



**Australian Government**  
**Australian Customs Service**

**AUSTRALIAN CUSTOMS SERVICE**  
*Customs Act 1901 - Part XVB*

**TRADE MEASURES BRANCH**

**REPORT Nos. 110 and 111**

**Continuation inquiry and review  
of anti-dumping measures**

**Pineapple prepared or preserved in containers  
exported from Thailand**

12 September 2006



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**Pineapple fruit**  
**Exported from Thailand**  
**Finding in relation to continuation inquiries**

**Public notice under s. 269ZHG(1) of the Customs Act 1901**

The Australian Customs Service has completed its inquiry into whether the expiration of the anti-dumping measures applying to:

- pineapple fruit prepared or preserved in containers not exceeding one litre (consumer pineapple); and
- pineapple fruit prepared or preserved in containers exceeding one litre (food service and industrial (FSI) pineapple),

exported to Australia from Thailand would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the measures are intended to prevent. Recommendations resulting from those inquiries, reasons for the recommendations and material findings of fact and law in relation to the inquiries are contained in Trade Measures Report No. 111 (referred to in this notice as "Report").

In this Report Customs recommended that the anti-dumping measures that are to expire on 17 October 2006 should continue after the specified expiry date.

I, CHRISTOPHER MARTIN ELLISON, Minister for Justice and Customs, have considered the Report and accepted the recommendations and reasons for the recommendations, including all material findings of fact or law set out in the Report.

Accordingly, I declare that I have decided to take steps to secure the continuation of anti-dumping measures currently applying to consumer pineapple and FSI pineapple, exported to Australia from Thailand, which expire on 17 October 2006.

Non-confidential versions of the Report will be sent to all interested parties that participated in the inquiries. Additional copies may be obtained by contacting Trade Measures Office Management, Canberra, on telephone number 02 6275 6547 or facsimile 02 6275 6990. Trade Measures reports are also available on the Customs internet home page at [www.customs.gov.au](http://www.customs.gov.au).

Enquiries about this notice may be directed to Operations 1, Trade Measures Branch, Australian Customs Service, or by email to [tmops1@customs.gov.au](mailto:tmops1@customs.gov.au).

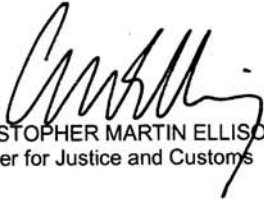
Dated this

28<sup>TH</sup>

day of

SEPTEMBER

2006

  
CHRISTOPHER MARTIN ELLISON  
Minister for Justice and Customs



**Pineapple fruit**  
**Exported from Thailand**  
**Finding in relation to reviews of anti-dumping measures**

Public notice under s. 269ZDB(1) of the *Customs Act 1901*

The Australian Customs Service has completed its reviews of anti-dumping measures applying to:

- pineapple fruit prepared or preserved in containers not exceeding one litre (consumer pineapple); and
- pineapple fruit prepared or preserved in containers exceeding one litre (food service and industrial (FSI) pineapple),

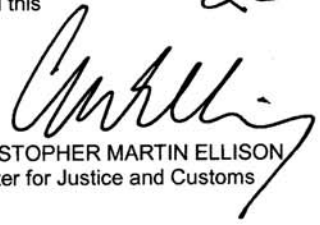
exported to Australia from Thailand (referred to in this notice as "the goods"), which was commenced on 22 February 2006. Recommendations resulting from these reviews, reasons for the recommendations and material findings of fact and law in relation to the reviews are contained in Trade Measures Report No. 111 (referred to in this notice as "Report").

Non-confidential versions of the Report will be sent to all interested parties that participated in the reviews. Additional copies may be obtained by contacting Trade Measures Office Management, Canberra, on telephone number 02 6275 6547 or facsimile 02 6275 6990. Trade Measures reports are also available on the Customs internet home page at [www.customs.gov.au](http://www.customs.gov.au).

I, CHRISTOPHER MARTIN ELLISON, Minister for Justice and Customs, have considered the Report and accepted the recommendations and reasons for the recommendations, including all material findings of fact or law set out in the Report. Under s. 269ZDB(1) of the *Customs Act 1901*, I DECLARE, for the purposes of the *Customs Act 1901* and the *Customs Tariff (Anti-Dumping) Act 1975* to the extent that anti-dumping measures concerning the goods involved the publication of a dumping duty notice that, with effect from the date of publication of this notice, the notice is to be taken to have effect, in relation to all exporters of consumer pineapple and all exporters (except for Malee Sampran Public Co) of FSI pineapple, as if the Minister had fixed different variable factors in respect of those exporters, relevant to the determination of duty.

To preserve confidentiality, the revised variable factors will not be published. Bona fide importers of the goods can obtain details of the new rates from the Regional Dumping Liaison Officer in their respective capital city. Other enquiries regarding these changes may be directed to Operations 1, Trade Measures Branch, Australian Customs Service, or by email to [tmops1@customs.gov.au](mailto:tmops1@customs.gov.au).

Dated this 28<sup>th</sup> day of SEPTEMBER 2006

  
CHRISTOPHER MARTIN ELLISON  
Minister for Justice and Customs



# TABLE OF CONTENTS

<b>1</b>	<b>SUMMARY .....</b>	<b>1</b>
<b>2</b>	<b>INTRODUCTION .....</b>	<b>2</b>
2.1	THE CONTINUATION INQUIRIES .....	2
2.2	THE REVIEWS .....	2
2.3	PUBLIC NOTIFICATION .....	3
<b>3</b>	<b>MEASURES SUBJECT TO INQUIRY AND REVIEW .....</b>	<b>4</b>
3.1	GOODS SUBJECT TO MEASURES .....	4
3.2	CURRENT ANTI-DUMPING MEASURES.....	5
<b>4</b>	<b>AUSTRALIAN MARKET FOR PINEAPPLE FRUIT .....</b>	<b>5</b>
4.1	MARKET STRUCTURE .....	5
4.2	MARKET SIZE.....	6
4.3	MARKET SHARE .....	8
<b>5</b>	<b>ECONOMIC CONDITION OF THE INDUSTRY .....</b>	<b>9</b>
5.1	THE AUSTRALIAN INDUSTRY .....	9
5.2	VOLUME EFFECTS .....	11
5.3	PRICE EFFECTS .....	15
5.4	PROFIT/PROFITABILITY .....	16
5.5	OTHERS FACTORS .....	19
5.6	SUMMARY .....	19
<b>6</b>	<b>EXPORTER ACTIVITY SINCE THE MEASURES WERE IMPOSED .....</b>	<b>20</b>
6.1	PATTERN OF IMPORTS .....	20
6.2	EXPORT PRICE AND NORMAL VALUE .....	21
6.3	PATTERN OF DUMPING .....	26
6.4	BEHAVIOUR INTO OTHER EXPORT MARKETS .....	27
<b>7</b>	<b>SUBMISSIONS IN RESPONSE TO THE SEF .....</b>	<b>27</b>
7.1	SUMMARY OF THE FACTS.....	27
7.2	ISSUES RAISED IN SUBMISSIONS.....	28
7.3	CUSTOMS ASSESSMENT .....	29
<b>8</b>	<b>LIKELIHOOD OF DUMPING OR MATERIAL INJURY CONTINUING OR RECURRING....</b>	<b>29</b>
8.1	LIKELIHOOD OF DUMPING CONTINUING OR RECURRING .....	29
8.2	LIKELIHOOD OF MATERIAL INJURY CONTINUING OR RECURRING .....	30
<b>9</b>	<b>SUMMARY OF RECOMMENDATIONS.....</b>	<b>37</b>
<b>10</b>	<b>EVIDENCE RELIED UPON.....</b>	<b>39</b>
<b>11</b>	<b>LIST OF ATTACHMENTS.....</b>	<b>39</b>



# 1 SUMMARY

This report presents the material findings of fact and recommendations to the Minister for Justice and Customs (Minister) in respect of:

- an inquiry into whether anti-dumping measures applying to pineapple prepared or preserved in containers not exceeding one litre (consumer pineapple) exported to Australia from Thailand should be continued – Trade Measures Report No. (TM) 110; and
- an inquiry into whether anti-dumping measures applying to pineapple prepared or preserved in containers exceeding one litre (food service and industrial (FSI) pineapple) exported to Australia from Thailand should be continued – TM110; and
- a review of anti-dumping measures applying to consumer pineapple exported to Australia from Thailand – TM111; and
- a review of anti-dumping measures applying to FSI pineapple exported to Australia from Thailand – TM111.

In October 2001, the Minister imposed anti-dumping measures on consumer pineapple and FSI pineapple (except for Malee Sampran Public Co) exported to Australia from Thailand.

The continuation inquiries and reviews were initiated on 22 February 2006 following applications from Golden Circle Limited (GCL), the sole Australian manufacturer of consumer and FSI pineapple.

As a result of its inquiries and reviews, Customs found for both consumer and FSI pineapple that:

- the variable factors relevant to the taking of the measure have changed;
- if the measure expired it would lead, or would be likely to lead, to a continuation of, or a recurrence of dumping;
- material injury is being caused, and will continue being caused, to the Australian industry because of circumstances in relation to the exportation of consumer pineapple to Australia from Thailand; and
- if the measure expired, it would lead, or would be likely to lead, to a continuation of, or a recurrence of, the material injury to the Australian industry that the measure is intended to prevent.

Customs recommends that the Minister take steps to secure the continuation of the anti-dumping measures for consumer and FSI pineapple. Customs also recommends that the levels of the measures be revised as variable factors have changed.

## **2 INTRODUCTION**

### **2.1 The continuation inquiries**

Under s. 269TM of the *Customs Act 1901* (Act), dumping and countervailing duty notices expire five years after the date on which they were published, unless they are revoked earlier.

The CEO must ensure that there is placed on the public record a statement of essential facts (SEF) on which the CEO proposes to base recommendations to the Minister concerning the continuation of those measures, and invite submissions in response to that statement.

In formulating the SEF, the CEO must have regard to the application concerned and any submission relating generally to the inquiry that are received by Customs in response to the initiation notice. The SEF was issued on 28 July 2006.

The CEO must provide a report to the Minister recommending, in accordance with s. 269ZHF of the Act that the Minister take steps to secure the continuation of the anti-dumping measures or that the measures expire on the specified expiry date.

In preparing the recommendations to the Minister, the CEO must also have regard the SEF and any submission made in response to the SEF that is received by Customs no later than 17 August 2006 and may have regard to any other matter considered to be relevant to the inquiry.

Customs received submissions on behalf of 5 interested parties in the response to the SEF by the due date specified, and another 8 submissions from one of those parties after that date. These submissions were considered in formulating Customs' final recommendations to the Minister.

A further confidential submission in response to the SEF was received from another interested party on 8 September 2006, 22 days after the due date. Customs was of the opinion that to have regard to this submission would prevent the timely preparation of the report. Accordingly, Customs did not have regard to that submission

### **2.2 The reviews**

The requirements for applications and requests for review of anti-dumping measures are set out under s. 269ZA of the Act. An affected party may apply for a review of anti-dumping measures, providing a review has not been undertaken in the preceding twelve months. However, the Minister may, at any time, by notice in writing, request that the CEO initiate a review.

The CEO must ensure that there is placed on the public record a statement of essential facts (SEF) on which the CEO proposes to base recommendations to the Minister concerning the review of those measures, and invite submissions in response to that statement.

In formulating the SEF, the CEO must have regard to the application concerned and any submission relating generally to the inquiry that are received by Customs in response to the notice. The SEF was issued on 28 July 2006.

The CEO must provide a report to the Minister recommending, in accordance with s. 269ZDA of the Act that the notice or undertaking remain unaltered, be partially or wholly revoked or have effect as if different variable factors had been ascertained.

In preparing the recommendations to the Minister, the CEO must also have regard the SEF and any submission made in response to the SEF that is received by Customs no later than 17 August 2006 and may have regard to any other matter considered to be relevant to the review.

Customs received submissions on behalf of 5 interested parties in the response to the SEF by the due date specified, and another 8 submissions from one of those parties after that date. These submissions were considered in formulating Customs' final recommendations to the Minister.

A further confidential submission in response to the SEF was received from another interested party on 8 September 2006, 22 days after the due date. Customs was of the opinion that to have regard to this submission would prevent the timely preparation of the report. Accordingly, Customs did not have regard to that submission

### **2.3 Public notification**

Customs published a notice in *The Australian* newspaper on 1 December 2005 to notify interested parties that anti-dumping measures applying to pineapple juice concentrate and pineapple (prepared or preserved in containers) exported from Thailand are due to expire on 17 October 2006. The notice covered the measures applying to all pineapple juice concentrate, consumer pineapple and FSI pineapple exported from Thailand except for exports of FSI pineapple by Malee Sampran Public Co (Malee). Malee exports to Australia of FSI pineapple are exempt from anti-dumping measures. Eligible persons were invited to apply for continuation of the measures by 30 January 2006.

On 30 January 2006, Golden Circle Limited (GCL) lodged an application for continuation of the anti-dumping measures on consumer pineapple and FSI pineapple. GCL is the sole Australian manufacturer of consumer pineapple and FSI pineapple and an applicant in terms of s. 269ZHB(1)(b)(i) of the Act.

No application was received for continuation of anti-dumping measures applying to pineapple juice concentrate.

On 22 February 2006, Customs published a notice in *The Australian* newspaper advising acceptance of the application and the initiation of the inquiries. Customs also published Australian Customs Dumping Notice (ACDN) 2006/05 outlining inquiry procedures. In ACDN 2006/05 Customs advised that interested parties

may make submissions no later than 3 April 2006, an SEF would be placed on the public record by 12 June 2006 and that Customs must report to the Minister by 27 July 2006.

The notice in *The Australian* newspaper on 22 February 2006 also advised that Customs had commenced reviews of all anti-dumping measures applying to consumer pineapple and FSI pineapple exported from Thailand. The review resulted from an application lodged by GCL on 31 January 2006. The same timeframe applied to the reviews as to the continuation inquiries. Information on the reviews was included in ACDN 2006/05.

On 29 May 2006, Customs published ACDN 2006/22 advising that the Minister had extended the deadline for the publication of the SEF for both the continuation inquiries and the reviews. As a result of the extension, the SEFs must be placed on the public record by 29 July 2006. Customs must report to the Minister by 12 September 2006.

The deadlines were extended to give the continuation inquiries and reviews the same publication and reporting timetable as that of the anti-dumping investigations on consumer pineapple and FSI pineapple exported to Australia from the People's Republic of China and the Philippines (commenced on 10 April 2006). There are a large number of interested parties common to both the continuation inquiries/reviews and the investigations. Customs had also experienced delays in obtaining and verifying certain information required for the continuation inquiries and reviews.

### **3 MEASURES SUBJECT TO INQUIRY AND REVIEW**

#### **3.1 Goods subject to measures**

The goods subject to measures are:

- pineapple prepared or preserved in containers not exceeding one litre (consumer pineapple); and
- pineapple prepared or preserved in containers exceeding one litre (FSI pineapple).

Consumer pineapple and FSI pineapple are two separate goods. Reference to 'pineapple fruit' in this report refers to both consumer pineapple and FSI pineapple.

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 Thailand is free. The rate of duty was reduced to free on 1 January 2005 as a result of the Thailand-Australia Free Trade Agreement

(TAFTA). The agreement provides a mechanism to initiate safeguard measures on sensitive products if necessary. Special safeguard provisions apply to prepared or preserved pineapple classified to tariff subheading 2008.20.00.

Where the volume of safeguard goods imported in a calendar year exceeds a certain volume, special safeguards may be imposed. If special safeguards are imposed, the duty rate will return to the general rate of duty. In the case of pineapple the general rate is 5 percent.

On 1 September 2006 special safeguard provisions were imposed on pineapple fruit exported from Thailand. The rate of duty was increased from free to 5 percent for canned pineapple from Thailand classified under Tariff subheading 2008.20.00, statistical codes 26 and 27.

The rate of 5 percent will apply from 1 September 2006 to 31 December 2006. The safeguards will cease to apply to goods imported on or after 1 January 2007, but may be re-imposed if the limit of 6,706,725 litres is reached in 2007.

### **3.2 Current anti-dumping measures**

Anti-dumping measures were imposed on both consumer pineapple and FSI pineapple exported from Thailand on 18 October 2001 following TM41. One exporter, Malee, is exempt from measures on FSI pineapple.

There have been no reviews of anti-dumping measures on consumer pineapple or FSI pineapple. The expiry date for the measures is 17 October 2006. All exports (except FSI pineapple from Malee) are the subject of both the continuation inquiries and the reviews.

## **4 AUSTRALIAN MARKET FOR PINEAPPLE FRUIT**

Pineapple fruit sold in Australia is sourced from both local production and imports. Imports of consumer pineapple are predominantly from Thailand and the Philippines. Imports of FSI pineapple are predominantly from China, Indonesia, Thailand and the Philippines.

### **4.1 Market structure**

#### **Current inquiry**

##### Consumer pineapple

Consumer pineapple is primarily sold to large retailers or to wholesalers that on-sell to independent stores.

There is a variety of forms including 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 are also packaged in plastic containers.

Consumer pineapple is generally labelled and marketed as:

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

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

At the time of the original investigation as reported in TM41, imports were largely of generic brands. Since that time, imports of branded products have emerged and increased in volume.

### FSI Pineapple

The FSI market is made up of food service and industrial sectors and is typically supplied in 3.0 to 3.2 kg cans, although sometimes supplied in large aseptic plastic bags and drums.

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

FSI pineapple is primarily sold to wholesalers/distributors or end users.

The FSI market is generally less concerned with brand and tends to be more price-sensitive than the consumer market.

## **4.2 Market size**

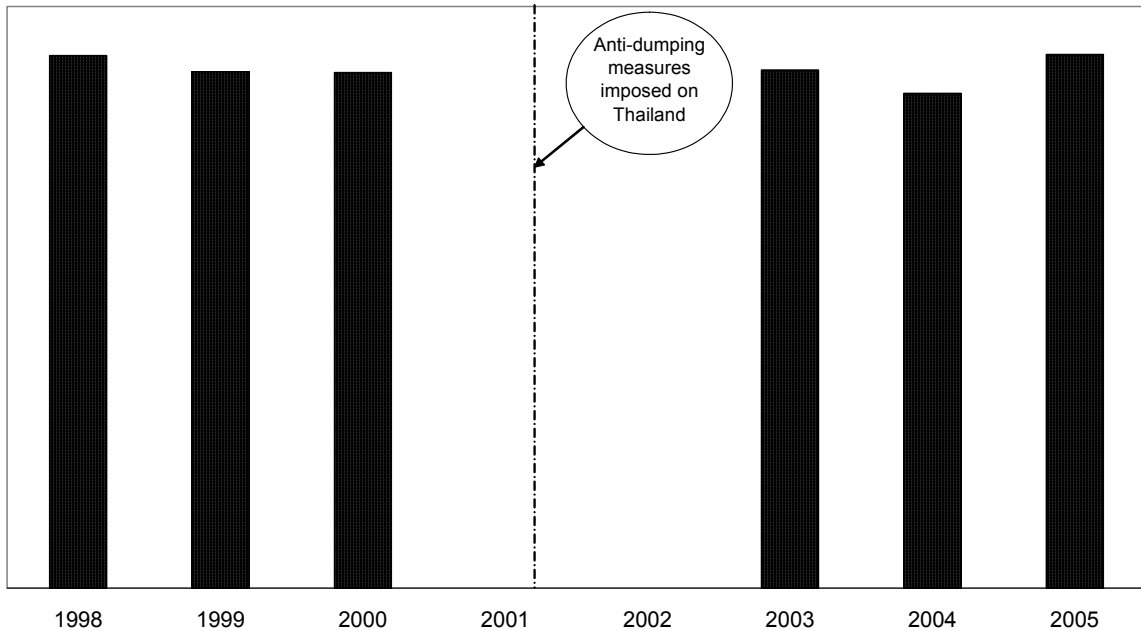
The size of the Australian market for consumer pineapple and for FSI pineapple was calculated using a combination of sales data and import clearance data. The market has been calculated for the period 1998 to 2005. However, as GCL could not provide detailed data for the years 2001 and 2002, these years have been excluded from Customs' analysis. Data for years 1998 to 2000 was obtained during the original investigation into exports of pineapple fruit from Thailand (TM 41).

Confidential versions of the graphs presented in this report and data relating to the Australian market are at confidential attachment 1.

### Consumer pineapple

The size of the Australian market for consumer pineapple has remained stable since the original investigation. The following graph illustrates the movement in annual sales volumes.

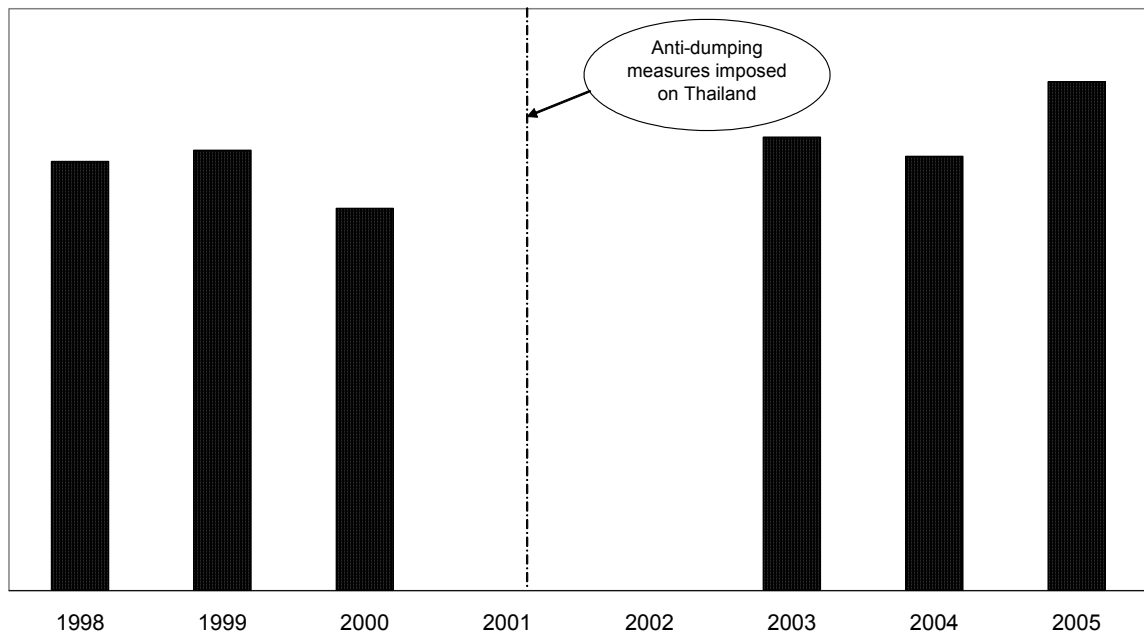
**Australian market - Consumer pineapple (kgs)**



### FSI pineapple

The size of the Australian market for FSI pineapple has increased since the original investigation. Movements in annual sales volumes are illustrated in the following graph.

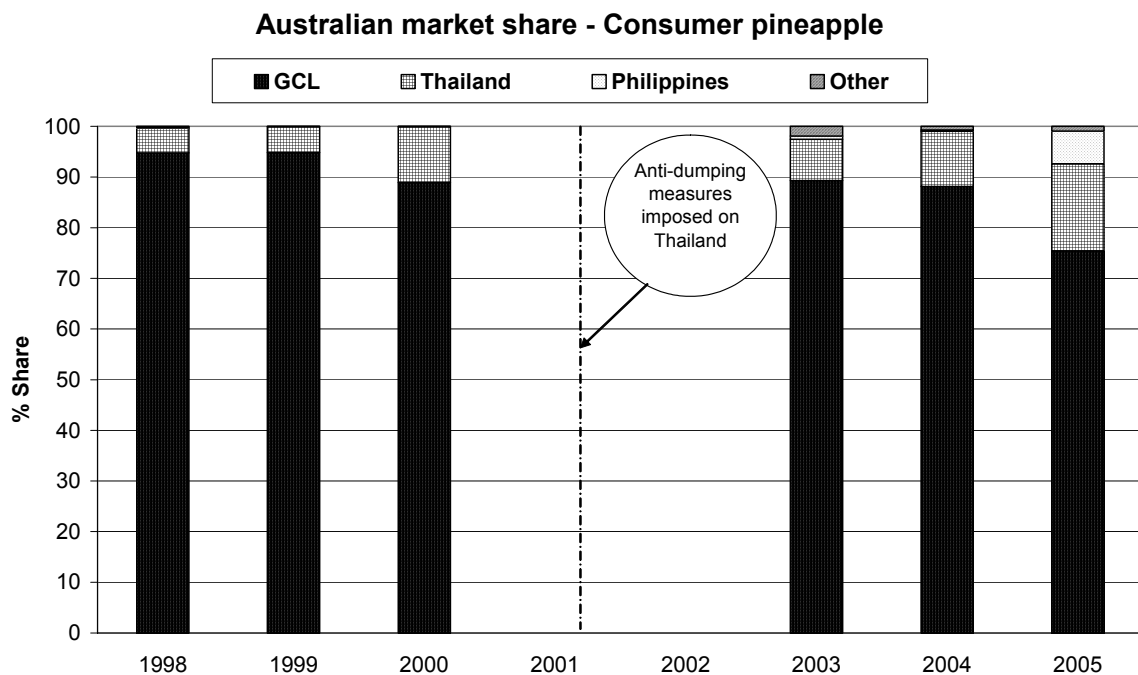
**Australian market - FSI pineapple (kgs)**



## 4.3 Market share

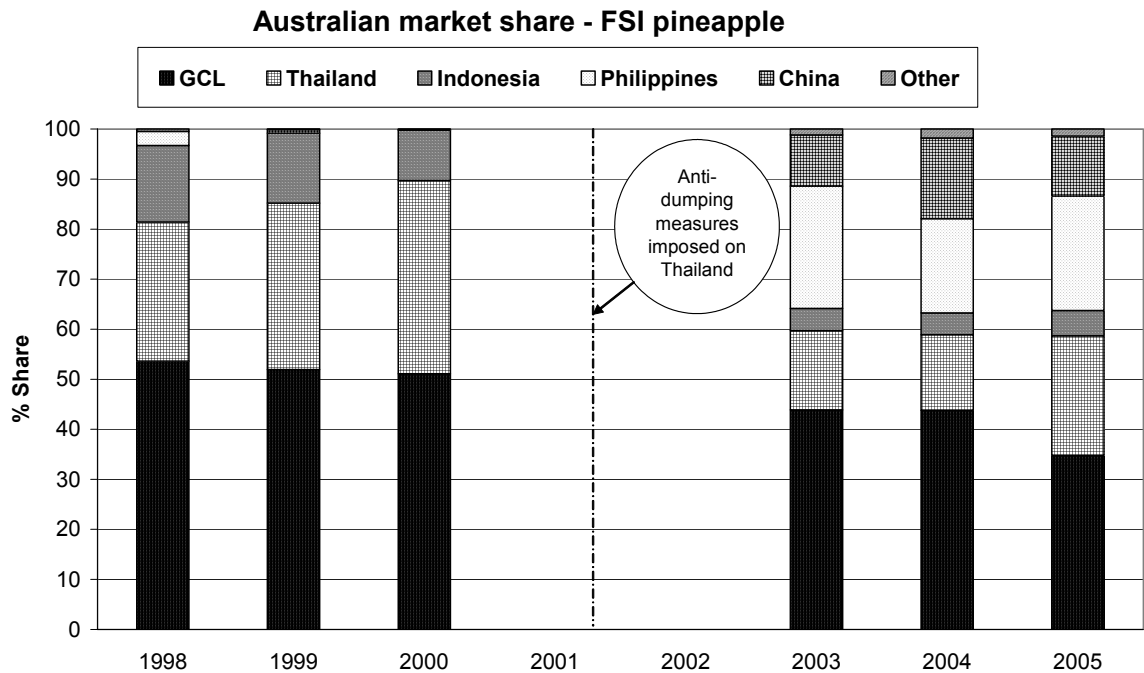
### Consumer pineapple

The consumer pineapple market share held by GCL has decreased since the original investigation. The share of the market held by imports from Thailand has increased, notwithstanding the imposition of anti-dumping measures in 2001. Imports from the Philippines emerged to take a significant share of the market in 2005. Market shares are illustrated in the following graph:



### FSI pineapple

The FSI pineapple market share held by GCL has decreased since the original investigation. The shares of the market held by imports from Thailand and Indonesia have decreased although Thai market share showed a significant increase in 2005. The share of the market held by imports from China and the Philippines have increased significantly. Market shares are illustrated in the following graph:



GCL's market share for FSI pineapple includes sales of imported product. It is noted that these imports increased significantly in 2005, thus GCL's market share held by its own manufactured FSI pineapple has declined further than that demonstrated in the graph above.

## 5 ECONOMIC CONDITION OF THE INDUSTRY

### 5.1 The Australian industry

Pineapple fruit is manufactured in Australia by GCL. Customs visited GCL and verified cost and price data.

GCL submitted annual costs and prices for the period 1 January 2003 to 31 December 2005. GCL stated that it was unable to provide reliable data for years prior to 2003. Customs verified GCL data for the years 2003 to 2005. Data for years 1998 to 2000 was obtained during the original investigation.

Confidential versions of the graphs presented in this report and data relating to the Australian industry are at confidential attachment 2.

#### Company background

GCL is a manufacturer and processor of a variety of fruit and vegetable products. GCL's main factory is located at Northgate, Queensland. GCL also owns the Original Juice Co. plant at Mill Park, Melbourne and a fresh fruit packing operation in Griffith, NSW. Sales offices are located in every Australian state and New Zealand.

Australia is the principal market for GCL products. GCL exports products to destinations including New Zealand and Pacific islands, Japan, Singapore, Sri Lanka, Hong Kong, China, Indonesia, the Philippines and Papua New Guinea.

The company employs between 700 and 1,800 people. The staff fluctuation is a result of the seasonal nature of the business.

The Northgate site produces pineapple products (both fruit and juice) and a range of other fruit and vegetable products for the retail (consumer) and FSI markets. The company processes 80 percent of the pineapple produced in Australia. The remaining fruit is destined for the “fresh” market.

GCL is an unlisted public company owned by 850 shareholders. Pineapple growers own a significant percentage of the shares in the company.

Shareholder farmers, and other farmers, supply more than 180,000 tonnes of fruit and vegetables every year to the factory for processing. GCL processes between 80,000 and 90,000 tonnes of pineapple per annum.

The fruit crops, of which pineapple is the largest, come from the Glasshouse Mountains region, Maryborough, Yeppoon and further north and the vegetables largely from the Lockyer Valley region, southwest of Brisbane. Crops not grown in Queensland are sourced from southern states.

GCL manufacture over 500 products including shelf stable fruit and vegetables (in cans and glass jars), fruit juices, fruit drinks, cordials, soft drinks, jams, conserves and baby food. GCL produces around 20,000 tonnes of canned pineapple fruit per annum. Canned pineapple accounts for around 10 percent of the company’s sales revenue.

### **Australian production**

Growers are contracted to supply pineapples to GCL. Contracts operate for the fruit year July to June. Pineapples take 18 months to grow. There are two “seasons” - the main February to May season and a secondary season from September to October.

Pineapples are processed at GCL’s factory at Northgate, Queensland. The manufacturing process is as follows:

- pineapples are delivered from the grower in crates;
- grading and sorting of fruit on the basis of size and quality;
- juice grade pineapples are diverted to juice production;
- removal of skin and core from canning pineapples (processed for juice);
- pineapples are sliced and inspected further for defects and quality (based on colour and firmness);
- fruit which is unsuitable for slices will be further processed into pineapple pieces;
- fruit which is unsuitable for pieces will be further processed into crushed pineapple;

- fruit which is unsuitable for crushed pineapple will be further processed into pineapple juice;
- processed fruit is then canned, topped up with unsweetened pineapple juice or pineapple syrup, sealed, cooked, labelled and packed for distribution; and
- solid pineapple product remaining following extraction for juice is collected and provided free of charge as feedstock for cattle.

Customs considers that GCL is the sole manufacturer and processor of pineapple fruit in Australia.

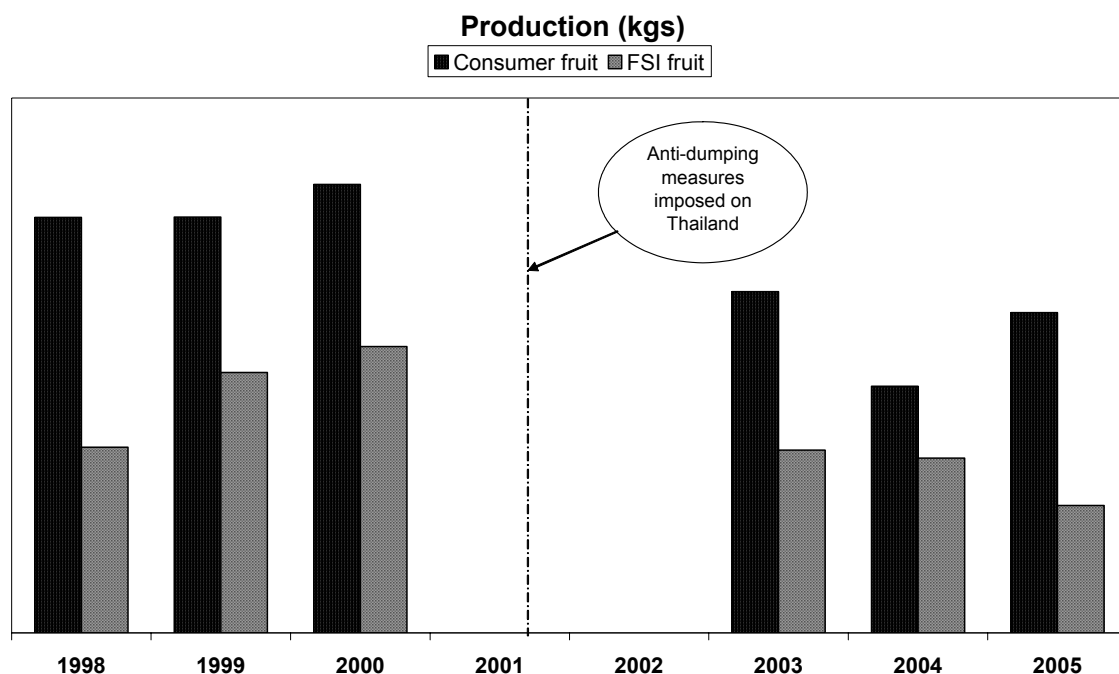
In the application, GCL commented on SPC Ardmona Operations Pty Ltd (SPCA) consumer pineapple products being sourced from local and imported ingredients.

Customs found that a small percentage of SPCA's imports are repackaged into plastic containers for the consumer market. Customs considers the repackaging process carried out by SPCA does not constitute a substantial process of manufacture of the goods in Australia. Customs does not consider SPCA to be part of the Australian industry producing like goods to the imported goods as defined under s.269T of the Act.

## 5.2 Volume effects

### Production volume

GCL's production is shown in the following graph.

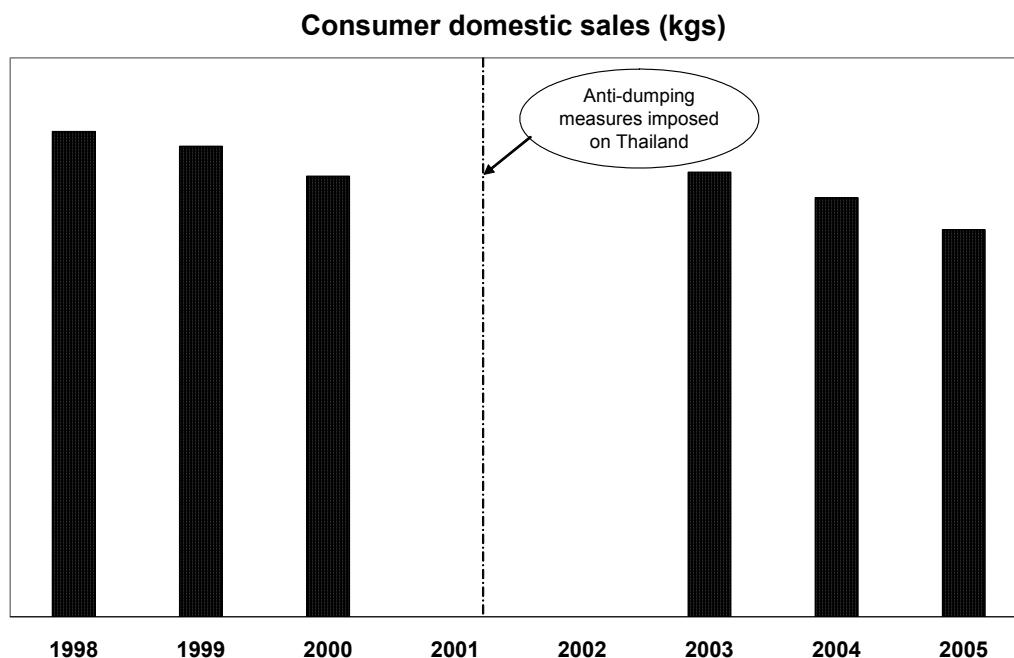


The graph above shows that production volumes of both consumer pineapple and FSI pineapple from 2003 to 2005 have decreased significantly from those in 1998 to 2000. It is noted that fresh pineapple production levels in 2003 and 2004 were affected by drought conditions in Queensland. It is also noted that GCL imported a significant volume of FSI pineapple in 2005 to supplement sales of its own manufactured product into the Australian market.

## Sales volume

### Consumer pineapple

GCL's sales are of each product type (thins, pieces, crushed etc). GCL's annual sales volumes of consumer pineapple are shown in the following graph.



Sales volumes from 2003 to 2005 have decreased significantly from those in 1998 to 2000. Although detailed sales figures above are not available from GCL for 2001 and 2002, Customs is aware through visits to GCL's customers that GCL's sales volumes to certain customers increased in 2002 following the imposition of measures on Thailand. The volume of imports from Thailand decreased at that time.

Woolworths Limited (Woolworths) and Coles Myer Limited (CML), the two major retailers in Australia, both claimed that GCL no longer wished to supply them with generic product. Woolworths noted that, for 2006, GCL had cited an inability to 'confidently guarantee supply' as a reason for not tendering for generic brand contracts. GCL has denied these claims.

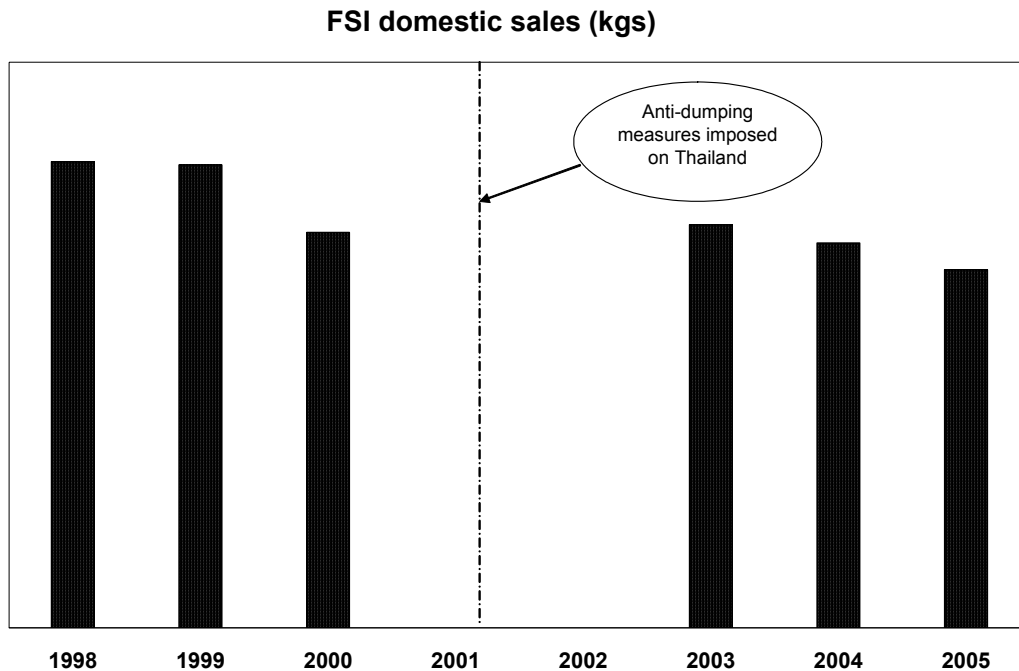
Woolworths also noted that over 2005 GCL often supplied less of its 'Golden Circle' brand product than that ordered by Woolworths. CML however stated that it had experienced no supply problems with GCL.

Customs concludes that GCL has suffered a loss of sales volume in consumer pineapple.

### FSI pineapple

GCL sells product to both the food service and industrial sectors. Sales are made of each product type (thins, pieces, crushed etc). GCL's annual sales volumes of

FSI pineapple (both domestically produced and imported) are shown in the following graph.



Sales volumes from 2003 to 2005 have decreased significantly from those in 1998 to 2000. Some importers/end-users claimed that GCL was unable to supply the entire Australian FSI market. Some noted that they were told by GCL that they were unable to supply whilst another noted that it had never been approached by GCL to supply. GCL has stated that it is committed to supplying the FSI market.

Another importer/end-user noted that it had never been approached by GCL to supply. Customs notes that GCL does not have to make specific approaches to all potential buyers, but rather simply have goods for sale to purchasers generally.

As noted above, GCL's production levels of FSI pineapple (and consumer pineapple) have declined and GCL imported a significant volume of FSI pineapple in 2005 to supplement sales of its own manufactured product into the Australian market. In its application for measures on consumer pineapple and FSI pineapple from China and the Philippines, GCL noted that it had imported in an attempt to hold market share with lower cost imports.

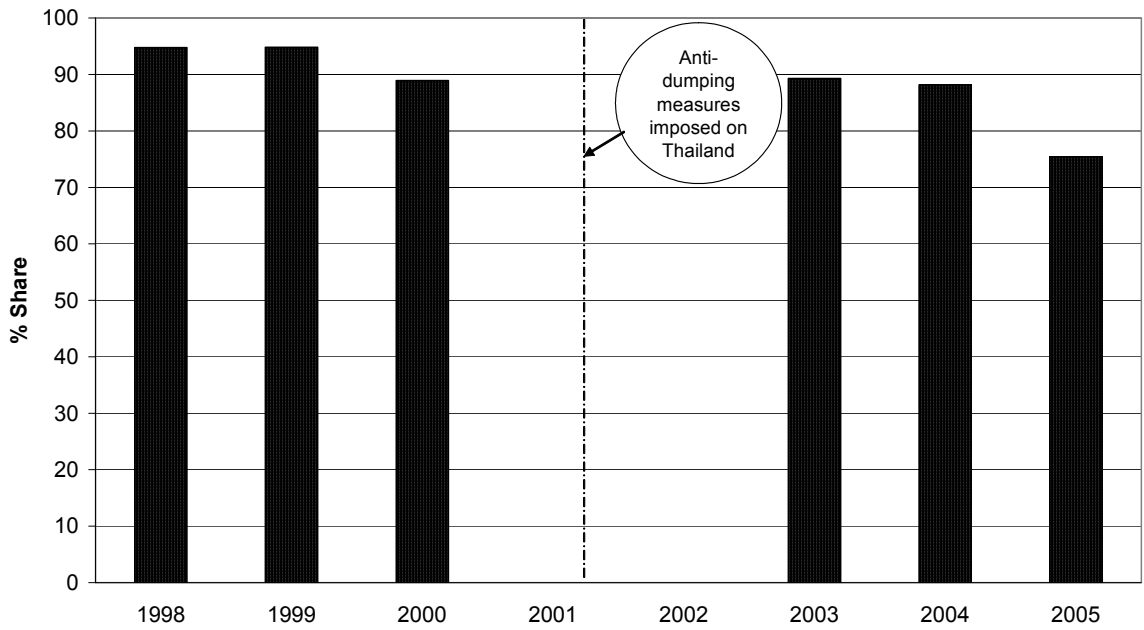
Customs concludes that GCL has suffered a loss of sales volume in its own manufactured FSI pineapple, as well as FSI pineapple overall.

### **Market share**

#### Consumer pineapple

GCL's share of the consumer pineapple market is shown in the following graph.

**Market share GCL - Consumer pineapple**

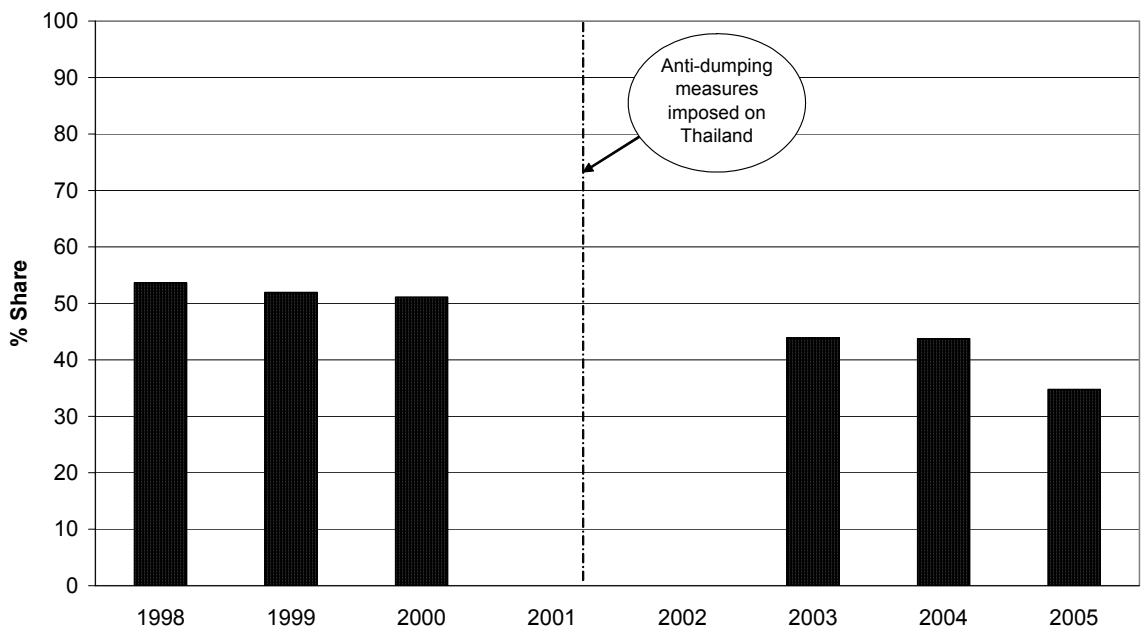


The decrease in GCL's market share of consumer pineapple from years 1998-2000 to 2003-2005 follows a similar trend to its decrease in sales. Customs concludes that GCL has lost market share in consumer pineapple since the period prior to the imposition of measures. It is noted however that not all market share has been lost to Thailand - new sources of imports have also emerged, as illustrated in the graphs in section 4. That said, Thai market share has increased.

FSI pineapple

GCL's share of the FSI pineapple market (including sales of imports) is shown in the following graph.

**Market share GCL - FSI pineapple**



The decrease in GCL's FSI pineapple market share from years 1998-2000 to 2003-2005 follows a similar trend to its decrease in sales. Customs concludes that GCL has lost market share in FSI pineapple since the period prior to the imposition of measures against Thailand.

It is noted however that not all market share lost is attributable to Thailand - new sources of imports have also emerged, as illustrated in the graphs in the Australian market section. Thai market share has decreased since the imposition of anti-dumping duties although an increase was evidenced in 2005. When considering the movement in market share for FSI pineapple, Customs has taken into account the volume of exports from Thai sources not subject to measures.

### **5.3 Price effects**

The price of pineapple fruit (in containers) is generally influenced by the cost of fresh pineapple, can costs and market demand.

Customs has examined selling prices by GCL and imports to retailers, wholesalers, distributors, end users etc over 2005. Price comparisons have been made at the same level of trade.

#### Consumer pineapple

In order to compare prices in the Australian market, the free-into-store (FIS) price to retailers/wholesalers by GCL has been used and compared with either;

- the FIS price to retailers/wholesalers by the importer; or
- the landed duty paid into-store (LDPIIS) cost of the imported product into the retailer/wholesaler's distribution centre in circumstances where the retailer/wholesaler imports directly.

Imports of consumer pineapple from Thailand in 2005 were generic brand product.

Prices of imports of generic brand pineapple were compared to prices of GCL sales of generics. Prices were compared for each size container and each type of product (slices, pieces etc). The prices for imported generics of consumer pineapple from Thailand have been consistently and significantly lower than those of GCL. A comparison was also done of the prices for imported generic pineapple against the 'Golden Circle' brand, where the difference was found to be even greater.

Customs concludes that Thai imports of consumer pineapple have continued to undercut GCL's prices, despite the imposition of anti-dumping duties in 2001.

#### FSI pineapple

In order to compare prices in the Australian market, the free-into-store (FIS) price to wholesalers/distributors or end users by GCL has been used and compared with either:

- the FIS price to wholesalers/distributors or end users by the importer; or

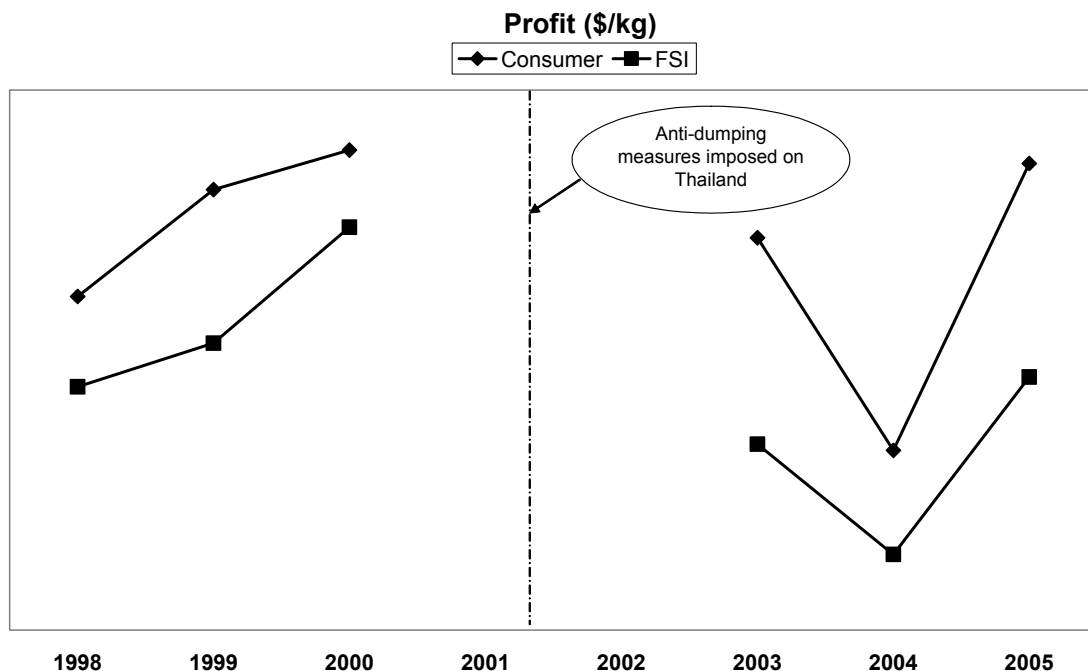
- the LDPIIS cost of the imported product in circumstances where the wholesaler/distributors or end user imports directly.

Prices of imports of FSI pineapple were compared to prices of GCL sales both inclusive and exclusive of sales of imports. The prices for imported FSI pineapple from Thailand have been consistently and significantly lower than those of GCL in both cases, even with the imposition of anti-dumping duties. When considering the price effects for FSI pineapple, Customs has taken into account prices into the Australian market of exports from Thai sources not subject to measures.

Customs concludes that GCL's prices for FSI pineapple have continued to be undercut by Thai imports. It should be noted however that prices of a significant volume of imported product from other countries have also undercut GCL's prices to a similar degree. On average, the price of imported FSI pineapple into the Australian market is significantly below that of the GCL's price.

## 5.4 Profit/profitability

Customs has examined GCL's sales, costs and profit from 1998 to 2005. Profit per kilogram is shown in the following graph.



Profit per kilogram for both consumer pineapple and FSI pineapple fluctuated over the years examined but was lower on average for each good in the period 2003-2005 compared to that in the period 1998-2000. Profitability in 2003 and 2004 was influenced by low production volumes brought about by weather conditions. Profit per kilogram in 2005 is higher than the average over the 1998-2000 period (for which Customs found no profit/profitability injury in TM41) for consumer pineapple but lower for FSI pineapple.

Profit is influenced by the price paid to growers for fresh pineapple, who collectively are significant shareholders in GCL. In this regard, it is possible that higher prices can be paid to growers at the expense of lower profits and lower dividends from GCL. An examination of fresh pineapple costs shows that prices paid to growers by GCL are significantly higher than those paid for fresh pineapple in Asia. Any examination and conclusions on injury in the form of lost profit must therefore be made bearing these facts in mind.

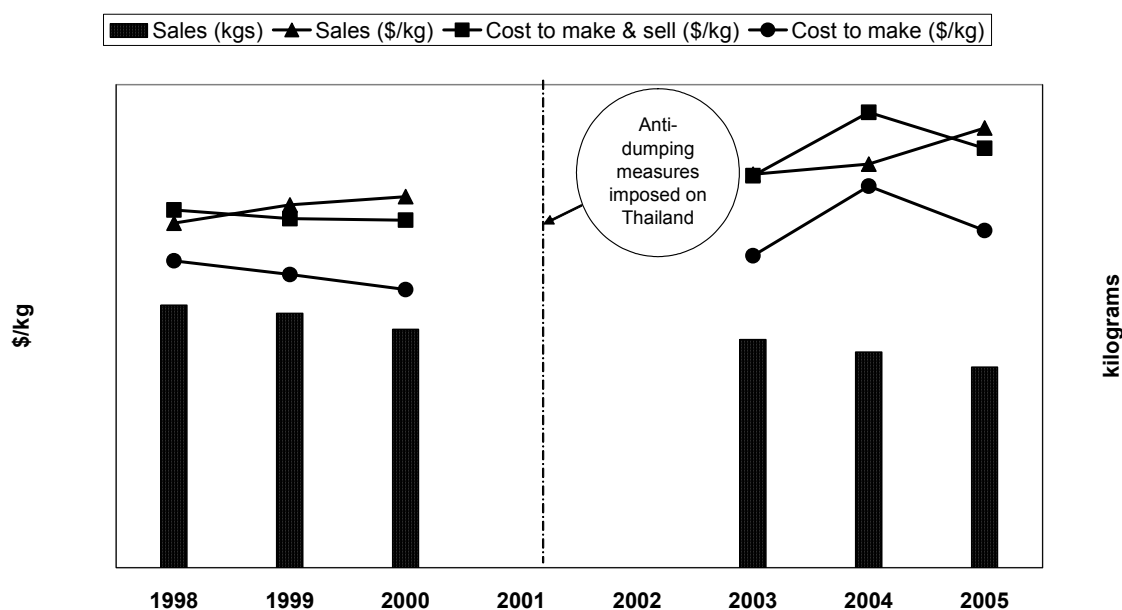
### Consumer pineapple

The following observations are made on the costs and selling prices of GCL consumer pineapple over the last three years:

- cost to make (CTM) rose significantly in 2004 and fell in 2005. CTM was higher in 2005 than 2003;
- CTM was higher in 2004 as fixed costs were spread over a lower base due to reduced production. One identified cause of lower production was drought. Production in 2004 was significantly reduced from 2003 levels. High manufacturing variances were experienced due to lower yields from lower quality fruit;
- the cost of pineapple (ie the price paid to growers) increased significantly in July 2004;
- costs fell somewhat in 2005, however increased cost of raw materials (pineapple and cans) kept CTM higher than in 2003. Improvements were made in fixed and variable overhead costs in 2005;
- selling, distribution, administration and finance costs remained steady over the three years; and
- average selling prices increased over the three years examined.

GCL's costs, and domestic sales volume and average selling prices (exclusive of sales of imports) for consumer pineapple for 2003 to 2005 are shown in the following graph.

## Consumer pineapple - costs and prices



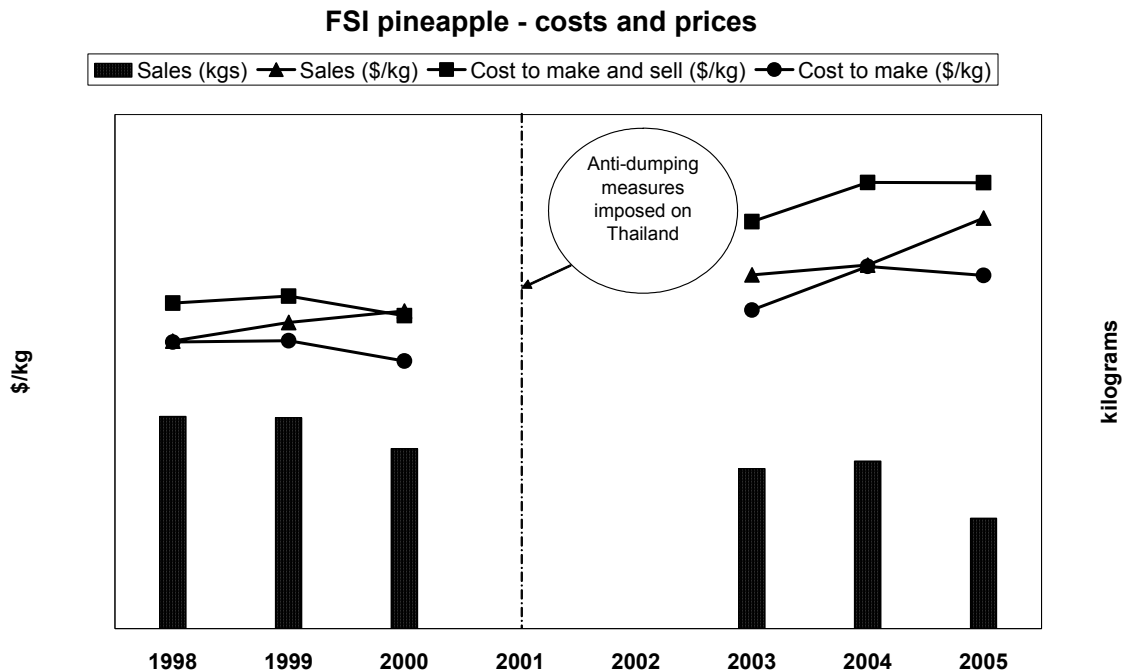
Profit and profitability in 2005 have improved over levels achieved in 2003 and 2004 and were above the average levels achieved between 1998 and 2000 (for which Customs found no profit/profitability injury in TM41). Customs concludes that GCL has suffered injury in the form of reduced profit and profitability in consumer pineapple in 2003 and 2004 but has improved in 2005.

### FSI pineapple

The following observations are made on GCL's costs and selling prices over the last three years:

- cost to make (CTM) rose significantly in 2004 and fell slightly in 2005
- production and sales were steady over 2003 and 2004 but fell significantly in 2005
- CTM was higher in 2004 as fixed costs were spread over a lower base due to reduced production. One identified cause of lower production was drought. Production in 2004 was significantly reduced from 2003 levels. High manufacturing variances were experienced due to lower yields from lower quality fruit
- the cost of pineapple (ie the price paid to growers) increased significantly in July 2004
- costs remained high in 2005 due to higher raw material costs despite improvements in overhead costs
- selling, distribution, administration and finance costs rose in 2005
- average selling prices increased slightly in 2004 and significantly in 2005
- the decrease in sales volume in 2005 was primarily of low priced, unprofitable sales which led to an increase in average selling price and profit.

GCL's costs and domestic sales volume and average selling prices (exclusive of sales of imports) for FSI pineapple for 2003 to 2005 are shown in the following graph.



Profit and profitability in 2005 have improved over levels achieved in 2003 and 2004. Profitability in 2005 is below the average level of profitability achieved between 1998 and 2000. Total profit in 2005 is at a similar level to the average profit achieved between 1998 and 2000.

Customs concludes that GCL has not suffered injury in the form of reduced profit but has suffered injury in the form of reduced profitability in FSI pineapple.

## 5.5 Others factors

GCL submitted limited annual data on other injury factors for 2003 to 2005 but made no claims in relation to the continuation inquiries or reviews.

## 5.6 Summary

### Consumer pineapple

In relation to consumer pineapple, Customs concludes that GCL has suffered injury in the forms of;

- loss of sales volume;
- loss of market share; and
- price undercutting.

## FSI pineapple

In relation to FSI pineapple, Customs concludes that GCL has suffered injury in the forms of;

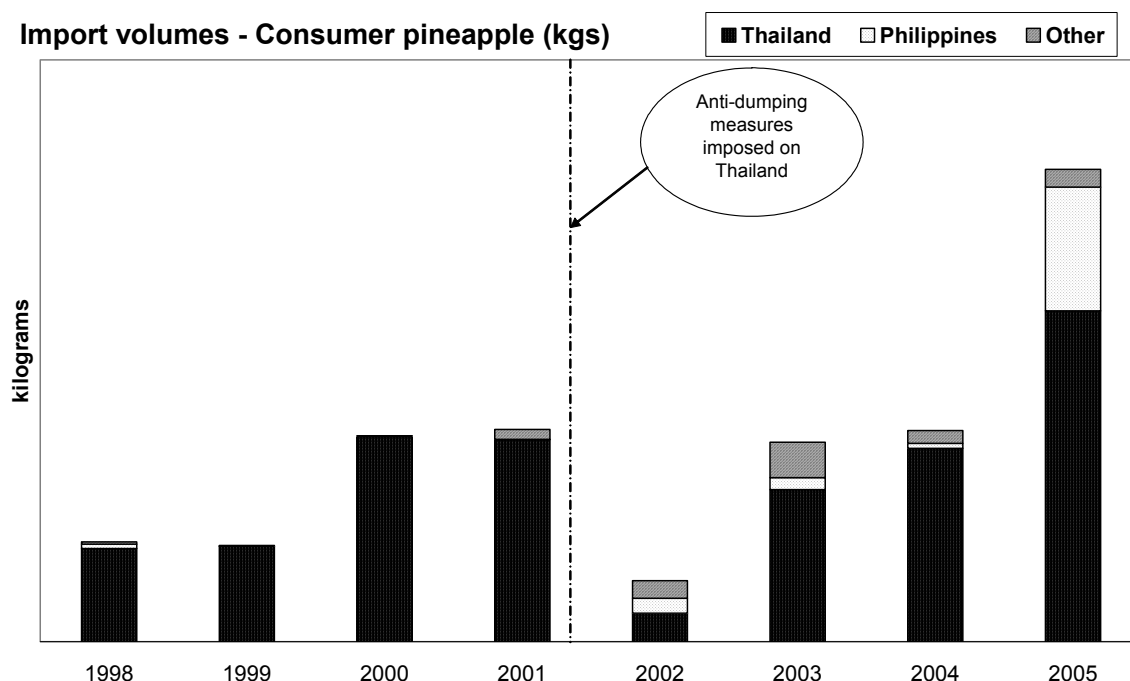
- loss of sales volume
- loss of market share
- price undercutting; and
- reduced profitability.

## **6 EXPORTER ACTIVITY SINCE THE MEASURES WERE IMPOSED**

### **6.1 Pattern of imports**

#### Consumer pineapple

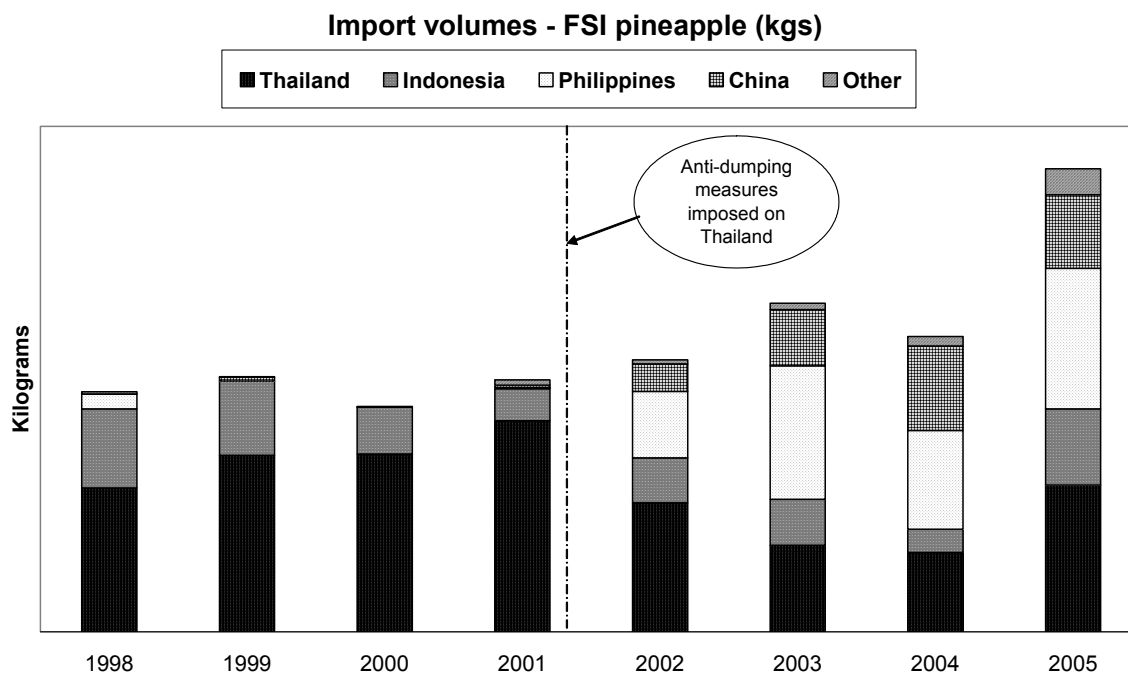
Import volumes of consumer pineapple are shown in the following graph.



Imports of consumer pineapple from Thailand decreased in volume in 2002 following the imposition of anti-dumping measures. Since then, imports have increased each year and in 2005 were significantly higher than those prior to the imposition of measures. GCL claims that measures on Thailand in recent years have become ineffective, and that levels need to be set higher to reflect increases in costs and prices.

## FSI pineapple

Import volumes of FSI pineapple are shown in the following graph.



Imports of FSI pineapple from Thailand decreased in volume following the imposition of anti-dumping measures. Imports from other sources replaced some of the Thai imports from 2002 to 2004. Imports from Thailand increased in 2005, as did imports from Indonesia and other sources, while imports from China and the Philippines remained steady. GCL claims that measures on Thailand in recent years have become ineffective, and that levels need to be set higher to reflect increases in costs and prices.

## **6.2 Export price and normal value**

Customs examined importations of pineapple fruit over the 2005 calendar year.

Customs identified a number of suppliers of pineapple fruit exported from Thailand to Australia. Three manufacturers provided a response to the questionnaire.

### **Dole Thailand Limited (DTL)**

During the review period DTL exported both consumer and FSI pineapple to Australia.

Customs visited a company that had purchased DTL FSI pineapple and visited DTL in Thailand.

### Export price

After examining the roles of all parties, Customs considers that, in all sales of consumer pineapple and FSI pineapple exported to Australia during the review

period, DTL is the manufacturer and exporter of the goods. DTL sells the consumer pineapple and FSI pineapple to an affiliated company, Castle and Cook Worldwide (CCWW). CCWW sells the consumer pineapple and FSI pineapple to the Australian customer.

There was no evidence of a relationship other than for commercial trade between CCWW and its customers in Australia. Customs is satisfied that sales by CCWW to Australian customers are arms length transactions and that the Australian customers imported the goods.

Customs found that that the consumer pineapple and FSI pineapple were exported to Australia other than by the importer but were not purchased by the importer from the exporter. Customs is aware of all the circumstances of the sales.

Customs recommends that the Minister determine export price, for both consumer pineapple and FSI pineapple, under s. 269TAB(1)(c) of the Act.

#### Normal value

In determining normal value for consumer pineapple and FSI pineapple, Customs considered information in DTL's submission and information gathered at the verification visit in Thailand.

DTL provided details of all domestic sales of consumer pineapple and FSI pineapple during the review period. All sales by DTL in the review period were to an affiliated company, Thai-American Food (TAF). TAF also provided details of all domestic sales of consumer pineapple and FSI pineapple during the review period. Customs verified consolidated sales information and individual sales to by both DTL and TAF. Customs verified the price paid by the domestic customers and is satisfied that sales by both DTL and TAF are arms length transactions.

Customs examined DTL's cost to manufacture consumer pineapple and FSI pineapple in Thailand and the administrative, selling and general (AS&G) costs associated with their sale. Customs also examined TAF's costs associated with domestic sales. Sufficient verified cost information was available to establish a constructed normal value for both consumer pineapple and FSI pineapple.

Customs established that there was a sufficient quantity of domestic sales of both consumer pineapple and FSI pineapple in the ordinary course of trade for normal value purposes. No market factor was identified to render domestic sales to be unsuitable.

Customs established normal value, for both consumer pineapple and FSI pineapple, under s. 269TAC(1) of the Act.

In order to establish normal value properly comparable to export price, Customs recommends the normal value incorporate adjustments to account for the differences between domestic and export sales in relation to handling, loading and ancillary expenses, warehousing expenses and import charges. Customs recommends the Minister direct these adjustments be made for both consumer pineapple and FSI pineapple, in accordance with s. 269TAC(8) of the Act.

Export price and normal value are at confidential attachment 3.

### **The Siam Agro Industry Pineapple & Other Public Co Ltd (SAICO)**

During the review period SAICO exported FSI pineapple to Australia.

Customs visited companies who had purchased SAICO FSI pineapple and visited SAICO in Thailand.

#### Export price

After examining the roles of all parties, Customs considers that, in all sales of FSI pineapple to Australia during the review period, SAICO is the manufacturer and exporter of the goods. Sales were both direct and arranged through an agent.

Customs is satisfied that sales of FSI pineapple by SAICO directly to its Australian customers were arms length transactions and that the Australian customers imported the goods.

For the direct sales by SAICO to the Australian customers, Customs found that the FSI pineapple was exported to Australia other than by the importer and was purchased by the importer from the exporter.

Customs established export price for direct sales of FSI pineapple to Australian importers under s. 269TAB(1)(a) of the Act.

There was no evidence of a relationship other than for commercial trade between SAICO and the agent. Customs is satisfied that the sales of FSI pineapple by SAICO to the agent were arms length transactions and that the Australian customer imported the goods.

Customs found that FSI pineapple was exported to Australia other than by the importer but was not purchased by the importer from the exporter.

Customs recommends the Minister determine the export price for sales of FSI pineapple through the agent under s. 269TAB(1)(c) of the Act.

#### Normal value

In determining normal value for FSI pineapple, Customs considered information in SAICO's submission and information gathered at the verification visit in Thailand.

SAICO provided details of all domestic sales of FSI pineapple during the review period. Customs verified consolidated sales information and individual sales to customers. Customs verified the price paid by the domestic customers and is satisfied that sales are arms length transactions.

Customs examined the cost to manufacture FSI pineapple in Thailand and the AS&G costs associated with their sale. Sufficient verified cost information was available to establish a constructed normal value.

Customs established that there was a sufficient quantity of domestic sales of FSI pineapple in the ordinary course of trade for normal value purposes. No market factor was identified to render domestic sales to be unsuitable.

Customs established normal value for FSI pineapple under s. 269TAC(1) of the Act.

In order to establish normal value properly comparable to export price, Customs recommends the normal value incorporate adjustments to account for the differences between domestic and export sales in relation to export rebate, inland transport, credit cost and packing. Customs recommends the Minister direct these adjustments be made in accordance with s. 269TAC(8) of the Act.

Export price and normal value are at confidential attachment 3.

### **Thai Pineapple Canning Industry Corp Ltd (TPC)**

During the review period TPC exported consumer pineapple to Australia.

Customs visited companies who had purchased TPC consumer pineapple and visited TPC in Thailand.

#### Export price

After examining the roles of all parties, Customs considers that, in all sales of consumer pineapple exported to Australia during the review period, TPC is the manufacturer and exporter of the goods.

Customs is satisfied that sales of consumer pineapple by TPC to its Australian customers were arms length transactions and that the Australian customers imported the goods.

Customs found that the consumer pineapple was exported to Australia other than by the importer and was purchased by the importer from the exporter.

Customs established export price for consumer pineapple under s. 269TAB(1)(a) of the Act.

#### Normal value

TPC does not sell consumer pineapple on the domestic market in Thailand.

In determining normal value, Customs considered information in TPC's submission, information gathered at the verification visit, information gathered at other verification visits in Thailand and submissions in response to the SEF.

In the SEF Customs proposed that normal value would be established under s. 269TAC(1) of the Act. Pivotal to this proposal was that Customs proposed to recommend that the Minister be satisfied, under s. 269TAC(14) of the Act, that the volume of sales of consumer pineapple by another seller, while of low volume, is

still large enough to permit a proper comparison for the purposes of assessing a dumping margin under s. 269TACB of the Act.

Submissions in response to the SEF by TPC hinge on two main points:

- domestic sales by the other seller should not be used as the basis for the normal value as the domestic sales were of insufficient volumes when compared to TPC's export sales; and
- if domestic sales by the other seller are used as the basis for the normal value then adjustments should be made for sales volumes, different products (physical characteristics), difference in the timing of sales (Woolworths) and labels (proprietary vs. generic).

The issue in relation to the use of domestic sales to establish TPC's normal value was also covered in submissions from the Thai Department of Foreign Trade and CML.

Customs established that there was another seller of consumer pineapple on the domestic market. The domestic sales by the other seller were of sufficient volume for the domestic sales by the other seller to be used as the basis for the normal value established for DTL.

A comparison of the volume of domestic sales of consumer pineapple by the other seller to the volume of export sales of consumer pineapple by TPC showed that the domestic sales were of low volume as defined in s. 269TAC(14)(c) of the Act.

There is a market for consumer pineapple in Thailand. Customs has evidence that there are at least three sellers of domestically produced consumer pineapple in the Thai domestic market. Customs considers that the sales by the other seller of consumer pineapple in the domestic market are relevant for a proper comparison of price. Customs has no evidence that the situation in the market in Thailand for sales of consumer pineapple is not suitable for determining a price under s. 269TAC(1) of the Act.

Customs also examined TPC's claims with regard to adjustments that should be considered if the normal value for TPC was based on the domestic selling price of other sellers, i.e., volume, timing, physical characteristics and labelling. Customs does not have relevant evidence to support these adjustments claimed by TPC.

When examining the adjustments applied to the domestic selling price of the other seller for TPC, Customs found that some adjustments were required to the calculation included in the SEF.

Customs recommends the Minister be satisfied that the volume of sales of consumer pineapple by another seller is still large enough to permit a proper comparison for the purposes of assessing a dumping margin under s. 269TACB of the Act. This recommendation is made in accordance with s. 269TAC(14) of the Act.

Customs established normal value under s. 269TAC(1) of the Act.

In order to establish normal value for consumer pineapple properly comparable to export price, Customs recommends the normal value incorporate adjustments to account for the difference between domestic and export sales in relation domestic selling expenses, commission, inland transport, and export handling expenses. Customs recommends the Minister direct these adjustments be made in accordance with s. 269TAC(8) of the Act.

Export price and normal value are at confidential attachment 3.

### **All remaining exporters**

The term “all remaining exporters” covers the following exporters of pineapple fruit from Thailand:

- for consumer pineapple, all exporters except DTL and TPC;
- for FSI pineapple, all exporters except DTL, SAICO and Malee.

Customs notified the remaining companies that had supplied Thai origin consumer pineapple and FSI pineapple to Australia of the reviews and inquiries. The companies did not provide any information. Customs visited importers who purchased Thai product from some of the remaining companies and obtained documentation from other companies.

Export price and normal value are at confidential attachment 3.

### **Summary**

Customs found that export prices and normal values for both consumer pineapple and FSI pineapple had changed from those ascertained at the time of imposition of measures.

### **6.3 Pattern of dumping**

Dumping occurs when a product of one country is exported to another country at a price less than its normal value.

Customs has examined the pattern of dumping for Thai exporters, drawing on verified data from the original investigation and the current inquiries and reviews. Customs has gathered a substantial amount of verified data on export price and normal value to examine the pattern of dumping.

Customs has calculated dumping margins from verified data for the review period.

#### Consumer pineapple

The margin of dumping calculated for DTL, TPC and other exporters was not negligible.

## FSI pineapple

In an original investigation no dumping by an exporter would result in the investigation being terminated insofar as it related to an exporter not dumping. In a review the absence of dumping of the goods to Australia by an exporter is not of itself sufficient grounds for the anti-dumping measures to be revoked, or in relation to a continuation inquiry, for the measures not to be continued. For this purpose, the exporters behaviour into other markets is examined.

SAICO did not sell FSI pineapple at dumped prices during the review period. However, the margin of dumping for DTL and other exporters was not negligible. Therefore the anti-dumping measures in relation to SAICO should not be revoked.

### **6.4 Behaviour into other export markets**

In terms of capacity for exports, Customs found that pineapple producers in Thailand continue to have a strong focus on export markets.

In the current inquiries and reviews Customs examined export sales to all countries by the three exporters visited and their pricing behaviour into export markets. Customs found for both consumer pineapple and FSI pineapple on the export market cost recovery was marginal, with sales to some countries being made at a loss.

US Department of Commerce Report no.70 FR 61432 from 2005 found that Thai product had been exported to the US at dumped prices by two companies, Vita Food Factory (1989) Co Ltd (Vita) and Thai Pineapple Canning Industry Corp Ltd (TPC) over the period from 1 July 2003 to 30 June 2004.

The findings of the US report and the pricing behaviour of the companies visited into other export markets indicate preparedness for Thai exporters to sell exported product at dumped prices.

## **7 SUBMISSIONS IN RESPONSE TO THE SEF**

Customs placed the SEF on the public record on 28 July 2006. Interested parties were invited to make submissions in response to the SEF by 17 August 2006. Submissions were received from CML, GCL, SAICO, and TPC and the Thai Department of Foreign Trade.

As mentioned in the introduction to this report, a confidential submission in response to SEF 112 was received from another interested party on 8 September 2006, 22 days after the due date. Customs was of the opinion that to have regard to this submission would prevent the timely preparation of the report. Accordingly, Customs did not have regard to that submission

The submissions are at confidential attachment 4.

### **7.1 Summary of the facts**

There is evidence to show that in relation to both consumer pineapple and FSI pineapple exported to Australia from Thailand:

- the variable factors relevant to the taking of the measure have changed;
- if the measure applying to exporters expired it would lead, or would be likely to lead, to a continuation of, or a recurrence of dumping;
- material injury is being caused, and will continue being caused, to the Australian industry because of circumstances in relation to the exportation of consumer pineapple to Australia from Thailand; and
- if the measure applying to exporters expired, it would lead, or would be likely to lead, to a continuation of, or a recurrence of, the material injury to the Australian industry that the measure is intended to prevent.

## **7.2 Issues raised in submissions**

### **Coles Myer Ltd**

- exports by TPC are not dumped; and
- Customs makes an incorrect assumption that the expiration of anti-dumping measures on consumer pineapple will result in a continuation of injurious dumping of consumer pineapple by TPC exports.

### **Golden Circle Limited**

- welcomed Customs findings in respect of each SEF report;
- commented that an application for review of variable factors may have been difficult to substantiate prior to 2005. This was in response to argument that as there has been no previous application for review, there exists no basis to continue the measures;
- rejected claims that it would not supply the FSI market. GCL stated that its offer to supply was refused on the basis of price;
- disagreed with the suggestion that it was unwilling to supply generic pineapple fruit to the consumer pineapple fruit market; and
- requested Customs to reconsider the profitability of GCL's beetroot business as a basis for profitability in the consumer pineapple fruit business.

### **SAICO and TPC**

- Customs conclusion that the expiration of anti-dumping measures on consumer pineapple would be likely to lead to a continuation of injurious dumping of consumer pineapple is based on the false premise that exports of the goods concerned by TPC during the period of review were dumped;
- domestic sales by the other seller should not be used as the basis for the normal value as the domestic sales were of insufficient volumes when compared to TPC's export sales; and
- due allowances must be made for differences in quantities, sales occurring at different times, premium for branded domestic sales and physical characteristic differences.

## **Thai Department of Foreign Trade**

- The normal value determination for TPC is inconsistent with Article 2.2 of the Anti-dumping Agreement.

### **7.3 Customs assessment**

All of the issues raised have been considered by Customs and, where appropriate, have been covered in this section and in other sections of this report. Detailed analysis and assessment of the each of the issues raised are contained in confidential attachment 4.

## **8 LIKELIHOOD OF DUMPING OR MATERIAL INJURY CONTINUING OR RECURRING**

### **8.1 Likelihood of dumping continuing or recurring**

An important question to be addressed is “What is the likelihood of dumping continuing or recurring. Is it probable?”

#### **Dole Thailand**

DTL exported consumer and FSI pineapple to Australia during the review period. DTL was not exporting at the time of the original investigation.

Customs considers that exports by DTL of consumer and FSI pineapple are likely to continue and it is likely that these exports would be dumped.

#### **SAICO**

SAICO was exporting FSI pineapple at the time of the original investigation and exported FSI pineapple to Australia during the review period.

Customs considers that exports of FSI pineapple are likely to continue and it is likely that these exports would be dumped. It is noted that exports by SAICO during the review period were not dumped.

#### **TPC**

TPC was exporting consumer pineapple at the time of the original investigation and exported consumer pineapple to Australia during the review period.

Customs considers that exports of consumer pineapple are likely to continue and it is likely that these exports would be dumped.

#### **Other exporters**

There were other exporters of consumer pineapple and FSI pineapple at the time of the original investigation and exports of consumer pineapple and FSI pineapple continued during the review period.

Customs considers that exports of consumer and FSI pineapple are likely to continue and it is likely that these exports would be dumped.

## **Conclusion**

Customs notes that sales contracts and/or supply agreements are in place for the supply of consumer and FSI pineapple from Thailand to Australia, and importers have indicated a willingness to continue importing product from Thailand.

Data covering recent imports of pineapple fruit has been extracted from Customs commercial databases. Thailand continues to be the major source of imports into Australia. Import data is at confidential attachment 5.

Customs has seen no evidence that suggests that pricing behaviour would be likely to change in future. It is therefore expected that dumping will continue and, as a result, material injury to GCL would continue.

## **8.2 Likelihood of material injury continuing or recurring**

### **Supply channels to Australia**

The supply channels for Thai consumer pineapple and FSI pineapple imported into Australia remain similar to when the original investigation was undertaken. Some importers ceased importing pineapple fruit following the imposition of measures and have not recommenced, others ceased then recommenced after a period of time and some new importers have emerged. Some importers switched source from Thailand to other countries.

### **Competition between imported and locally manufactured product**

#### Consumer pineapple

Imports of consumer pineapple from Thailand are generic product. Generic product is usually priced lower in the Australian market than branded products. GCL has supplied generic product to several customers including CML and Woolworths, but has recently advised at least one major customer that it would not tender for its generic brand contract, as it could not guarantee supply. Comparisons of GCL's prices for generic brand product to those of Thai imports show significant price undercutting by Thai product.

Thai generic brand product was purchased at prices well below that of GCL's 'Golden Circle' brand. In general, consumers buy the 'Golden Circle' brand for a number of reasons including perceptions of quality and 'Australian made', and brand loyalty. A premium can therefore be charged for the Golden Circle brand. Purchasers of generic product tend to be driven by price rather than other factors.

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

#### FSI pineapple

The FSI pineapple market is more price-driven than the consumer pineapple market. As the pineapple purchased by the FSI market is generally used as an ingredient for other food products (pizzas, fruit salads, sauces etc), issues of brand and Australian-made are less important. Local and imported product competes directly. The purchase decision is primarily based on price and security and reliability of supply. One importer also cited packaging as a decision factor, preferring to buy pineapple in aseptic bags rather than tins for reasons of possible metal contamination, safety and quality.

The prices for imported FSI pineapple from Thailand have been consistently and significantly lower than those of GCL, even with the imposition of anti-dumping duties. If anti-dumping measures expired on Thai exports, importer/distributors would have increased capacity to decrease prices.

### **Imports and current measures**

#### Consumer pineapple

Imports of consumer pineapple from Thailand slowed in the first year following the imposition of measures but then increased and are now at levels above those prior to the imposition of measures. Imports of consumer pineapple from the Philippines have emerged to take a significant share of the Australian market.

There has not been a review of measures since the original investigation.

GCL claims that the re-emergence of the Thai imports is a result of measures becoming ineffective due to increases in costs and prices, and that actual normal values have increased since measures were set.

In 2005, consumer pineapple from Thailand was found to have been exported at prices less than current normal values. Importers have paid interim dumping duty (IDD) on each shipment, and have sold the goods at a profit. The cost of purchasing Thai imports has been significantly and consistently lower than that of purchasing GCL's generic and branded product.

GCL has applied for anti-dumping measures on consumer pineapple from China and the Philippines. Customs terminated the application in relation to consumer pineapple from China on 9 August 2006. Customs is due to report to the Minister on consumer pineapple from the Philippines on 12 September 2006. .

#### FSI pineapple

Imports of FSI pineapple from Thailand declined following the imposition of measures, with offsetting increases in imports from China and the Philippines.

Imports from Thailand increased in 2005 but are still at levels below those prior to the imposition of measures. Customs has taken into account the volume of exports from Thai sources not subject to measures when considering volume effects for FSI pineapple. Imports from China and the Philippines have remained at increased levels.

There has not been a review of measures since the original investigation.

GCL claims that the increase in Thai imports is a result of measures becoming ineffective due to increases in costs and prices, and that actual normal values have increased since measures were set.

In 2005, FSI pineapple from Thailand was exported at prices less than current normal values. One exporter did not dump in the review period. Importers paid IDD on each shipment (apart from those exported by Malee who are exempt), and have sold the goods at a profit. The costs of purchasing Thai imports of FSI pineapple has been significantly and consistently lower than that of purchasing GCL product.

GCL has applied for anti-dumping measures on FSI pineapple from China and the Philippines. Customs is due to report to the Minister on FSI pineapple from China and the Philippines on 12 September 2006.

### **Are there other causes of injury?**

GCL's performance in consumer and FSI pineapple has been affected by a number of factors other than dumped imports from Thailand.

#### Weather conditions

Pineapple growers experienced drought conditions in 2003 and 2004 leading to lower yields and reduced supply of quality fresh pineapple to GCL. This affected GCL's production and sales, increased costs and reduced profits and profitability over this period.

#### Fresh pineapple prices

Profit is influenced by the price paid to growers for fresh pineapple fruit. Pineapple growers are, collectively, significant shareholders in GCL. As previously noted, it is possible GCL can elect to pay higher than 'normal' market prices to pineapple growers for fresh pineapple at the expense of lower profits and lower resulting dividends from GCL.

GCL significantly increased the per kilogram price paid to growers for fresh pineapple in July 2004. This contributed to higher costs to produce and lower profits in 2004. These prices did not fall in 2005 following the end of the drought and increased availability of fresh pineapple.

As there is a limited market for fresh pineapple fruit in Australia (80 percent being purchased by GCL), the price paid for fresh pineapple fruit by GCL cannot be tested against a market price. A comparison of fresh pineapple costs shows that

prices paid to growers by GCL are significantly higher than those paid for fresh pineapple in Asia. However this comparison is only indicative, as fruit yields would also have an effect on price paid and production costs.

#### Other imports

Customs found that imports of consumer and FSI pineapple from sources other than Thailand were also entering the Australian market at low prices. These include imports from China, the Philippines and Indonesia. Imports from these sources undercut GCL's prices, some by over 50 percent. As noted previously exports for China and the Philippines of both consumer pineapple and FSI pineapple are under investigation.

#### Exchange rates

Thai sales contracts are generally set in US dollars. In 2002, the year following the imposition of measures, USD/AUD exchange rates averaged around 54 cents. Rates have since increased, averaging around 76 cents in 2005. The rise in the exchange rate makes Thai imports (and other imports – the price of which are also generally set in USD) relatively less expensive in Australian dollar terms than at the time measures were imposed.

#### Customs duty

As previously noted the rate of Customs duty was reduced from 5 percent to free on 1 January 2005 as a result of the Thailand-Australia Free Trade Agreement. This effectively reduced the cost of Thai pineapple to importers (all other things being equal) in 2005.

The rate of duty for canned pineapple was increased to 5 percent on 1 September 2006 under the special safeguard provisions of TAFTA. The rate of duty will decrease to free on 1 January 2007 but may be reimposed if certain volumes of imports are exceeded.

#### **Unsuppressed selling price and non-injurious price**

When setting anti-dumping measures, the Minister must consider the World Trade Organisation Anti-Dumping agreement and s. 8(5A) of the *Customs Tariff (Anti-Dumping) Act 1975*, which contain provisions relating to an amount of lesser duty, which can be applied if it is sufficient to remove the injury.

The non-injurious price (NIP) provides the mechanism whereby this lesser duty provision is given effect; it is the price that would be sufficient to remove the injury caused to the Australian industry by the dumping. The NIP is described in s. 269TACA. It is Customs' practice to first establish an unsuppressed selling price (USP), which is the price the Australian industry should be able to achieve for consumer pineapple and for FSI pineapple in the absence of dumping.

### GCL proposal

GCL proposed that the USP for both consumer pineapple and FSI pineapple be based on its cost to make and sell plus profit.

#### *Consumer pineapple*

GCL proposed that the rate of profit to be used for consumer pineapple be that achieved by GCL on its sales of beetroot (in can sizes less than a litre). The reason put forward for this was that beetroot and pineapple were sold in similar product sizes, were sold into similar markets via similar distribution channels, possessed similar cost structures and that beetroot was not affected by imports at dumped prices.

In a submission in response to the SEF GCL requested Customs to reconsider its position as outlined in the SEF (that the profit rate for consumer pineapple be based on ABS profit for the fruit and vegetable processing sector) and to adopt GCL's original proposed rate of profit i.e. the profitability on its beetroot business.

#### *FSI pineapple*

GCL proposed that profit data obtained from the ABS for the fruit and vegetable sector the ABS be used for the profit rate for FSI pineapple.

### Customs assessment

Customs' policy in establishing a USP is to observe the following hierarchy:

1. industry selling prices at a time unaffected by dumping
2. constructed industry prices – industry cost to make and sell plus profit
3. selling prices of undumped imports

During the original investigation into the alleged dumping of consumer pineapple and FSI pineapple exported to Australia from Thailand, Customs was unable to identify suitable information on industry selling prices at a time unaffected by dumping. Customs has also established that dumping has occurred for both consumer pineapple and FSI pineapple since the imposition of the current anti-dumping measures in relation to Thailand. Customs is therefore unable to establish USPs based on industry selling prices at a time unaffected by dumping.

Customs has determined USPs for consumer pineapple and for FSI pineapple based on GCL's cost to make and sell plus a rate of profit achieved in the same general category of goods.

#### *Consumer pineapple*

In the SEF, Customs indicated that it proposed to use the same profit rate for consumer pineapple as that proposed by GCL for FSI pineapple ie ABS profitability for the fruit and vegetable processing sector. Reasons outlined were that this rate was from an independent source and reflects the operations of a broad category of food processors and fruit and vegetable types. It noted that this represented a less arbitrary choice than that of selecting the profit for consumer pineapple from just one food type (beetroot).

In its submission to the SEF GCL again proposed the use of profitability on its sales of consumer beetroot for the consumer pineapple USP calculation. It stated that beetroot was not an 'arbitrary choice' as it was the second largest processed foods business to the pineapple fruit business and was supplied to the same market segments (consumer and FSI).

Customs has not changed its position on its use of ABS profitability for consumer pineapple. It represents the rate of a broader category of fruit and vegetable types for comparison with pineapple (a fruit), rather than just one type, beetroot (a vegetable). It also represents a more equitable approach. ABS profitability is considered to be appropriate for FSI pineapple (as suggested by GCL), and as the same arguments regarding market segments apply in relation to both consumer pineapple and FSI pineapple, the rate of profit should be drawn from the same source.

Use of the ABS profitability rate for both consumer pineapple and FSI pineapple provides an equitable outcome and does not confine the rate of profit to be used for pineapple to a single vegetable type being used for a single fruit type.

*FSI pineapple*

For FSI pineapple, Customs has used the profit rate proposed by GCL for FSI pineapple ie ABS profitability for the fruit and vegetable processing sector. This rate is from an independent source and reflects the operations of a broad category of food processors and fruit and vegetable types.

NIP

The USP is equivalent to the landed duty paid into store cost of imports for end-users. To calculate the NIP, post FOB exportation costs such as ocean freight, costs incurred in Australia and an amount for importer's profit is deducted from the USP. Customs has determined these costs separately for consumer pineapple and FSI pineapple.

An example of this calculation is shown below:

<b>Unsuppressed selling price</b>	100
<b>Less post exportation costs:</b>	
Profit	5
SG&A costs	5
Cartage to store	3
Port & broker charges	3
Ocean freight & insurance	10
Duty	4
<b>Non-injurious price</b>	<hr/> 70

Customs found that NIPs for both consumer pineapple and FSI pineapple had changed from those ascertained at the time of imposition of measures.

Customs determination of USPs and NIPs for consumer and FSI pineapple are at confidential attachment 6.

## **Conclusions on likelihood**

### Consumer pineapple

Customs concludes that GCL is not suffering injury in the form of price depression, price suppression, reduction in profit or reduction in profitability. However the industry is suffering injury in the form of lost sales and market share and price undercutting. Lost sales and market share and price undercutting can be linked to exports from Thailand. Customs recognises that other factors have contributed to injury suffered by GCL.

Measures have been effective in the past at reducing injury from dumped Thai imports. GCL regained some sales and market share immediately following the imposition of measures. Contemporary measures reflecting updated variable factors would be more effective than the current level of measures.

Removal of anti-dumping measures from consumer pineapple would lead to a decrease in the cost to import, and would exert downward pressure on prices in Australia. The reduction in prices would lead or would be likely to lead to further price undercutting, losses of sales volume and market share, and/or price suppression and reduced profits and profitability.

Having regard to all of these findings, Customs considers that the expiration of the anti-dumping measures on consumer pineapple would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the anti-dumping measures are intended to prevent.

### FSI pineapple

Customs concludes that GCL is not suffering injury in the form of price depression. However, GCL is suffering injury in the form of lost sales and market share, price undercutting, price suppression and lost profitability. Lost sales and market share and price undercutting can be linked to exports from Thailand. Customs recognises that other factors have contributed to injury suffered by GCL.

Measures appear to have been effective in the past at reducing injury from dumped Thai imports. Imports from Thailand reduced following imposition of measures in 2001, however there is no conclusive evidence as to whether GCL regained any of this market share – it is noted that imports from other sources increased at this time. Imports from some of these sources are currently the subject of a separate anti-dumping investigation.

Contemporary measures against Thailand reflecting updated variable factors would be more effective than the current level of measures.

Removal of anti-dumping measures from FSI pineapple would lead to a decrease in the cost to import, and would exert downward pressure on prices in Australia. A reduction in prices would likely lead to further losses of sales volume and market share, and/or further price undercutting, price suppression and reduced profits and profitability.

Having regard to all of these findings, Customs considers that the expiration of the anti-dumping measures on FSI pineapple would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the anti-dumping measures are intended to prevent.

## **9 SUMMARY OF RECOMMENDATIONS**

In respect of the continuation of anti-dumping measures, that the Minister take steps to secure the continuation of the anti-dumping measures the subject of the application.

In respect of the review of anti-dumping measures, to the extent that the measures involved the publication of a dumping duty notice, that the notice have effect in relation to all exporters of consumer pineapple and all exporters (except for Malee Sampran Public Co) of FSI pineapple, as if different variable factors had been ascertained.

### **In respect of DTL for consumer and FSI pineapple**

Customs recommends the Minister determine export price for both consumer pineapple and FSI pineapple, under s. 269TAB(1)(c) of the Act.

Customs recommends the Minister direct adjustments be incorporated into the normal value for handling, loading and ancillary expenses, warehousing expenses and import charges for both consumer pineapple and FSI pineapple, in accordance with s. 269TAC(8) of the Act.

### **In respect of SAICO for FSI pineapple**

Customs recommends the Minister determine the export price for sales of FSI pineapple through the agent under s. 269TAB(1)(c) of the Act.

Customs recommends the Minister direct adjustments be incorporated into the normal value for export rebate, inland transport, credit cost and packing for FSI pineapple, in accordance with s. 269TAC(8) of the Act.

### **In respect of TPC for consumer pineapple**

Customs recommends the Minister be satisfied that the volume of sales of consumer pineapple by another seller is still large enough to permit a proper comparison for the purposes of assessing a dumping margin under s. 269TACB of the Act. This recommendation will be made under s. 269TAC(14) of the Act.

Customs recommends the Minister direct adjustments be incorporated into the normal value for domestic selling expenses, commission, inland transport, and export handling expenses for consumer pineapple in accordance with s. 269TAC(8) of the Act.

**In respect of the remaining exporters for consumer pineapple (i.e. other than DTL and TPC)**

Customs recommends the Minister be satisfied that sufficient information has not been furnished or is not available to determine export price under s. 269TAB(1) of the Act.

Customs recommends the Minister be satisfied that sufficient information has not been furnished or is not available to enable the normal value of the goods to be ascertained under ss. 269TAC(1) or (2) of the Act.

Customs recommends the Minister determine the export price having regard to all relevant information under s. 269TAB(3) of the Act.

Customs recommends the Minister determine normal value having regard to all relevant information under s. 269TAC(6) of the Act.

**In respect of the remaining exporters for FSI pineapple (i.e. other than DTL, SAICO and Malee)**

Customs recommends the Minister be satisfied that sufficient information has not been furnished or is not available to determine export price under s. 269TAB(1) of the Act.

Customs recommends the Minister be satisfied that sufficient information has not been furnished or is not available to enable the normal value of the goods to be ascertained under ss. 269TAC(1) or (2) of the Act.

Customs recommends the Minister determine the export price having regard to all relevant information under s. 269TAB(3) of the Act.

Customs recommends the Minister determine normal value having regard to all relevant information under s. 269TAC(6) of the Act.

## 10 EVIDENCE RELIED UPON

In formulating the recommendations in this report, Customs had regard to:

Topic	Section of report detailing facts relied upon	Evidence relied upon
Australian market for pineapple fruit	4	Information provided by the Australian industry, exporters, importers and other interested parties, Trade Measures Reports, and data held on Customs commercial databases
Economic condition of the industry	5	Information provided by the Australian industry, exporters, importers and other interested parties, Trade Measures Reports, and data held on Customs commercial databases
Exporter activity since the measures were imposed	6	Submissions; information gathered from interested parties, US Department of Commerce Report no.70 FR 61432 and Customs commercial database
Submissions in response to the SEF	7	Submissions to the SEF
Likelihood of dumping or material injury continuing or recurring	8	Information provided by the Australian industry, exporters, importers and other interested parties, Trade Measures Reports, and data held on Customs commercial databases

## 11 LIST OF ATTACHMENTS

Confidential attachment 1	Australian market
Confidential attachment 2	Australian industry
Confidential attachment 3	Export price and normal value
Confidential attachment 4	Submissions to the SEF
Confidential attachment 4	Pineapple imports 2006
Confidential attachment 6	USP and NIP calculations