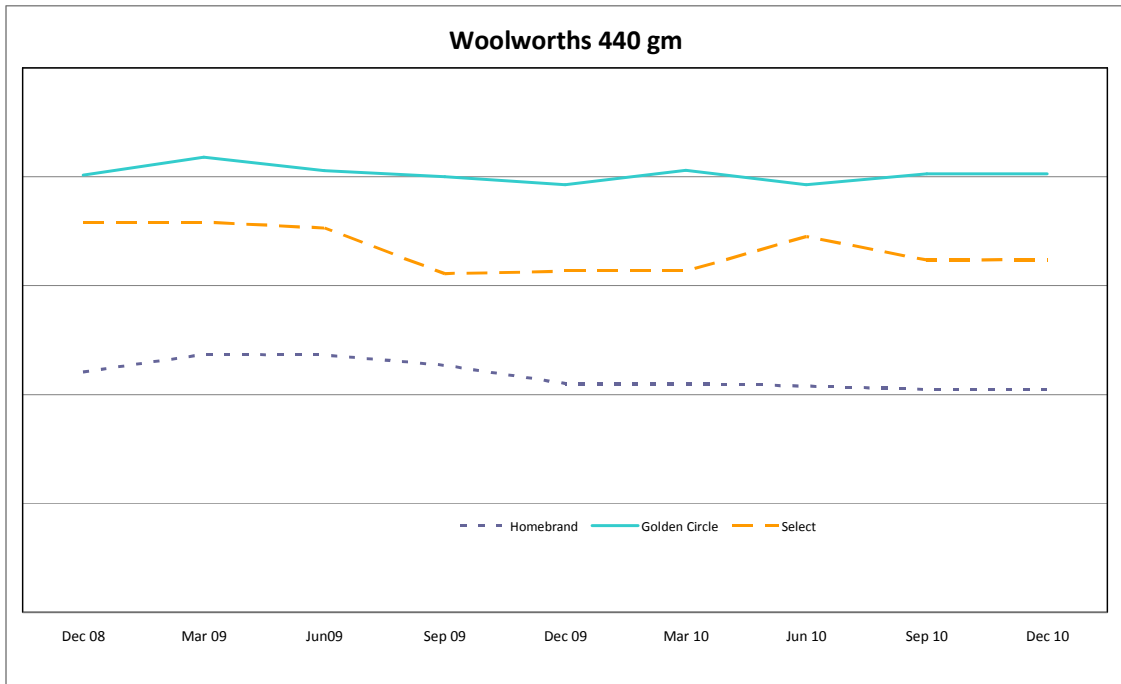
Also in previous investigations Woolworths commented that standard generic product did compete with the premium branded product to some degree. Woolworths stated further that if retail prices of its standard generic brand were to drop, retail sales of standard generic brand would be expected to increase at the expense of the Golden Circle brand and other premium branded products.

Customs and Border Protection used available retail scan data to chart price movements of the various canned pineapple products sold at Woolworths, Coles and Metcash (IGA stores). These charts and Customs and Border Protection's comments are reproduced below.

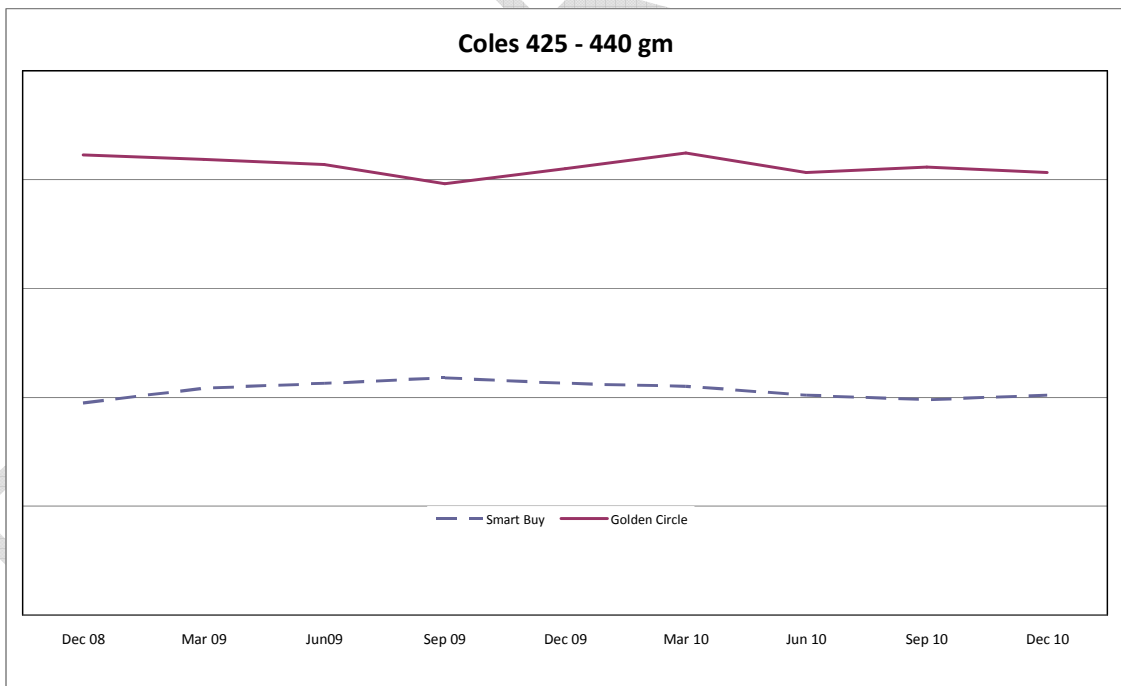
The chart below shows price trends for 440 gram canned pineapple products sold at Woolworths. Customs and Border Protection observes that the price

PUBLIC RECORD

differential between Golden Circle and Homebrand are relatively consistent, with the Woolworths Select product displaying more variation within that range.

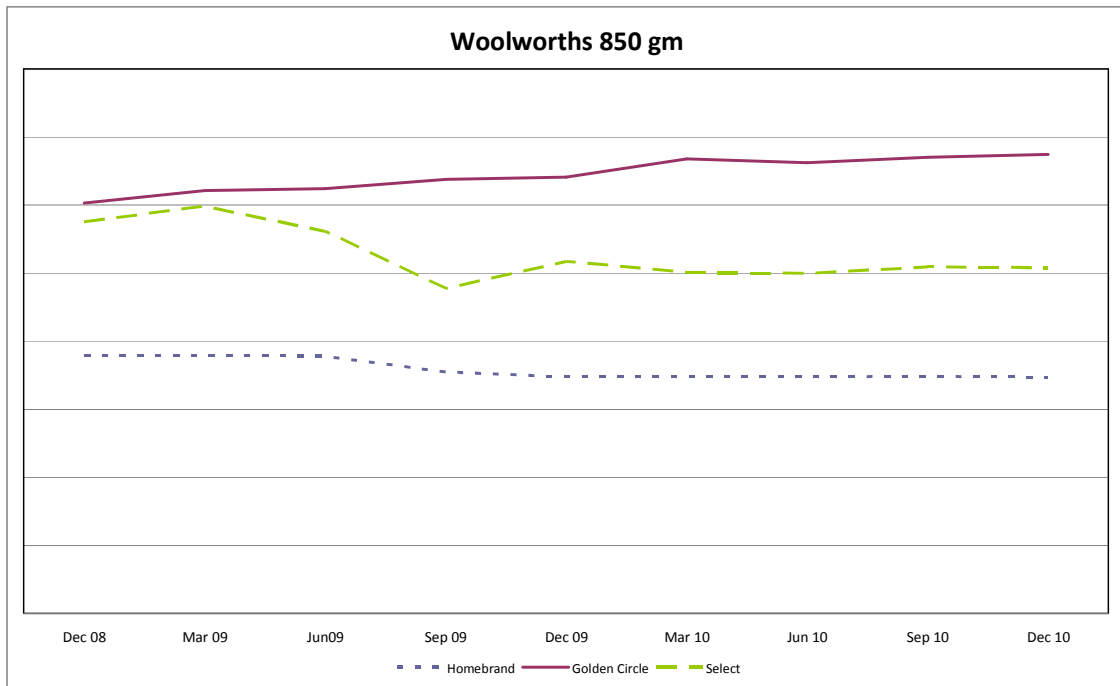


Likewise, a comparison of Golden Circle prices to Coles Smart Buy prices shows a similar and consistent price differential over the analysis period.



An examination of 850 gram canned pineapple sold by Woolworths shows some price volatility in the 12 months to December quarter 2009. However, over the investigation period of 2010, the price differential between the three products appears to be more consistent.

PUBLIC RECORD



The paper sought the views of relevant interested parties and requested that they address the following questions and where appropriate, provide supporting evidence.

1. Is there a correlation between prices of the three product segments for canned pineapple?
2. For each product segment (premium, mid-range generic and standard generic), outline the factors that impact on retail shelf prices and retail sales volumes.
3. Does the change in price of one product affect consumer behaviour and lead to volume and price changes in other products?

Responses to issues paper

Customs and Border Protection received responses from the Coles Group Limited (Coles), Golden Circle and TPC. Woolworths did not provide a response.

Coles

Coles submitted that there is no necessary correlation between the prices of the three product segments and depending on promotional offers branded products may be cheaper than mid-range (Coles brand) and even standard generic (Coles Smart Buy) from time to time.

The Golden Circle brand has a non-price and non-quality attribute with which imported product cannot compete, or for some, can only compete by a compelling price. Coles pricing strategy was to offer customers competitive everyday pricing over a range of products.

Coles further claimed that taking into the substantial price differences across the segments; it is unlikely that minor changes to one or more products will influence consumer behaviour across other products. Coles rejected that the imposition of a dumping duty would result in an increase in price for the Golden

PUBLIC RECORD

Circle branded product or maintain any price differentials between the segments.

Golden Circle

Golden Circle submitted that generic and branded products competed to some degree and there exists price elasticity between all three segments that are profit driven. As the price gap between branded and private label increases, the branded product loses sales volume.

Pricing of the three segments should not be considered in isolation, reductions in prices in one category impact sales volumes in the other categories.

TPC

TPC submitted that changes in prices and volumes between product segments are solely a retail market phenomenon. Retail prices will be influenced by many factors other than purchase prices. It cannot reasonably be assumed that if the export prices of TPC's economy private label products to retailers were higher because of the removal of a dumping margin, Golden Circle would have achieved higher prices for its branded products.

Customs and Border Protection's assessment

Customs and Border Protection further examined the retail scan data and analysed the movements in price for the Golden Circle branded product and the corresponding impact on sales volume for the Golden Circle product and standard generic product.

The prices and volumes were analysed on a weekly basis over a period of 120 weeks through to January 2011. The analysis focused on 425 – 450 gram cans of pineapple pieces and slices. Significant price and volume changes were defined as a change where the difference on the previous week was greater than 3%.

As a general observation, the data showed that the price of standard and mid-range generic products remained relatively constant over the period of analysis. This is consistent with statements by interested parties that the major retailers do not engage in the regular discounting of their own in-house brands. Conversely, the shelf price of Golden Circle products fluctuated greatly from week to week, with significant changes being evident in 67 weeks or 57% of the analysis period.

The analysis showed a strong positive correlation between the price of the Golden Circle brand and the volume of the standard generic product. Over the 120 week period, Golden Circle's prices for its 440g pineapple pieces experienced a significant change on 67 (57%) weekly occasions. In those 67 weeks, the volume of Woolworths' Homebrand product also experienced a significant change in 57 of those weeks or 85% of the time.

This strong correlation was evident in the 440g pineapple slices with 67 weeks of significant price change of the Golden Circle product and a change in the Homebrand volumes in 50 of those weeks or 75%.

Therefore the data shows that where Woolworths discounted the price of the Golden Circle branded product there was an increase in the branded volumes and decrease in the volumes of the generic Homebrand product. Conversely an

PUBLIC RECORD

increase in the price of the branded product resulted in a decrease in volumes of the branded product and an increase in the volumes of the Homebrand product.

Prices and volumes were also compared for mid-range generic (supplied by Indonesia) and Golden Circle's brand, with the analysis showing a weaker link between changes in volumes and prices. Importantly, the Homebrand generic and Golden Circle branded products dominate the market and the volumes are comparable.

Customs and Border Protection considers 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.

7.6.1 Price undercutting

Price undercutting occurs when the imported product is sold at a price below that of the Australian manufactured product. Customs and Border Protection compared the selling prices of Golden Circle to the selling prices of imports of consumer pineapple to similar customers in Australia (on similar terms), during the investigation period. Prices were compared at an into store price and at the retail selling price.

Customs and Border Protection found consistent undercutting at both the into store price and at retail selling prices where the imported product was compared to the Golden Circle brand and generic product.

However Customs and Border Protection has given little weight to this evidence of undercutting in its causal link assessment, as there are a number of factors, other than dumping, that can explain the disparity in prices between these products. These include:

- quality differences – the Homebrand product has broader specification tolerances such as colour, sweetness, uniformity of cut, toughness, to that of the Golden Circle product;
- brand recognition of 'Golden Circle' is strong which allows for a substantial premium to be attached to the products, whereas Homebrand is recognised by consumers as being a budget or lesser quality product; and
- the comparative cost advantage of Thai producers compared to Golden Circle.

7.6.2 Price depression

As noted at section 6.3.1 Customs and Border Protection considers that Golden Circle has not suffered price depression.

PUBLIC RECORD

7.6.3 Price suppression

Golden Circle experienced cost increases in 2009 and 2010. Golden Circle submitted that it expected that other foreign producers would have been subject to the same cost pressures that should have seen an increase in export prices.

Interested parties confirmed that cost increases of fresh pineapple were being experienced in Thailand due to the prolonged drought. Customs and Border Protection has calculated a dumping margin of 29% for TPC using a constructed normal value based on the costs of the exported goods with no profit added. This indicates that TPC has exported the goods to Australia during the investigation period at prices significantly below cost.

Customs and Border Protection notes that the supply of consumer pineapple by TPC is subject to contracts established through a tender process. It is reasonable to expect that in agreeing to fix prices for a period of time, both the buyer and seller are accepting some amount of risk. For the exporting producer, one would expect them to have factored into their tendered price an amount to take account of future potential cost increases.

The degree to which TPC's exports were priced below the cost of the goods suggests that TPC did not factor in a sufficient premium for such risks. The consequence being that the goods were exported at a significant dumping margin below their normal value.

Customs and Border Protection has given weight to statements by interested parties which support the data analysis below and confirms that the movement in retail selling prices for generic products are directly related to the movement in the purchase cost of the goods by retailers.

Free on board import prices were compared against scan data retail prices for a major retailer for the period from mid 2008 to December 2010. The chart below shows a strong relationship between the free on board import price, which comprises the major part of the retailer purchase price for the goods and the retail price for the goods.

PUBLIC RECORD



Therefore, given the cost pressures being experienced by all producers of canned pineapple, particularly in relation to the cost of fresh pineapple and tinfoil, Customs and Border Protection considers that had TPC's exports of consumer pineapple been sold at or above the cost of the goods (ie. at undumped prices), retailers would have passed on the additional purchase costs by way of increased retail shelf prices. Therefore 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.

As outlined earlier, there is also evidence to show a strong correlation in the demand for branded and standard generic products. Customs and Border Protection considers that dumped exports of consumer pineapple by TPC allowed retailers to offer the standard generic products at discounted prices which led to price pressure on Golden Circle's branded product. In other words, but for the dumped goods, retail prices of standard generic product would have been higher than the actual prices observed during the investigation period. As the retail scan data shows a rather consistent price differential between the standard generic and branded products, it is reasonable to expect that the higher generic prices would have translated into higher overall shelf prices of the Golden Circle branded product.

Therefore, Customs and Border Protection preliminarily finds that dumped exports by TPC caused the Australian industry's prices to be suppressed.

7.7 Profit effects

Golden Circle's reduced profit and profitability in 2010 is mainly due to costs increases from 2009 to 2010 whilst selling prices remained relatively flat from 2009 to 2010.

PUBLIC RECORD

As outlined in the previous section of this report, dumped exports by TPC contributed to suppressing Golden Circle's prices during the investigation period. Customs and Border Protection also found that the loss of sales volumes to undumped exports from Indonesia contributed to the industry's increased unit costs due to the reduced production volume.

As profits and profitability are a function of a company's revenue and costs, Customs and Border Protection considers that the price suppressing effect of the dumped goods contributed to a loss of potential profits.

Customs and Border Protection therefore makes a preliminary finding that Golden Circle's loss of profits and profitability can be linked to the dumped exports by TPC.

7.8 Other economic factors

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

Reduced return on investment (ROI)

Golden Circle's data shows that it incurred losses in relation to the FSI and consumer pineapple produced.

Customs and Border Protection considers that a major part of the losses were an effect of the price suppression and loss of profits and profitability caused by the dumped exports by TPC. Consumer pineapple comprises the bulk of production by Golden Circle and would thus bear the bulk of any changes on ROI.

Customs and Border Protection considers that dumped exports by TPC have caused injury in the form of reduced return on investment in relation to consumer pineapple.

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.

Customs and Border Protection considers that this claim is part of the overall factor of investment in the industry, including ROI, and that where there is reduced ROI it would follow that there would be less incentive to reinvest.

Assets

Golden Circle's data shows that assets have declined from 2009 to 2010. This claim would appear to be linked to investment in the industry noted above.

Capital investment

Golden Circle's data shows that capital investment has declined from 2009 to 2010. This claim would appear to be linked to investment in the industry noted above.

PUBLIC RECORD

Research and development

Golden Circle's data shows that research and development expenses have declined from 2009 to 2010. There was no evidence to show this was caused by dumped exports

Sales revenue

Golden Circle's data shows sales revenue for consumer pineapple declined from 2009 to 2010.

A cause of this reduced revenue was the loss of sales volumes to un-dumped exports from Indonesia.

However, Customs and Border Protection has found that dumped exports by TPC suppressed Golden Circle's prices. This price suppression led to reduced revenues that Customs and Border Protection considers are caused by the dumped exports by TPC.

Capacity utilisation

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

The major cause of this decrease appears due to the loss of sales volumes to un-dumped exports from Indonesia.

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.

The decrease in sales volumes and capacity utilisation caused by the un-dumped exports from Indonesia would appear to be the cause of reduction in employee numbers.

7.9 Other possible causes of injury

Customs and Border Protection is required to consider whether injury to an industry is being caused or threatened by a factor other than the dumped imports¹².

Customs and Border Protection has assessed the effect of un-dumped exports from Indonesia as noted in this section.

Customs and Border Protection has taken into account exports of consumer pineapple from the Philippines and Thailand (except by TPC) that are subject to reviews and continuation inquiries in the injury assessment.

7.10 Is the injury caused by dumping material?

In assessing whether the injury caused by dumping is material, Customs and Border Protection has attempted to construct an unsuppressed selling price for a 440 gram Golden Circle can of consumer pineapple by adjusting relevant shelf prices to reflect a market unaffected by dumped goods exported by TPC.

¹² Subsection 269TAE(2A)

PUBLIC RECORD

Starting with the FOB unit normal value for a 440 gram can of standard generic product exported by TPC, a retailer gross margin (fully absorbed cost to import and sell plus profit) has been added to calculate an equivalent (undumped) retail shelf price. Insufficient information has been provided by relevant retailers addressing the various factors that impact or determine retail shelf prices of the various types of consumer pineapple. In the absence of any other relevant information, Customs and Border Protection has used the verified gross margin achieved by a key retailer on its actual sales of standard generic product during the investigation period.

An equivalent retail shelf price of a Golden Circle 440 gram can was then calculated using the available retail scan data. Once again, relevant retailers did not provide sufficient information in response to Customs and Border Protection's questions regarding the price differential between standard generic and branded products and the factors that impact that difference.

The retail scan data provided weekly shelf pricing of the various grades of consumer canned pineapple across a number of retailers. Using the average price differential over the investigation period between standard generic and Golden Circle branded product, Customs and Border Protection has been able to calculate an unsuppressed retail selling price of Golden Circle product.

Deductions were made to this retail selling price for a gross retailer margin achieved on sales of Golden Circle product to calculate an unsuppressed net selling price from Golden Circle to retailers. A comparison of this unsuppressed selling price and Golden Circle's actual net selling price during the investigation period shows that prices were suppressed by a margin of approximately 12%. Therefore the degree to which dumped exports by TPC caused industry's prices to be suppressed is not immaterial.

Customs and Border Protection finds that dumped exports by TPC during the investigation period caused material injury to the Australian industry producing like goods.

7.11 Summary – Causal link

Customs and Border Protection considers that the evidence set out in this section provides sufficient grounds to conclude that the Australian industry has been unable to increase prices in line with cost increases due to the dumped prices of the imported product and it has therefore suffered price depression, loss of profits and profitability and loss of revenue which have led to the Australian industry experiencing material injury.

Customs and Border Protection makes a preliminary finding that dumped imports of consumer pineapple exported to Australia from Thailand by TPC can be linked to the material injury experienced by the Australian industry during the investigation period.

PUBLIC RECORD

8 WILL DUMPING AND MATERIAL INJURY CONTINUE?

8.1 Preliminary findings

Customs and Border Protection makes a preliminary finding that exports of consumer pineapple from Thailand by TPC in the future may be at dumped prices and that continued dumping may cause further material injury to the Australian industry.

8.2 Introduction

When the Minister is satisfied that material injury to an Australian industry has been caused by dumping, anti-dumping measures may be imposed on future exports of like goods if the Minister is satisfied that the dumping and material injury may continue.

8.3 Customs and Border Protection's assessment

8.3.1 Will dumping continue?

Customs and Border Protection's dumping analysis found that consumer pineapple exported from Thailand by TPC during the investigation period was found to be at dumped prices, with a dumping margin of 29%.

Customs and Border Protection notes that that forward orders exist for future exports by TPC and that the products exported by TPC have a significant share and influence in the Australian market.

Customs and Border Protection considers that dumping will continue if anti-dumping measures are not imposed.

8.3.2 Will material injury continue?

Customs and Border Protection has reviewed the Australian industry's performance over the injury analysis period and has made a preliminary finding that consumer pineapple exported at dumped prices from Thailand by TPC has caused material injury to the Australian industry.

Customs and Border Protection considers that a continuation of price competition from dumped imports from Thailand by TPC is likely to have a continuing adverse impact on the Australian industry. Customs and Border Protection considers that this impact may be particularly evident in price suppression, reduced profits and profitability, and reduced revenues.

Based on the available evidence, Customs and Border Protection makes a preliminary finding that exports of consumer pineapple from Thailand by TPC in the future may be at dumped prices and that continued dumping may cause further material injury to the Australian industry.

PUBLIC RECORD

9 NON-INJURIOUS PRICE

9.1 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.

9.2 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 Act¹³.

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 dumping¹⁴.

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.

9.3 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.

¹³ Subsection 8(5A) of the Tariff Act

¹⁴ The NIP is defined in section 269TACA

PUBLIC RECORD

9.4 Australian industry's claims

Golden Circle submitted for the reviews of measures 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 in 2009.

9.5 Customs and Border Protection's assessment

Customs and Border Protection did not receive any submissions in regards to the proposed USP for the reviews.

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 consumer pineapple plus a profit. The profit has been calculated by deducting the certain costs from the 2009 profit achieved on consumer pineapple.

The USP calculated by Customs and Border Protection is lower than the USP proposed by Golden Circle.

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.