



Australian Government
Australian Customs Service

Customs Act 1901 - Part XVB

TRADE MEASURES BRANCH

REPORT No. 112

**Pineapple Prepared or Preserved in
Containers**

Exported from

**the People's Republic of China
and
the Philippines**

12 September 2006



Consumer Pineapple

The Philippines

Finding in relation to a dumping investigation

Public Notice under section 269TG(1) and (2) of the *Customs Act 1901*

The Australian Customs Service has completed its investigation into the alleged dumping of pineapple prepared or preserved in containers not exceeding one litre (consumer pineapple) exported to Australia from the Philippines (the goods).

In Trade Measures Report No.112 Customs has recommended the publication of a dumping duty notice in respect of the goods. The report outlines the investigations carried out by Customs, material findings of fact and the reasons for the recommendations made by Customs. It is available on request from the Trade Measures Office, Australian Customs Service, Canberra, telephone (02) 6275 6547 or on the internet at www.customs.gov.au.

I, CHRISTOPHER MARTIN ELLISON, Minister for Justice and Customs, have considered, and accepted, the recommendations of Customs, the reasons for the recommendations and the material findings of fact on which the recommendations are based. The factors relevant to my determination of material injury to an industry are the size of the dumping margins, the quantity of goods exported from the country under investigation, the effect of dumped imports on prices in the Australian market and the consequent impact on the Australian industry.

Under s.269TG(1) of the *Customs Act 1901*, I DECLARE that s. 8 of the *Customs Tariff (Anti-Dumping) Act 1975* applies to:

- the goods, to the extent permitted by s.269TN of the *Customs Act 1901*; and
- like goods that were exported to Australia after 11 August 2006 but before publication of this notice, to the extent permitted by s.269TN of the *Customs Act 1901*.

Under s.269TG(2) of the *Customs Act 1901*, I also DECLARE that s. 8 of the *Customs Tariff (Anti-Dumping) Act 1975* applies to like goods that are exported to Australia after the date of publication of this notice.

This declaration applies in relation to all exporters of the goods and like goods from the Philippines.

Interested parties may request a review of this decision by lodging an application for review with the Trade Measures Review Officer in the approved form and manner within 30 days of the publication of this notice. The legislation relating to the review of ministerial decisions is set out in s. 269ZZA of the Act.

Export prices, non-injurious prices, normal values and dumping margins will not be published in this notice as they may reveal confidential information. The method used to compare export prices and normal values to establish dumping margins is a comparison of the weighted average export price with the weighted average normal value during the investigation period.

Trade Measures Report No. 112 should be read in conjunction with this notice.

Enquiries about this notice may be directed to the case manager on telephone number (02) 6275 6637 and facsimile number (02) 6275 6888 or by email to tmops1@customs.gov.au.

Dated this *28TH* day of *SEPTEMBER* 2006

A handwritten signature in black ink, appearing to read 'C. Ellison', written in a cursive style.

CHRISTOPHER MARTIN ELLISON

Minister for Justice and Customs



Food Service and Industrial Pineapple

The People's Republic of China and the Philippines

Finding in relation to a dumping investigation

Public Notice under section 269TG(1) and (2) of the *Customs Act 1901*

The Australian Customs Service has completed its investigation into the alleged dumping of pineapple prepared or preserved in containers exceeding one litre (food service and industrial (FSI) pineapple) exported to Australia from the People's Republic of China and the Philippines (the goods).

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This declaration applies in relation to all exporters of the goods and like goods from the People's Republic of China and the Philippines.

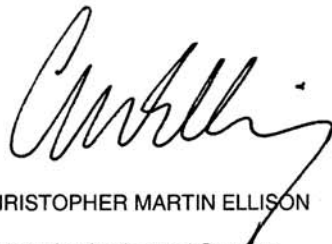
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Dated this *28TH* day of *SEPTEMBER* 2006



CHRISTOPHER MARTIN ELLISON
Minister for Justice and Customs

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1 SUMMARY

On 21 March 2006 Golden Circle Limited (GCL) lodged an application with the Australian Customs Service (Customs) requesting that the Minister for Justice and Customs (Minister) publish dumping duty notices in respect of exports to Australia from the People's Republic of China (China) and the Philippines of:

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

The application alleged that consumer pineapple and FSI pineapple were exported to Australia from China and the Philippines at prices less than their normal values and that the dumping caused material injury to the Australian industry.

On 10 April 2006 Customs published a notice in *The Australian* newspaper advising acceptance of the application and the initiation of the investigations. Customs published Australian Customs Dumping Notice (ACDN) 2006/10 outlining the investigation procedures.

On 28 July 2006 Customs placed a statement of essential facts (SEF) on the public record.

On 9 August 2006 Customs published a notice in *The Australian* newspaper advising that it had terminated the investigation in relation to consumer pineapple exported from China.

On 11 August 2006 Customs published a notice in *The Australian* newspaper advising that it had made a preliminary affirmative determination (PAD) in relation to consumer pineapple exported from the Philippines. The same notice advised Customs had also made a PAD in relation to FSI pineapple exported from China and the Philippines.

As a result of its investigations, for consumer pineapple Customs is satisfied that:

- there is an Australian industry producing like goods to the goods under consideration;
- exports of consumer pineapple from the Philippines to Australia were dumped with margins ranging from 2 per cent to 90 per cent;
- the dumped exports from the Philippines caused material injury to the Australian industry in the form of:
 - price undercutting
 - loss of sales volume
 - loss of market share
 - reduced revenues

- there is a causal link between the dumped imports and injury to the Australian industry and the injury caused by dumping is material; and
- future exports of consumer pineapple from the Philippines are likely to be dumped and material injury to Australian industry is likely to continue.

For FSI pineapple Customs is satisfied that:

- there is an Australian industry producing like goods to the goods under consideration;
- exports of FSI pineapple from China to Australia were dumped with margins ranging from 40 per cent to 60 per cent;
- exports of FSI pineapple from the Philippines to Australia were dumped with margins ranging from 2 per cent to 20 per cent;
- the dumped exports from China and the Philippines caused material injury to the Australian industry in the form of:
 - price undercutting
 - loss of sales volume
 - loss of market share
 - price suppression
 - reduced profitability
 - reduced revenues
- there is a causal link between the dumped imports and injury to the Australian industry and the injury caused by dumping is material; and
- future exports of FSI pineapple from China and the Philippines are likely to be dumped and material injury to Australian industry is likely to continue.

Customs recommends that the Minister publish country-wide dumping duty notices on consumer pineapple from the Philippines. Customs also recommends that the Minister publish country-wide dumping duty notices on FSI pineapple from China and the Philippines.

2 INTRODUCTION

2.1 Purpose of investigation

Part XVB of the *Customs Act 1901 (Act)* and the *Customs Tariff Anti-Dumping Act 1975*, contain Australia's anti-dumping and countervailing legislation. Remedies are available where dumping (or subsidy) causes or threatens to cause material injury to an Australian industry.

2.2 Procedures

Customs is required to conduct an investigation and report to the Minister by day 155 (or such longer period as the Minister allows) after initiating an

investigation. On the basis of this report the Minister will make a decision on whether measures should be imposed.

Customs must set out the material findings of fact on which any recommendation in this report is based and provide particulars of the evidence relied on to support those findings.

Customs' recommendations in this investigation are based on:

- the application;
- submissions to which the CEO had regard when formulating the SEF;
- the SEF;
- any submission made in response to the SEF that was received within 20 days of the SEF being placed by Customs on the public record;
- submissions made in response to the SEF after 20 days of the SEF being placed on the public record except where to do so would have prevented the timely preparation of this report; and
- any other matter the Chief Executive Officer considered to be relevant.

2.3 Background to the investigation

On 21 March 2006 GCL lodged an application requesting that the Minister publish dumping duty notices in respect of consumer pineapple and FSI pineapple exported to Australia from China and the Philippines. The application alleged that injury was being caused to the Australian industry. Customs considered the information provided by GCL and decided not to reject the application.

On 10 April 2006 Customs published a notice in *The Australian* newspaper advising acceptance of the application and the initiation of the investigations, and published ACDN 2006/10 outlining the investigation procedures. In ACDN 2006/10 Customs advised that interested parties may make submissions no later than 20 May 2006, the SEF would be placed on the public record by 29 July 2006 and that Customs must report to the Minister by 12 September 2006.

The period of investigation for the purposes of determining if dumping occurred was 1 January 2005 to 31 December 2005. The period of examination for determining injury was from July 2002.

Non-confidential versions of the application and relevant questionnaires were distributed to the known exporters and Australian importers of the goods the subject of the application.

Non-confidential versions of the application, Australian industry visit reports, importer visit reports, exporter visit reports and submissions from interested parties were placed on the public record. The public record is held by Trade

Measures Branch office management at Customs House, 5 Constitution Avenue, Canberra 2601, telephone (02) 6275 6547.

Where there is an investigation of alleged dumping, the Act requires that an SEF be published by day 110 of the investigation or by such later date as the Minister may allow in accordance with s. 269ZHI(3) of the Act.

On 28 July 2006 Customs placed the SEF on the public record. Interested parties were given 20 days to respond to the SEF. Customs received submissions on behalf of four interested parties in the response to the SEF by the due date specified, and another submission 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 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

On 9 August 2006 Customs published a notice in *The Australian* newspaper advising that it had terminated the investigation in relation to consumer pineapple exported from China.

On 9 August 2006 Customs made a PAD that there appeared to be sufficient grounds for the publication of a dumping duty notice on consumer pineapple exported from the Philippines. Customs also made a PAD that there appeared to be sufficient grounds for the publication of a dumping duty notice on FSI pineapple exported from China and the Philippines. Securities under s. 42 of the Act were imposed in respect of any interim dumping duty that may become payable on exports of consumer pineapple from the Philippines and FSI pineapple from China and the Philippines that are imported on or after 11 August 2006. On 11 August 2006 Customs published a notice in *The Australian* newspaper and published Australian Customs Dumping Notice (ACDN) 2006/35 announcing the PAD.

On 30 August 2006 Customs placed a document on the public record regarding a review of the Dole Philippines Incorporated visit report and spreadsheets together with supplementary information and effect on remaining exporters. Comments were invited from interested parties. Submissions were received on behalf of two interested parties, and these submissions were considered in formulating Customs' final recommendations to the Minister.

3 GOODS

The goods subject to the investigation 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 the goods exported from China and the Philippines is 5 percent.

3.1 Current anti-dumping measures

Anti-dumping measures currently apply to exports of consumer pineapple and FSI pineapple from Thailand. Measures were imposed on 18 October 2001 following Trade Measures report (TM) 41. In TM41 Customs identified consumer pineapple and FSI pineapple as being separate goods and separate anti-dumping measures were imposed for each good. One exporter, Malee Sampran Public Co. Limited (Malee), is exempt from measures applying to imports of FSI pineapple.

On 22 February 2006, Customs commenced:

- inquiries into whether anti-dumping measures applying to consumer pineapple and FSI pineapple exported to Australia from Thailand should be continued –TM 110; and
- reviews of anti-dumping measures applying to consumer pineapple and FSI pineapple exported to Australia from Thailand – TM111.

Customs placed the SEFs for the continuation inquiries and the reviews on the public record on 28 July 2006 and must report to the Minister on these matters by 12 September 2006.

4 THE AUSTRALIAN INDUSTRY

4.1 Like goods

GCL describes the locally produced (like) goods as prepared or preserved pineapple fruit:

- in container sizes exceeding one litre (typically 3.0-3.2kg) which are sold into the foods service and industrial market; and

- in container sizes not exceeding one litre (typically 225g, 425-450g, and 825-850g, although other sizes are available) sold into retail stores.

GCL 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, crushed pineapple and pizza cut pineapple. The products are sold in containers in either syrup or natural juice.

4.2 Australian Industry

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.

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 food service and industrial (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 manufactures 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.

Since GCL, the sole Australian producer of like goods, has made the application it is accepted that the industry support conditions of s. 269TB(6) of the *Customs Act 1901* have been met.

To determine whether the requirements of ss. 269T(2), 269T(3) and 269T(4) of the Act concerning Australian industry were met, Customs undertook an inspection of the factory and had discussions with GCL on the production process for pineapple juice and fruit.

4.3 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 concludes that like goods are wholly manufactured in Australia and that a substantial process of manufacture is undertaken by the industry in Australia. Accordingly, the requirements of ss. 269T(2), 269T(3) and 269 T(4)

of the Act have been met. Customs also concludes that GCL is the Australian industry.

4.4 Close processed agricultural goods

Customs is satisfied that consumer pineapple and FSI pineapple produced in Australia does not fall within the legislative provisions under subsection 269(T)(4B) relating to close processed agricultural goods. This provision states, among other things,

“that processed agricultural goods derived from raw agricultural goods are not to be taken to be close processed agricultural goods unless the Minister is satisfied that:

(a) the raw agricultural goods are devoted substantially or completely to the processed agricultural goods.....”.

As well as being used in the manufacture of consumer pineapple and FSI pineapple, raw pineapple is sold fresh and also used in the manufacture of a variety of other products including juice and juice concentrate, cordial, fruit mixes and baby food.

Having considered the use of fresh pineapple fruit, Customs considers that the annual pineapple harvest in Australia is neither substantially nor completely devoted to the production of either consumer pineapple or FSI pineapple.

5 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 the Philippines and Thailand. Imports of FSI pineapple are predominantly from China, Indonesia, the Philippines and Thailand.

5.1 Market structure

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 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.

Imports over the past few years have largely been of generic brands (mostly from Thailand), however significant volumes of branded product emerged from the Philippines in 2005.

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.

5.2 Volume of imports

The investigation period for a dumping duty notice in respect of consumer pineapple exported to Australia from the Philippines is 1 January 2005 to 31 December 2005. Similarly, the investigation period for a dumping duty notice in respect of FSI pineapple exported to Australia from China and the Philippines is 1 January 2005 to 31 December 2005

During the course of the investigation it was identified that imports of consumer pineapple and FSI pineapple had been incorrectly recorded when being entered by Customs brokers on behalf of importers.

Confidential attachment 1 shows the export volume of consumer pineapple from the Philippines and FSI pineapple from both China and the Philippines after the goods classification had been corrected. Also included at confidential attachment 1 is the total volume of imports from all sources of both consumer pineapple and FSI pineapple following amendment for errors identified.

The resultant volumes of consumer pineapple exported to Australia from the Philippines and FSI pineapple exported to Australia from China and the Philippines were examined to ensure that they were not negligible volumes in terms of s. 269TDA(4). The calculation to determine if the volume of each of the goods from each of the countries is negligible has taken account of the total volume of each type of pineapple exported from each country during the

investigation period and the total Australian import volume for the same period. The investigation period is considered to be a reasonable examination period.

Consumer pineapple

The volume of consumer pineapple that has been exported to Australia over a reasonable examination period from the Philippines that has been, or may be, dumped, is not negligible.

FSI pineapple

The volume of FSI pineapple that has been exported to Australia over a reasonable examination period individually from China and the Philippines, that has been, or may be, dumped, is not negligible

5.3 Market size

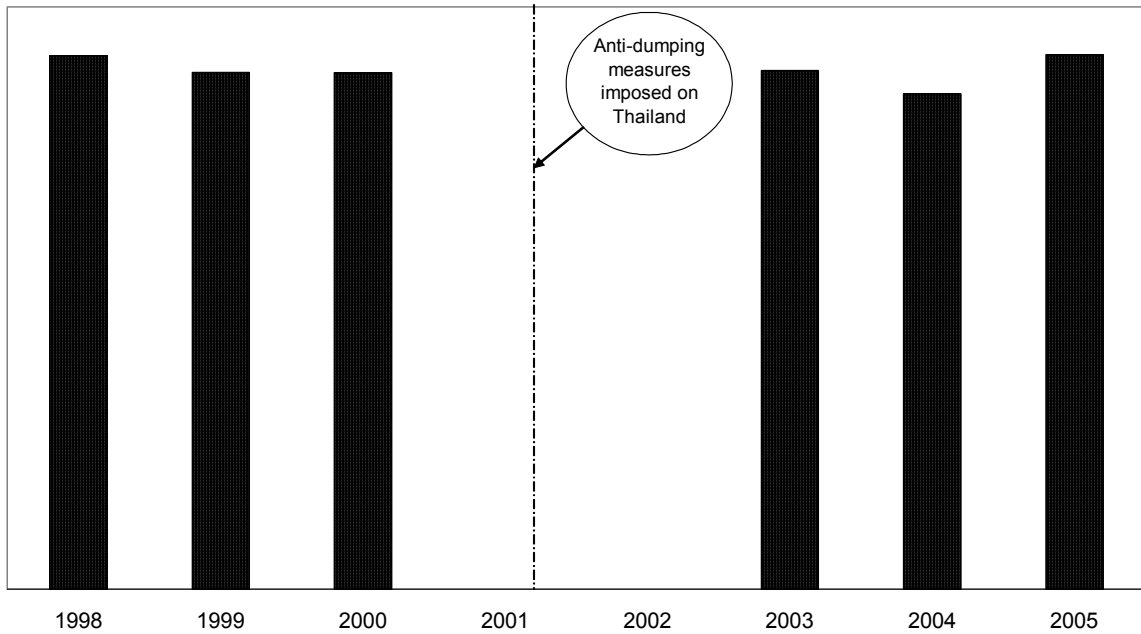
The size of the Australian market for consumer pineapple and for FSI pineapple was calculated using a combination of sales data and import clearance data. The market has been calculated for the period 1998 to 2005. However, as GCL could not provide detailed data for the years 2001 and 2002, these years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

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

Consumer pineapple

The size of the Australian market for consumer pineapple has remained stable over the past eight years. The following graph illustrates the movement in annual sales volumes.

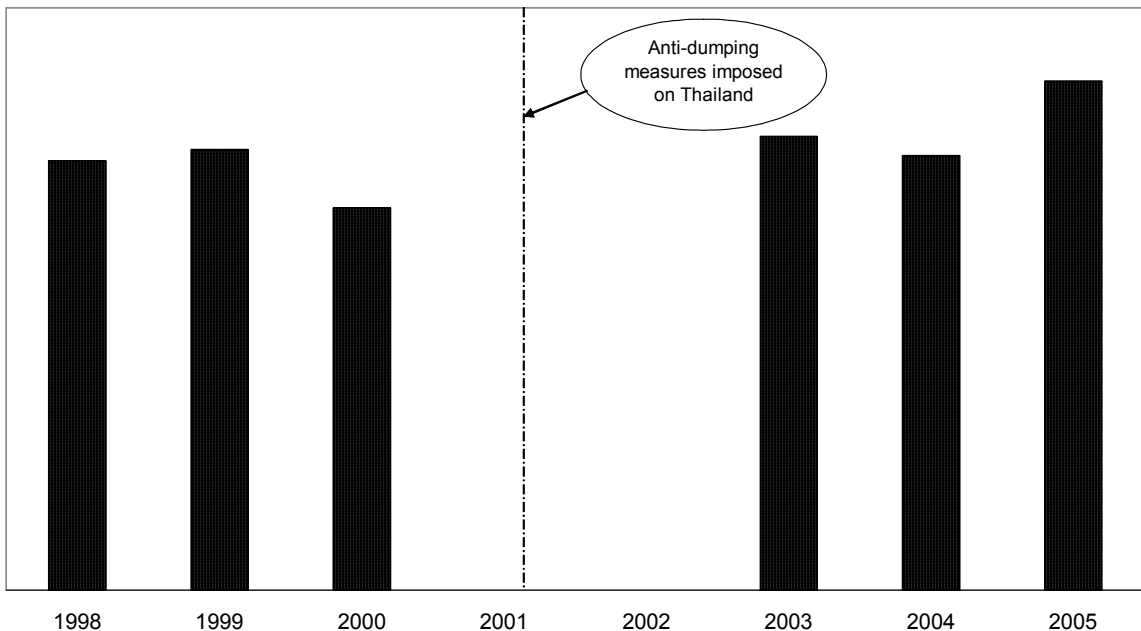
Australian market - Consumer pineapple (kgs)



FSI pineapple

The size of the Australian market for FSI pineapple has increased over the past eight years. Movements in annual sales volumes are illustrated in the following graph.

Australian market - FSI pineapple (kgs)

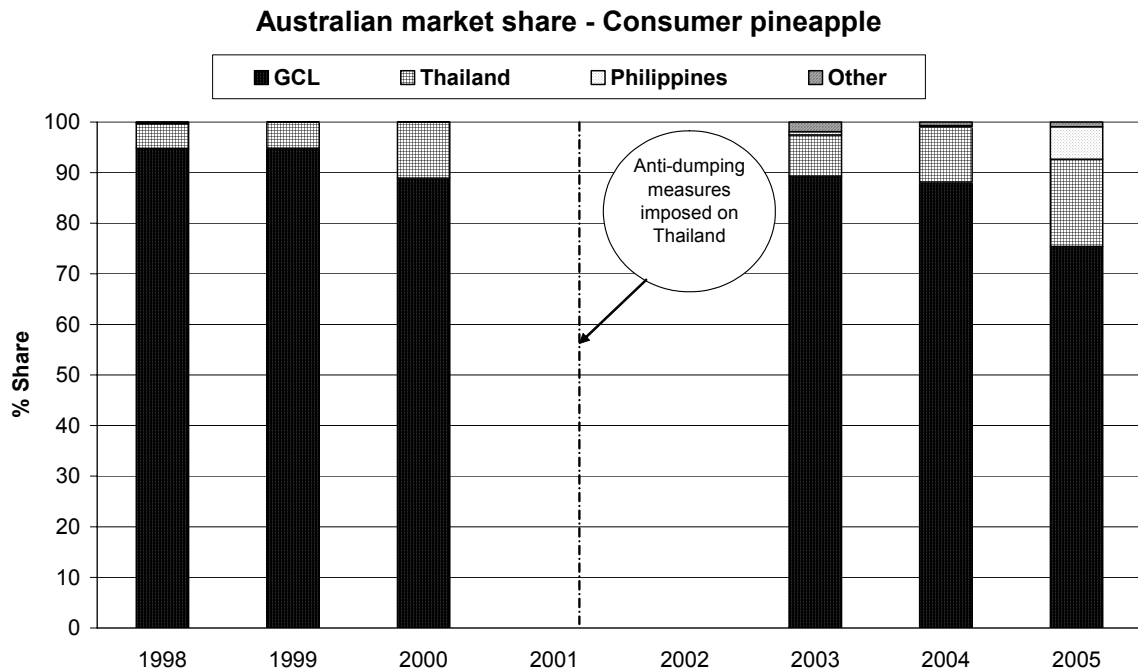


5.4 Market share

Consumer pineapple

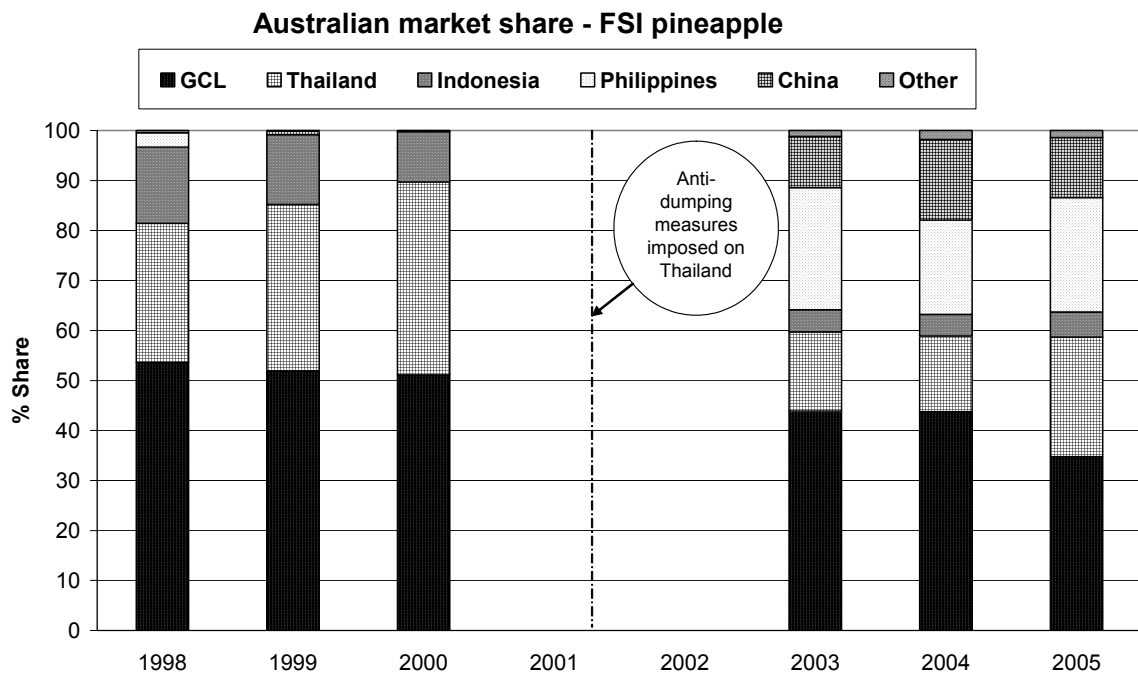
The consumer pineapple market share held by GCL has decreased over the past eight years, particularly in 2005. The share of the market held by imports from Thailand has increased, notwithstanding the imposition of anti-dumping

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 over the last eight years. 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 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.

6 THE DUMPING INVESTIGATION

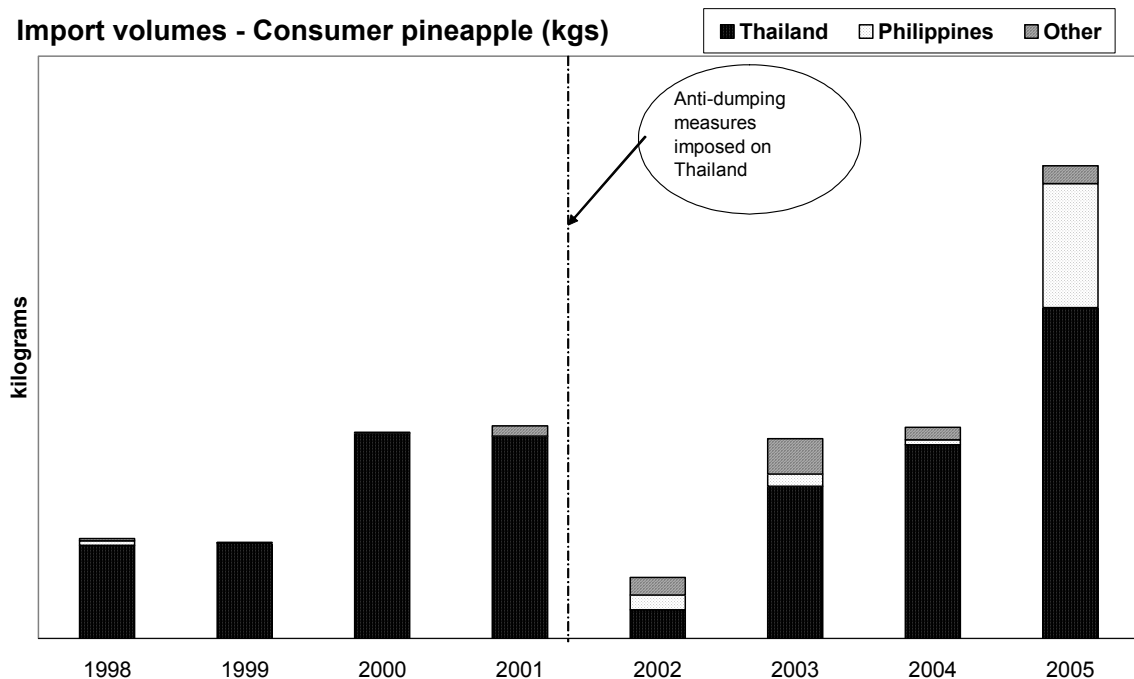
Dumping occurs when the export price of a product is less than the normal value of the like goods in the domestic market of the country of export.

6.1 Pattern of imports

The period of investigation for consumer pineapple and FSI pineapple for determining if dumping occurred was 1 January 2005 to 31 December 2005.

Consumer pineapple

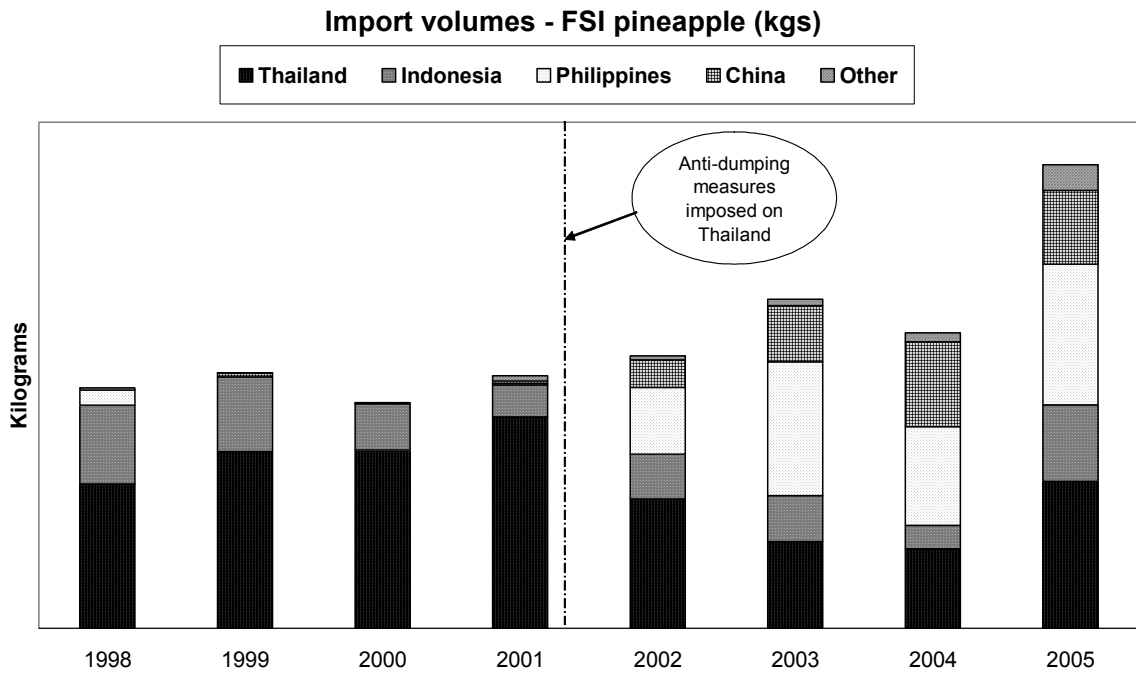
Import volumes of consumer pineapple are shown in the following graph.



An exporter/importer matrix showing the quantity of consumer pineapple imported from the Philippines during the investigation period is at confidential attachment 3.

FSI pineapple

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



An exporter/importer matrix showing the quantity of FSI pineapple imported from China and the Philippines during the investigation period is at confidential attachment 3.

6.2 China

Over the investigation period FSI pineapple was exported to Australia from China by several companies.

The suppliers of Chinese origin FSI pineapple did not provide any information to Customs. Customs visited companies in Australia who had purchased FSI pineapple of Chinese origin.

GCL submitted that normal value for China should be based on verified information obtained from Dole Philippines Incorporated (DPI). GCL considered this to be more representative of selling prices and costs in China than the same information sourced from producers/exporters in Thailand (measures subject to which are currently under review), as the relative economic position of the Philippines is more closely aligned with China than Thailand.

Export Price

Customs does not have sufficient information to satisfactorily establish the roles and responsibilities of all parties involved in the manufacture and sale of FSI pineapple to Australia.

Customs recommends the Minister be satisfied that sufficient information was not available to determine export price for FSI pineapple under s. 269TAB(1) of the Act.

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

Normal Value

The suppliers of Chinese origin FSI pineapple did not provide any information. Customs does not have sufficient information to determine normal value under ss. 269TAC(1) or (2) of the Act.

Customs recommends the Minister be satisfied that sufficient information was not available to determine normal value for FSI pineapple under ss. 269TAC(1) or (2) of the Act. The next alternative is s. 269TAC(6) of the Act.

Customs considered the relevant information that was available. Customs recommends the Minister determine normal value for FSI pineapple under s. 269TAC(6) of the Act having regard to all relevant information. Customs has based the normal value for FSI pineapple on the domestic selling price of sales of FSI pineapple in the Philippines that are arms length and in the ordinary course of trade.

Export price and normal value are at confidential attachment 4.

6.3 The Philippines

Over the investigation period consumer pineapple and FSI pineapple was supplied to Australia from the Philippines by several companies.

Customs received a response to the exporter questionnaire from DPI and a submission containing limited information from Del Monte Philippines Inc (Del Monte). Submissions in response to the SEF were also provided by DPI and Del Monte.

6.3.1 DPI

During the investigation period DPI exported both consumer and FSI pineapple to Australia.

DPI sells both consumer pineapple and FSI pineapple exported to Australia to Castle & Cooke Worldwide Limited (CCWW), an affiliated company. Customs visited companies that had purchased DPI consumer pineapple and FSI pineapple. Customs also visited DPI in the Philippines and CCWW in Hong Kong.

Export price

After examining the roles of all parties, Customs considers that, in all sales of pineapple fruit exported to Australia during the investigation period, DPI is the manufacturer and exporter of the goods. DPI sells the consumer pineapple and FSI pineapple exported to Australia to CCWW. CCWW on-sells consumer

pineapple either directly or indirectly to Australian customers. CCWW on-sells FSI pineapple directly to Australian customers.

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

Customs considers that the consumer pineapple and the 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 exportation of consumer pineapple that are sold direct between CCWW and its Australian customers. Customs recommends the Minister determine export price, for those consumer pineapple sales, under s. 269TAB(1)(c) of the Act.

For indirect consumer pineapple sales by CCWW, Customs does not have sufficient information to satisfactorily establish the roles and responsibilities of all parties involved in the manufacture and sale. The supplier of the goods is not the exporter. Customs recommends the Minister be satisfied that sufficient information was not available to determine export price under s. 269TAB(1) of the Act. Customs recommends the Minister determine export price, for indirect consumer pineapple sales by CCWW, under s. 269TAB(3) of the Act.

Customs is aware of all the circumstances of the exportation of FSI pineapple. Customs recommends the Minister determine export price, for 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 DPI's submission, information gathered at the verification visits to DPI and CCWW and submissions in response to the SEF.

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

Customs examined the cost to manufacture consumer pineapple and FSI pineapple in the Philippines and the administrative, selling and general costs associated with their sale. 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 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 has established normal value, for both consumer pineapple and FSI pineapple, 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 differences between domestic and export sales such as transportation, market expenses, service charges and credit terms. This will establish normal value at FOB point.

In order to establish normal value for FSI pineapple properly comparable to export price, Customs recommends the normal value incorporate adjustments to account for the differences between domestic and export sales such as transportation, market expenses, service charges, credit terms and physical differences. This will establish normal value at FOB point.

Customs recommends the Minister direct that the price paid for like goods is taken to be such a price adjusted for the differences identified, in accordance with s. 269TAC(8) of the Act, for both consumer pineapple and FSI pineapple.

Export price and normal value are at confidential attachment 4.

6.3.2 Del Monte

During the investigation period Del Monte exported both consumer and FSI pineapple to Australia.

Del Monte exports both consumer pineapple and FSI pineapple to Australia via GTL Ltd (GTL), an affiliated company. Customs visited companies that had purchased Del Monte consumer pineapple and FSI pineapple. Customs did not visit Del Monte or GTL as neither company provided a response to the exporter questionnaire. The information provided in the submission fell well short of the information required by Customs and asked for in the questionnaire. While Customs considered the submission provided, it concluded that it did not contain sufficient information or evidence in order to establish export prices, domestic prices, costs, adjustments, normal values and dumping margins.

Export Price

Customs does not have sufficient information to satisfactorily establish the roles and responsibilities of all parties involved in the manufacture and sale of consumer pineapple and FSI pineapple to Australia. Indications are that the supplier of the goods may not be the exporter.

Customs recommends the Minister be satisfied sufficient information was not available to determine export price for consumer pineapple under s. 269TAB(1) of the Act. The next alternative was s. 269TAB(3) of the Act.

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

Customs recommends the Minister be satisfied sufficient information was not available to determine export price for FSI pineapple under s. 269TAB(1) of the Act. The next alternative was s. 269TAB(3) of the Act.

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

Normal value

Customs does not have information to establish if Del Monte sells consumer pineapple and FSI pineapple on the domestic market in arms length transactions and whether those goods are sold in the ordinary course of trade. Because of this, normal value for Del Monte could not be assessed under s. 269TAC(1) of the Act using domestic sales by other sellers in the Philippines domestic market.

Customs recommends the Minister be satisfied that sufficient information was not available to determine normal value for consumer pineapple under ss. 269TAC(1) or (2) of the Act. The next alternative was s. 269TAC(6) of the Act.

Customs recommends the Minister determine normal value for consumer pineapple under s.269TAC(6) of the Act having regard to all relevant information. Customs has based the normal value for consumer pineapple on the domestic selling price of sales that are arms length and in the ordinary course of trade in the Philippines by other sellers of consumer pineapple.

Customs recommends the Minister be satisfied that sufficient information was not available to determine normal value for FSI pineapple under ss. 269TAC(1) or (2) of the Act. The next alternative was s. 269TAC(6) of the Act.

Customs recommends the Minister determine normal value for FSI pineapple under s.269TAC(6) of the Act having regard to all relevant information. Customs has based the normal value for FSI pineapple on the domestic selling price of sales that are arms length and in the ordinary course of trade in the Philippines by other sellers of FSI pineapple.

Export price and normal value are at confidential attachment 4.

6.3.3 Remaining exporters

Customs notified all the remaining companies that had supplied Philippines origin consumer pineapple and FSI pineapple to Australia that the investigation was initiated and sought information from each. No other exporters provided information. The quantities exported by remaining companies were not significant.

Customs visited one company in Australia who had purchased FSI pineapple exported from the Philippines by one of the remaining companies.

Export Price

Customs does not have sufficient information to satisfactorily establish the roles and responsibilities of all parties involved in the manufacture and sale of consumer and FSI pineapple to Australia.

Customs recommends the Minister be satisfied that sufficient information was not available to determine export price for consumer pineapple under s. 269TAB(1) of the Act. The next alternative was s. 269TAB(3) of the Act.

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

Customs recommends the Minister be satisfied that sufficient information was not available to determine export price for FSI pineapple under s. 269TAB(1) of the Act. The next alternative was s. 269TAB(3) of the Act.

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

Normal value

Customs does not have information to establish if the remaining exporters sell consumer pineapple and FSI pineapple on the domestic market in arms length transactions and whether those goods are sold in the ordinary course of trade. Because of this, normal value for the remaining exporters could not be assessed under s. 269TAC(1) of the Act using domestic sales by other sellers in the Philippines domestic market.

Customs recommends the Minister be satisfied that sufficient information was not available to determine normal value under ss. 269TAC(1) or (2) of the Act. The next alternative was s. 269TAC(6) of the Act.

Customs recommends the Minister determine normal value for consumer pineapple under s. 269TAC(6) of the Act having regard to all relevant information. Customs has based the normal value for consumer pineapple on the domestic selling price of sales that are arms length and in the ordinary course of trade in the Philippines by other sellers of consumer pineapple.

Customs recommends the Minister be satisfied that sufficient information was not available to determine normal value for FSI pineapple under ss. 269TAC(1) or (2) of the Act. The next alternative was s. 269TAC(6) of the Act.

Customs recommends the Minister determine normal value for FSI pineapple under s. 269TAC(6) of the Act having regard to all relevant information. Customs has based the normal value for FSI pineapple on the domestic selling

price of sales that are arms length and in the ordinary course of trade in the Philippines by other sellers of FSI pineapple.

Export price and normal value are at confidential attachment 4.

6.4 Dumping margins

A dumping margin is the amount by which the export price is less than the normal value. It is expressed as a percentage of the export price. The margin may be established on the basis of a comparison of either:

- weighted averages of corresponding normal values and export prices over the whole or over parts of the investigation period; or
- individual normal values and export prices on a transaction by transaction basis; or
- individual export prices and normal values over part or parts of the investigation period, and weighted average export prices and normal values over another part, or parts of the investigation period; or
- individual export prices and corresponding normal values determined over part or whole of the period in cases where the export prices differ significantly among different purchasers, regions or periods, making the above methods inappropriate.

Each part of the investigation period referred to above must not be less than two months and together must comprise the whole of the investigation period.

The method used to assess dumping margins for this investigation for both consumer pineapple and FSI pineapple is comparison of the weighted average export price and the weighted average normal value over the whole of the investigation period.

Consumer pineapple

In relation to consumer pineapple, Customs has established that dumping has occurred from all exporters from the Philippines during the investigation period.

The dumping margins established by Customs are not negligible, i.e. all margins worked out under s. 269TACB(2)(a) of the Act, when expressed as a percentage of the export price or weighted average of export prices, were greater than two percent. Customs found that dumping margins for the Philippines fell within the range of 2 percent to 90 percent. Dumping margin calculations are at confidential attachment 4.

The volume of dumped consumer pineapple exported to Australia from the Philippines, when expressed as a percentage of the total Australian import volume, is not negligible, i.e. not less than three percent. A summary of the dumped volume of goods is at confidential attachment 1.

FSI pineapple

In relation to FSI pineapple, Customs has established that dumping has occurred from all exporters from both China and the Philippines during the investigation period.

The dumping margins established by Customs are not negligible; i.e. all margins worked out under s.269TACB of the Act, when expressed as a percentage of the export price or weighted average of export prices, were greater than two percent. Customs found that dumping margins for China fell within the range of 40 percent to 60 percent, and dumping margins for the Philippines fell within the range of 2 percent to 20 percent. Dumping margin calculations are at confidential attachment 4.

The volume of dumped FSI pineapple exported to Australia from each of the countries under investigation, when expressed as a percentage of the total Australian import volume, is not negligible, i.e. not less than three percent. A summary of the dumped volume of goods is at confidential attachment 1.

Dumping margins are dependent upon the levels of the export price and the normal value. The selling arrangements of individual companies also influence the margin range. The dumping margin may not be indicative of the measures ultimately imposed owing to the lesser duty provision, discussed in section 10 of this report.

7 ECONOMIC CONDITION OF THE INDUSTRY

7.1 Applicant's claims

Consumer pineapple

GCL claimed that injury to consumer pineapple as a result of dumped imports from China and the Philippines commenced in 2004. GCL also claimed that injury from dumped imports from Thailand that was found by Customs to have commenced in 1999 in TM41, continued following the imposition of measures.

FSI pineapple

GCL claimed injury to FSI pineapple as a result of dumped imports from China and the Philippines commenced in 2001 following imposition of measures against Thailand. GCL claims that there was an immediate substitution from Thailand to China and the Philippines. Injury from Thailand was found by Customs to have commenced in 1999.

7.2 Customs assessment

In ACDN 2006/10 Customs stated that it would examine details of the Australian market since 1 January 2002 for injury analysis. GCL stated that it was unable to provide reliable data for years prior to 2003. Customs therefore examined

data for the period 2003 to 2005, and data from years 1998 to 2000 obtained during the original investigation into pineapples from Thailand.

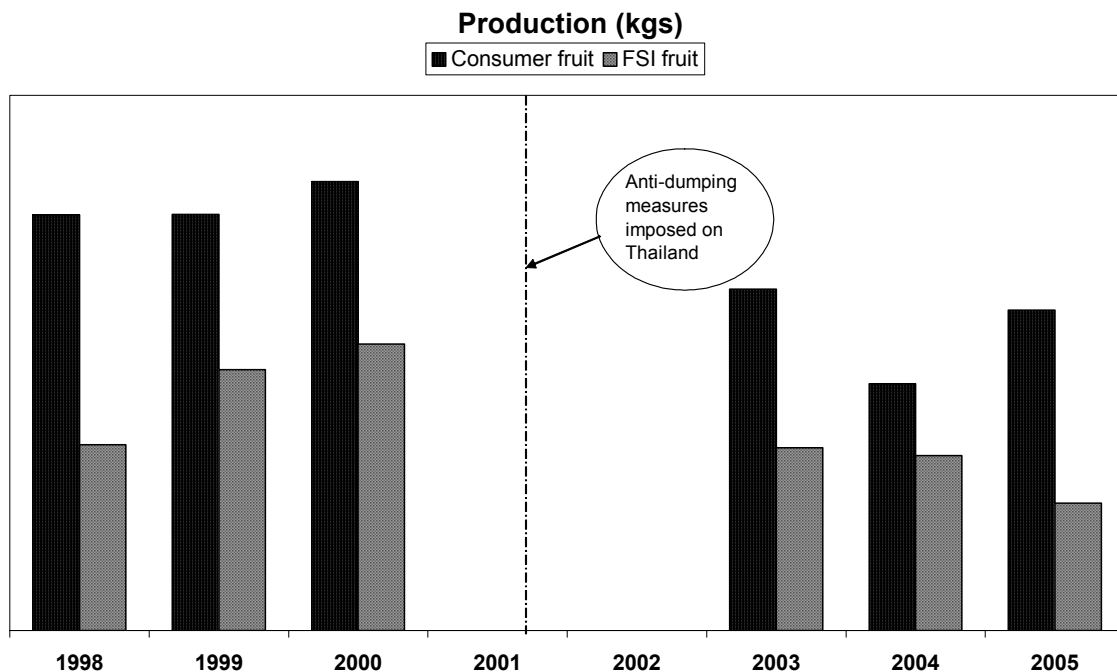
As GCL claims that it has continued to suffer injury following the imposition of measures against Thailand, examination of the period prior to the imposition of measures enabled Customs to compare the current economic condition of the industry to that achieved in a period unaffected by dumping.

Confidential versions of the graphs presented in this report and underlying data relating to the Australian industry are at confidential attachment 5.

7.2.1 Volume effects

7.2.1.1 Production volume

GCL production is shown in the following graph.



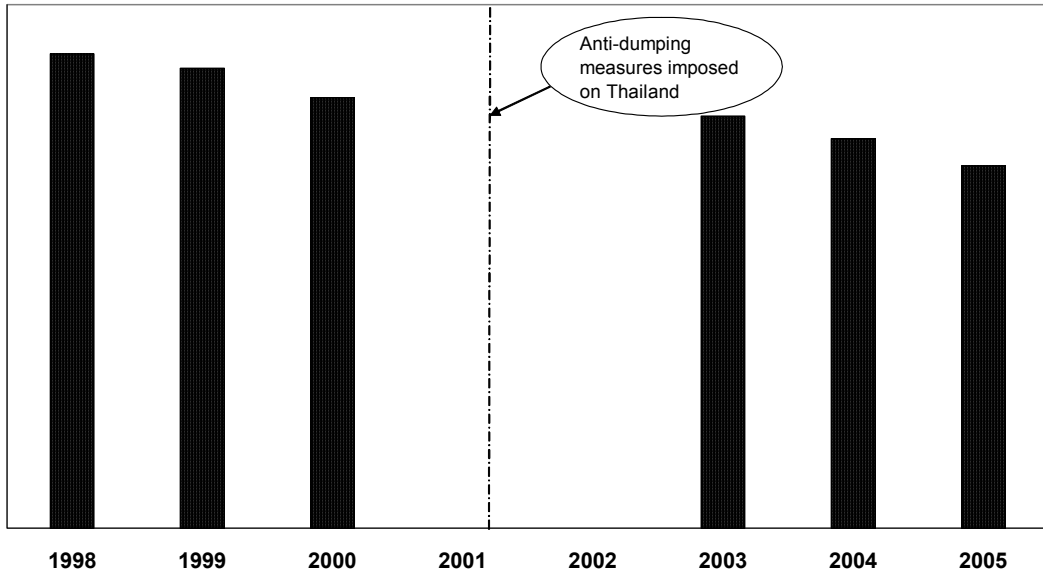
The graph above shows that production volumes of both consumer pineapple and FSI pineapple from 2003 to 2005 have decreased significantly from those in 1998 to 2000. It is noted that fresh pineapple production levels in 2003 and 2004 were affected by drought conditions in Queensland. It is also noted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

7.2.1.2 Sales volume

Consumer pineapple

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

Consumer domestic sales - own production (kgs)



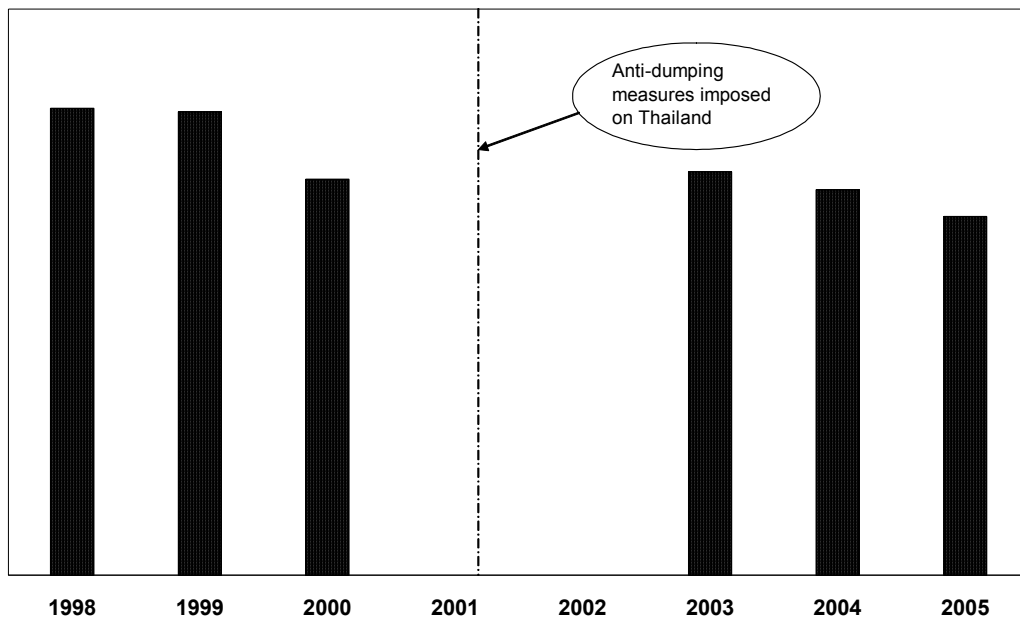
Sales volumes from 2003 to 2005 have decreased significantly from those in 1998 to 2000.

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.

FSI domestic sales (kgs)



Sales volumes from 2003 to 2005 have decreased significantly from those in 1998 to 2000.

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 pineapple fruit from China and the Philippines, GCL noted that it had imported from Indonesia in an attempt to hold market share with lower cost imports.

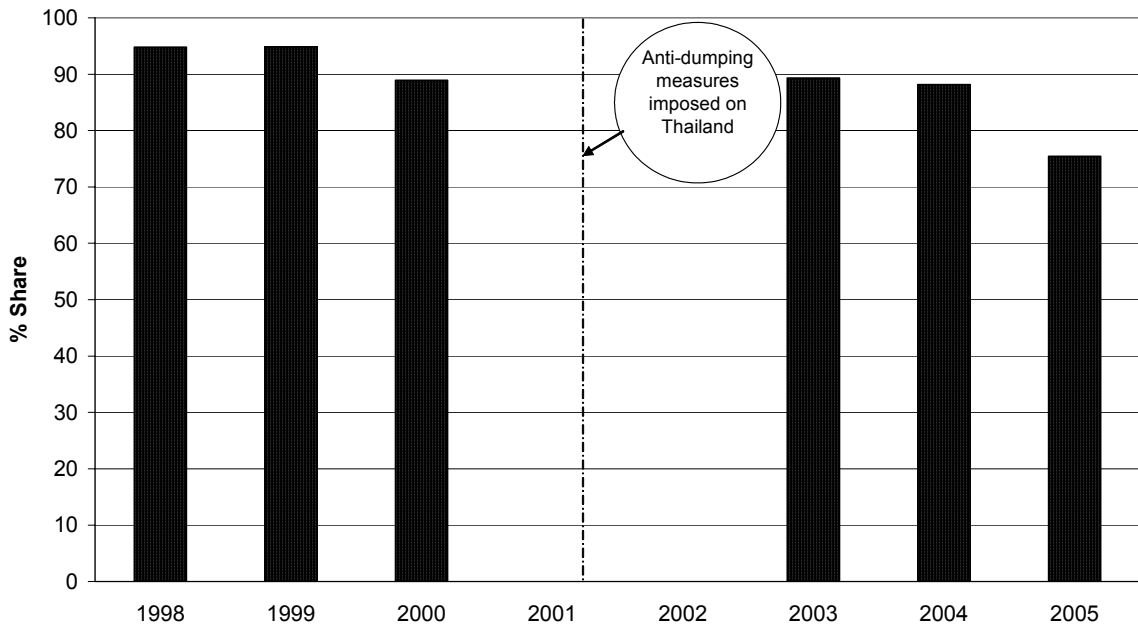
Customs concludes that GCL has suffered a loss of sales volume in its manufactured FSI pineapple, as well as FSI pineapple overall.

7.2.2 Market share

Consumer pineapple

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

Market share GCL - Consumer pineapple

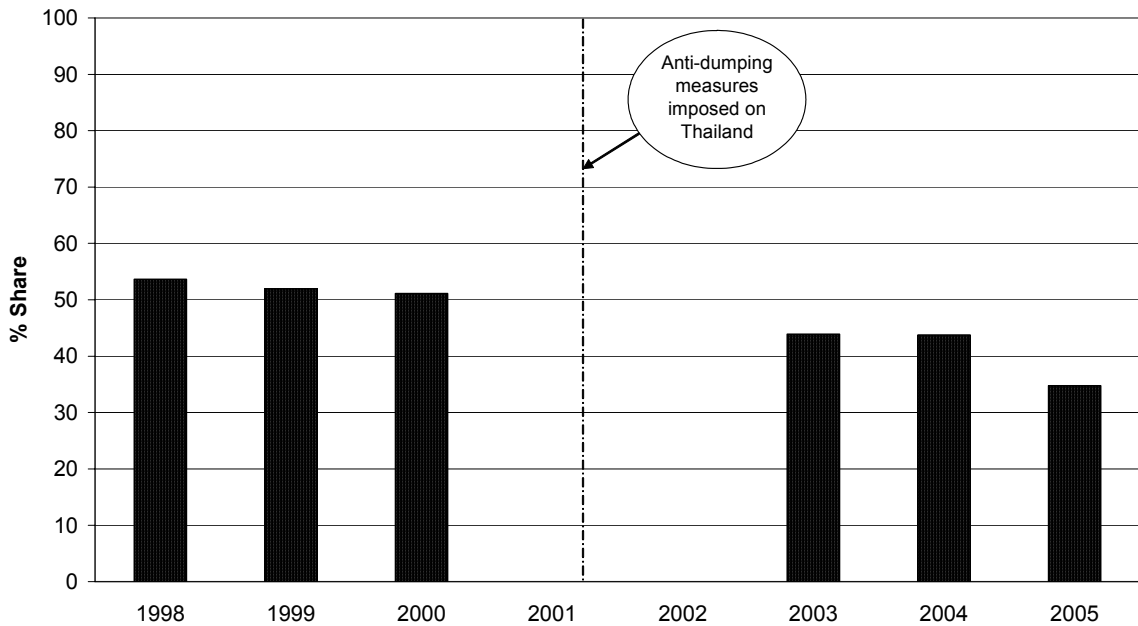


The decrease in GCL's market share of consumer pineapple from years 2004 to 2005 and between the period 1998-2000 to year 2005 follows a similar trend to its decrease in sales. Customs concludes that GCL has lost market share in consumer pineapple. Market share was lost to the Philippines in 2004 and 2005, as illustrated in the graph in section 5.4.

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 2003 to 2005 and between the periods 1998-2000 to 2003-2005 follows a similar trend to its decrease in sales. Customs concludes that GCL has continued to lose market share in FSI pineapple since the period prior to the imposition of measures against Thailand.

The graph in section 6.1 shows that imports from China and the Philippines appear to have replaced dumped imports from Thailand following the imposition of measures against Thailand in 2001. The graph in section 5.4 shows that imports from China and the Philippines held a significant share of the market in 2005.

7.2.3 Price effects

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

7.2.3.1 Price undercutting

Price undercutting occurs when the selling price of imported goods is lower than that of the Australian industry to the same customer or to customers at the same level of trade that the Australian industry has traditionally serviced. For undercutting to be considered material, it must be sustained in terms of occurrence and significant in terms of volume and price, i.e. above levels that could be usually expected in the normal ebb and flow of business.

Customs has examined selling prices by GCL and imports to retailers, wholesalers, distributors and end users etc over 2005. 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 (LDPIS) 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 the Philippines in 2005 were largely branded product.

Prices of imports of the branded consumer pineapple were compared to prices of GCL 'Golden Circle' brand. Prices were compared for each size container and each type of product (slices, pieces etc). The prices for the imported consumer pineapple from the Philippines have been consistently and significantly lower than those of GCL. Comparisons are contained in confidential attachment 6.

Customs concludes that imports of consumer pineapple from the Philippines have undercut GCL's prices.

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/distributor or end user imports directly.

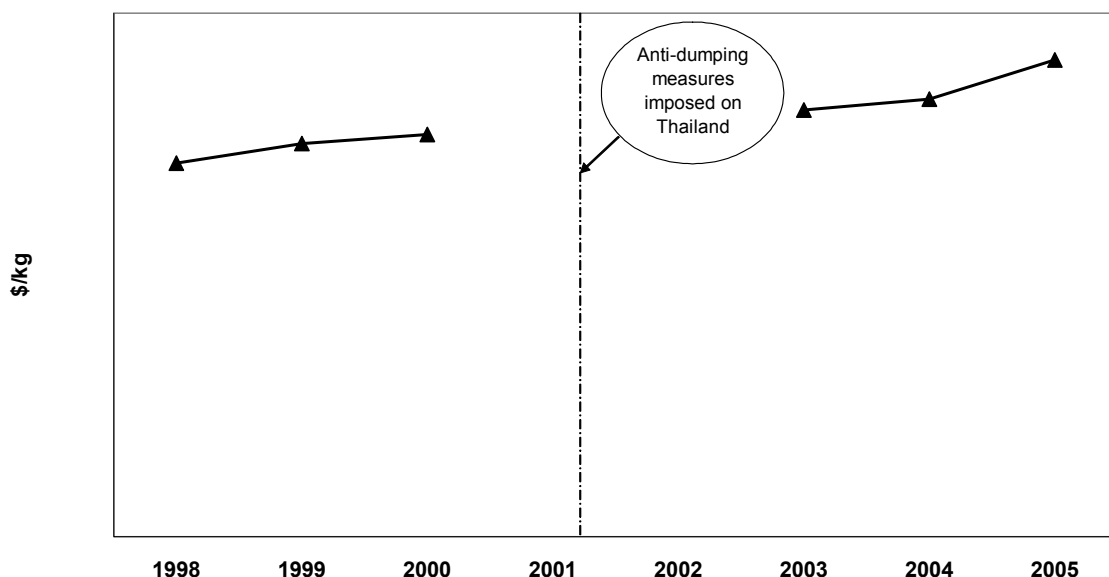
Prices of imports of FSI pineapple were compared to prices of GCL sales both inclusive and exclusive of sales of imports. The prices for imported FSI pineapple from China and the Philippines have been consistently and significantly lower than those of GCL in both cases. Comparisons are contained in confidential attachment 6.

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

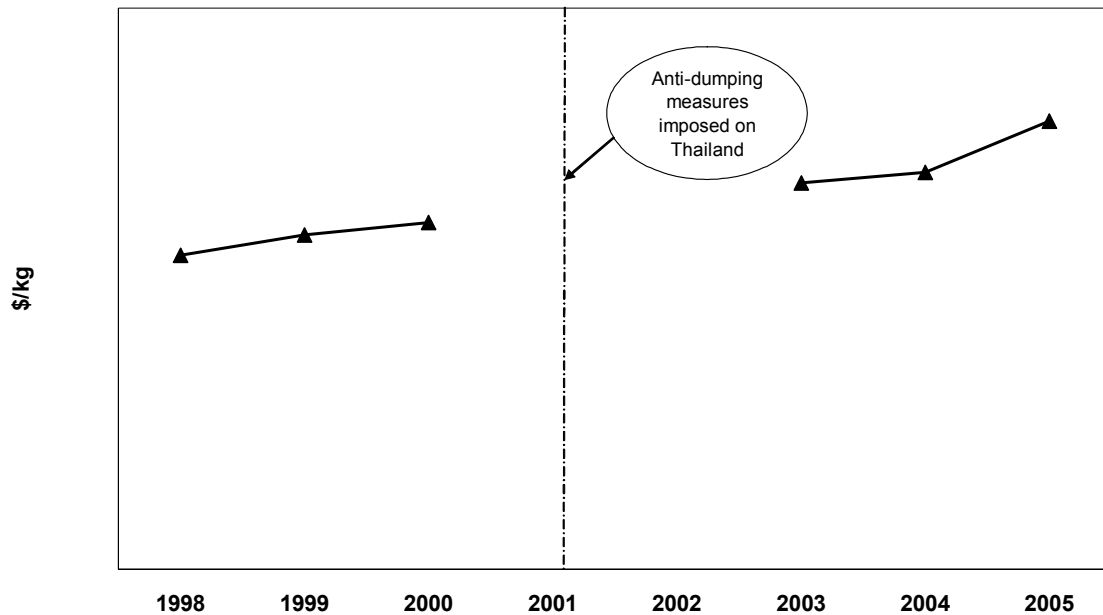
7.2.3.2 Price depression

Price depression occurs when a company, for some reason, lowers its prices. Customs examined GCL's annual weighted average selling prices (after all rebates) for domestically manufactured and sold pineapple, shown in the following graphs.

Consumer Pineapple - Australian Industry Selling Prices



FSI Pineapple - Australian Industry Selling Prices



GCL's net selling prices have risen for both consumer and FSI pineapple from 1998 to 2005. Customs concludes that GCL has not suffered injury in the form of price depression for either consumer pineapple or FSI pineapple.

7.2.3.3 Price suppression

Price suppression occurs when the margin between a company's costs and prices deteriorates.

Customs compared GCL's annual weighted average net selling prices to corresponding costs to make and sell in each period.

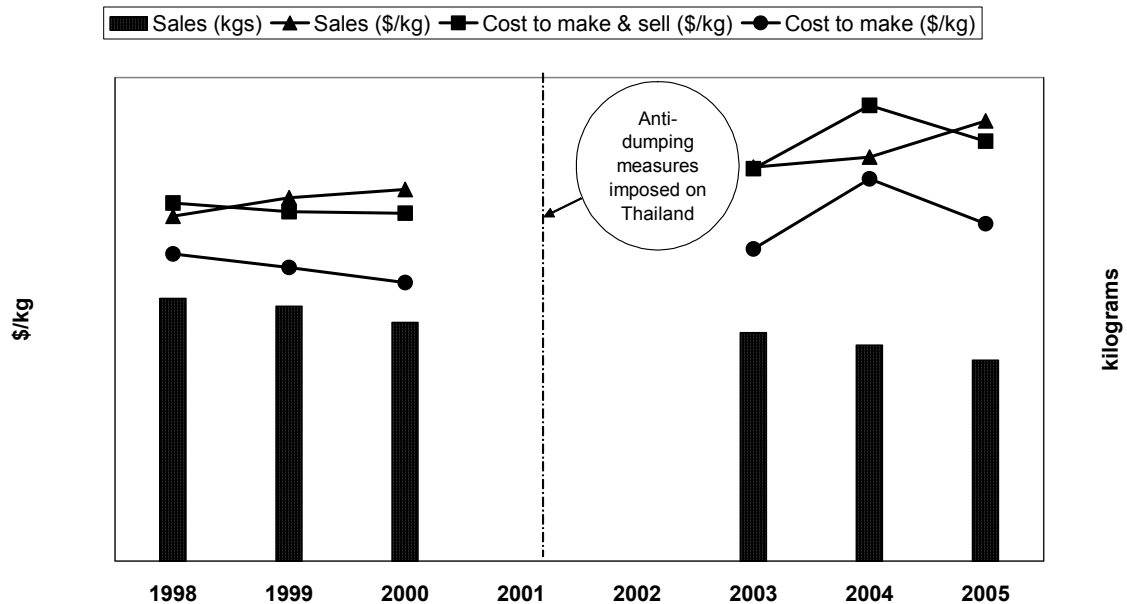
Consumer pineapple

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

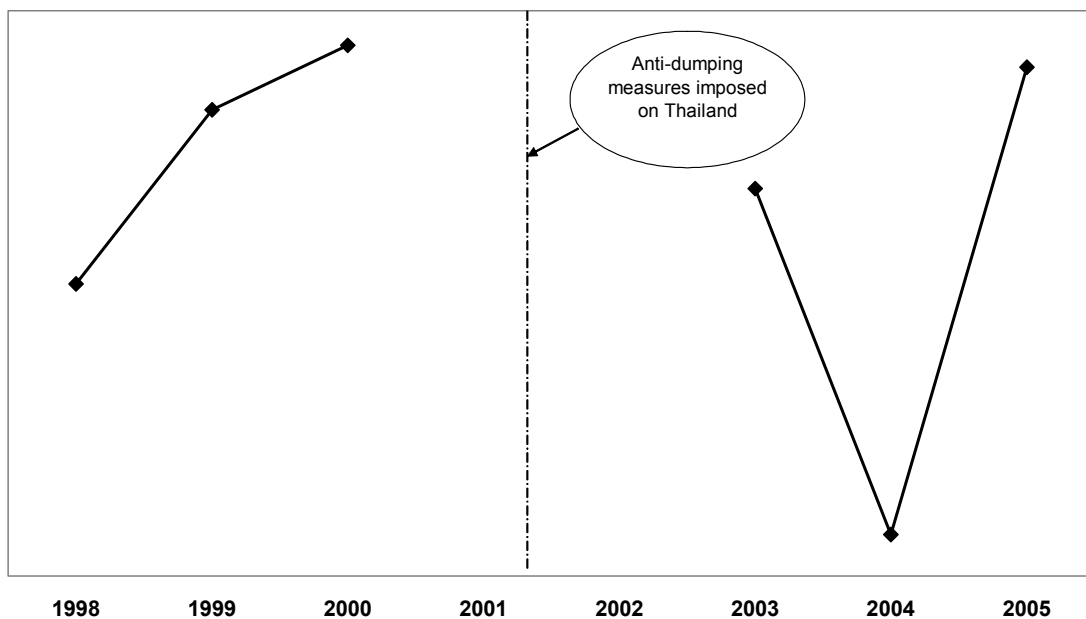
- cost to make (CTM) rose significantly in 2004 and fell in 2005. CTM was higher in 2005 than 2003
- CTM was higher in 2004 as fixed costs were spread over a lower base due to reduced production. One identified cause of lower production was drought. Production in 2004 was significantly reduced from 2003 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
- average selling prices increased over the three years examined

GCL's costs, domestic sales volumes, average selling prices and margins for consumer pineapple are shown in the following graphs.

Consumer pineapple - costs and prices



Consumer pineapple - Margin between costs and prices (\$/kg)



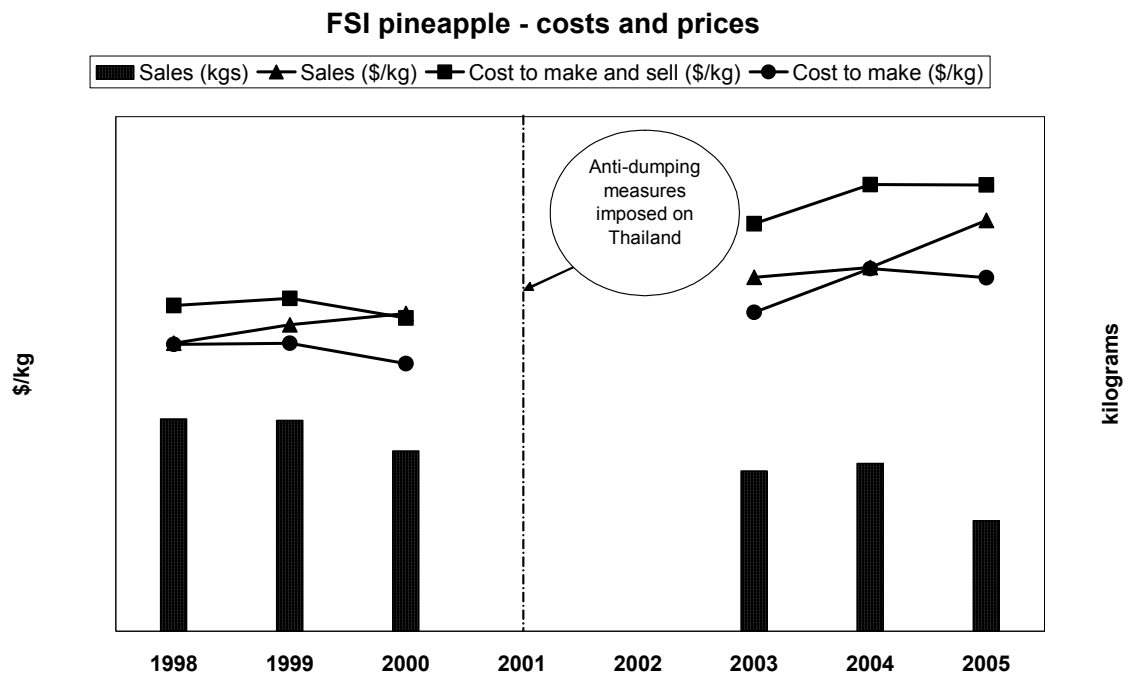
The graphs show that the margin between costs and prices has fluctuated, although the margin in 2005 has improved over that achieved in 2003 and 2004 and is above the average level achieved between 1998 and 2000 (for which Customs found no price suppression injury in TM41). Customs concludes that GCL has not suffered injury in the form of price suppression in relation to consumer pineapple.

FSI pineapple

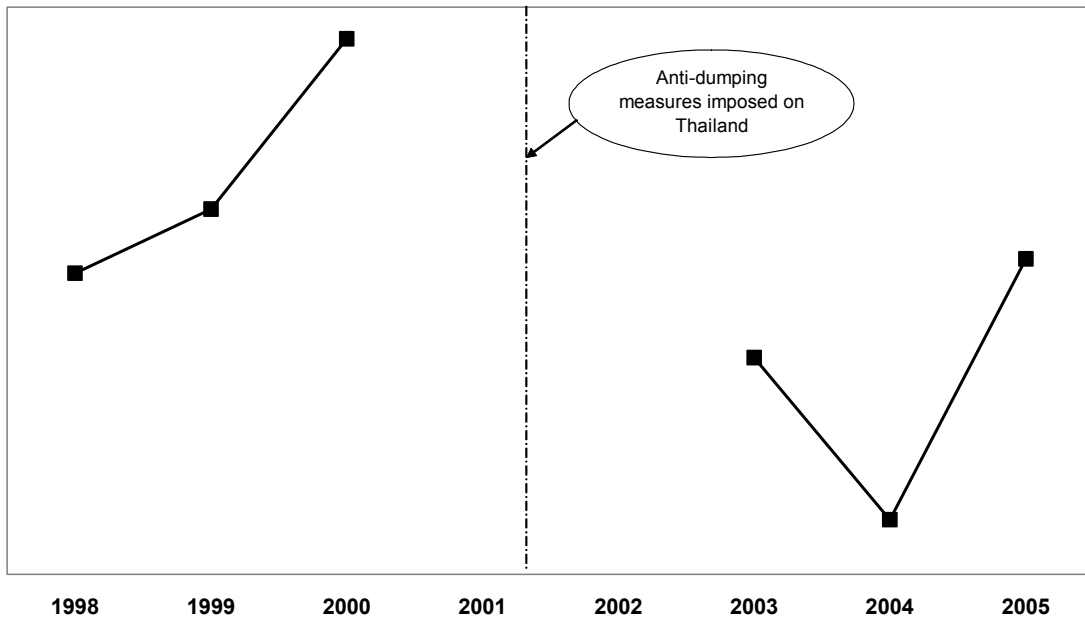
The following observations are made on the costs and selling prices of GCL FSI pineapple over the last three years:

- 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, domestic sales volumes, average selling prices (exclusive of sales of imports) and margins for FSI pineapple are shown in the following graphs.



FSI pineapple - Margin between costs and prices (\$/kg)



The graphs show that the margin between costs and prices has fluctuated. Although the margin in 2005 has improved over that in 2003 and 2004, it is below the average level achieved between 1998 and 2000 (for which Customs found no price suppression injury in TM41). Customs concludes that GCL has suffered injury in the form of price suppression in relation to FSI pineapple.

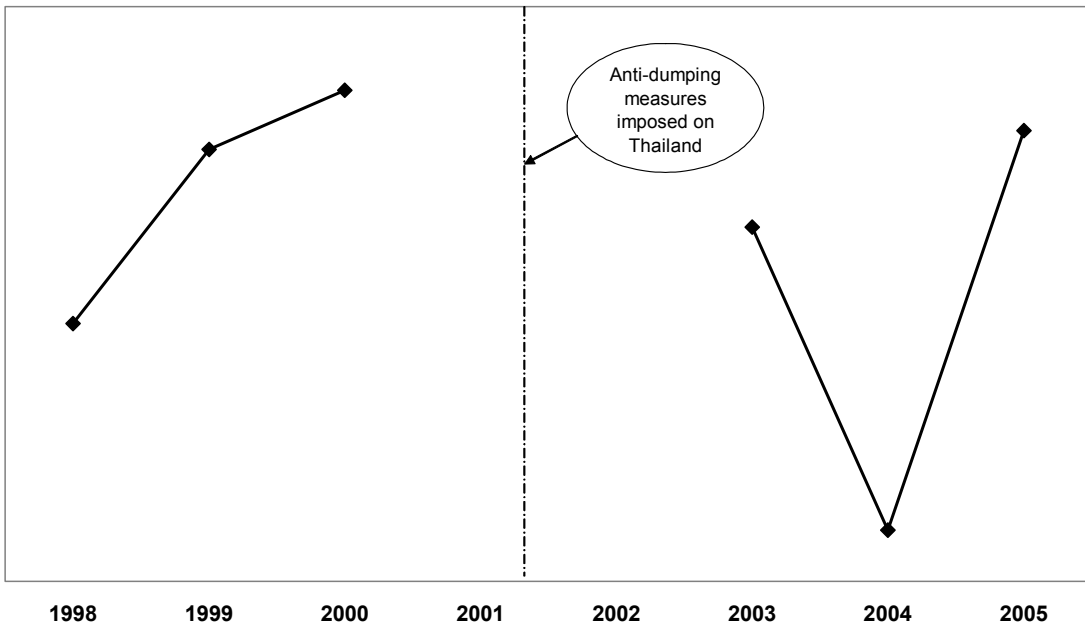
7.2.4 Profit

Customs has examined GCL's total profit and profitability for consumer and FSI pineapple from 1998 to 2005.

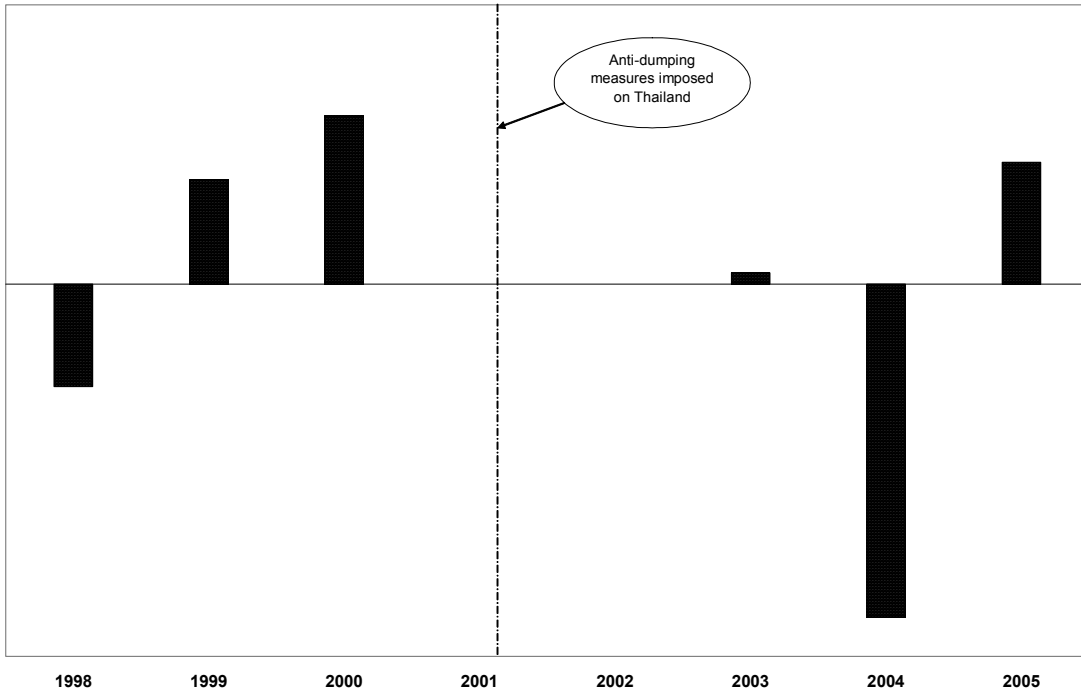
Consumer pineapple

Consumer pineapple profit (total \$) and profitability (as a percentage of selling price) shows similar trends to those found for the margin (\$/kg). Profit and profitability are shown in the graphs below.

Consumer pineapple - Profit (% of selling price)



Consumer Pineapple - Profit (\$million)

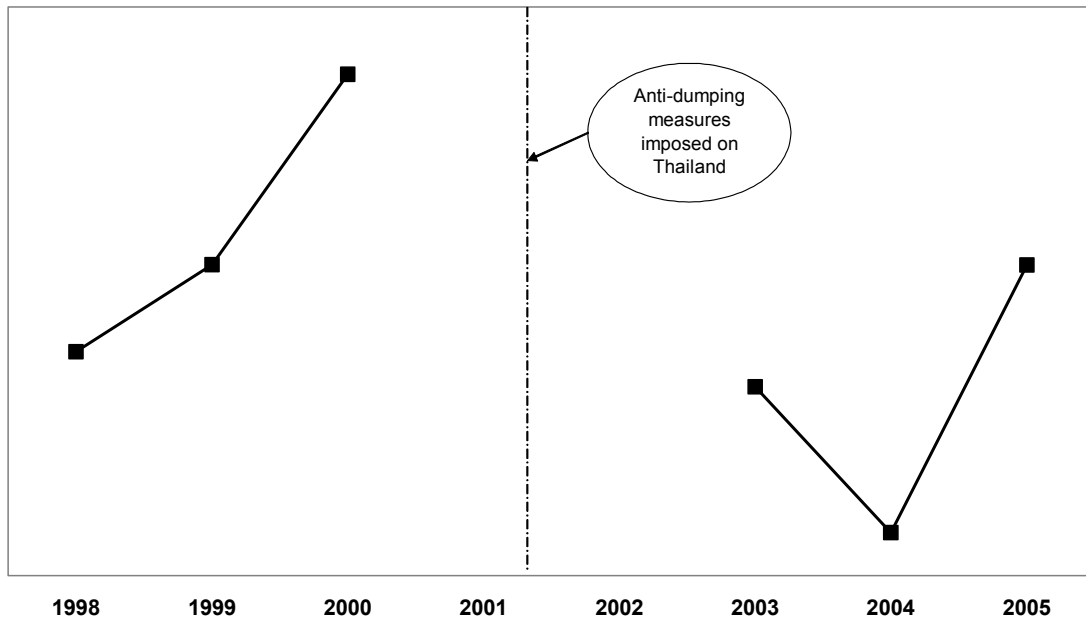


Profit and profitability in 2005 have improved over levels achieved in 2003 and 2004 and were above the average levels achieved between 1998 and 2000 (for which Customs found no profit/profitability injury in TM41). Customs concludes that GCL suffered injury in the form of reduced profit and profitability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

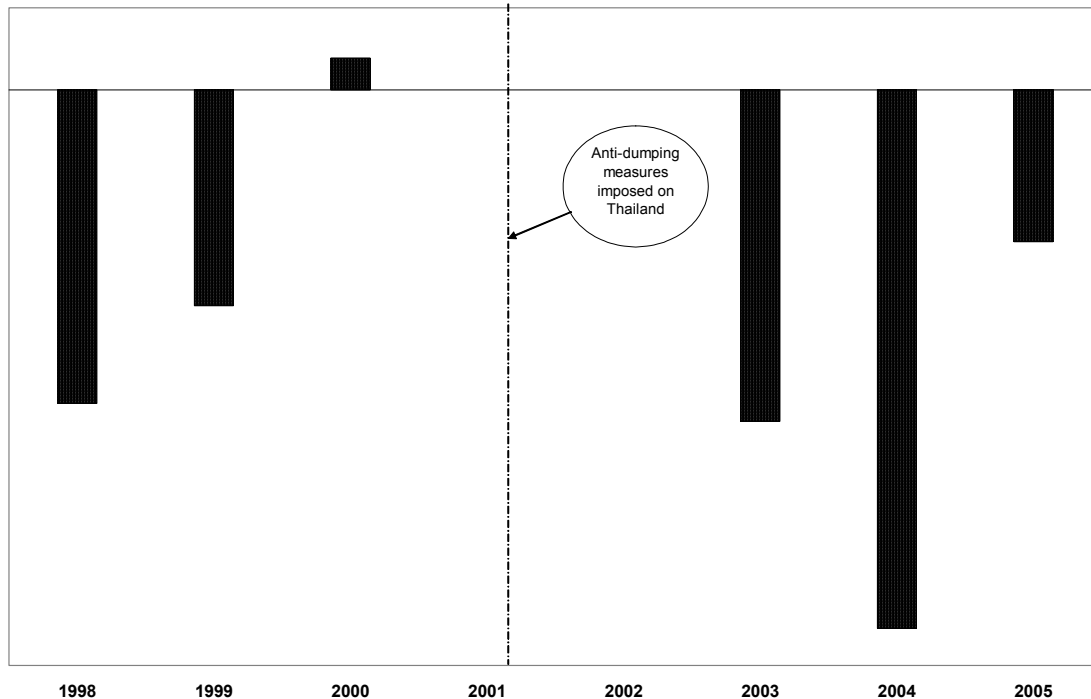
FSI pineapple

FSI pineapple profit and profitability (as a percentage of selling price) shows similar trends to those found for the margin (\$/kg). Profit and profitability are shown in the graphs below.

FSI pineapple - Profit (% of selling price)



FSI Pineapple - Profit (\$million)



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.

7.3 Others factors

No data relating to any of the 'other injury factors' was provided in GCL's application, GCL stating that it would be provided during Customs' verification visit. GCL claimed however that injury had been suffered in the form of:

- reduced capacity utilisation;
- reduced revenues;
- reduced return on investment; and
- an inability to re-invest due to poor returns.

GCL stated in its application that explanations on the above factors would also be provided during the verification visit.

Limited data was provided on some of the 'other injury factors' after Customs had completed its verification visit. No explanations were provided and no further claims were made.

No conclusion could be reached regarding underutilised capacity on the basis of the information provided. Customs notes that GCL stated in its application that plant utilisation was increased by the processing of other products (which use some of the same manufacturing facilities in production), which reduced pineapple manufacturing costs.

Revenue data was collected as part of Customs' verification of sales data. Customs concludes that GCL has suffered injury in the form of reduced revenues for pineapple fruit.

Insufficient data was provided to make an assessment relating to return on investment and inability to re-invest due to poor returns. Therefore Customs cannot draw any conclusions in relation to these claims.

8 HAS DUMPING CAUSED MATERIAL INJURY?

In the previous sections Customs concluded consumer pineapple from the Philippines has been dumped and that GCL has suffered injury in the forms of loss of sales volumes, loss of market share, price undercutting and reduced revenue.

In the previous sections Customs concluded FSI pineapple from China and the Philippines has been dumped and that GCL has suffered injury in the forms of loss of sales volumes, loss of market share, price undercutting, price suppression, reduced profitability and reduced revenue.

Customs must now consider in relation to consumer pineapple, whether dumping from the Philippines has caused material injury. Customs must also consider in relation to FSI pineapple, whether dumping from China and the Philippines has caused material injury.

8.1 Australian industry's claims

GCL made the following claims in relation to injury attributable to dumped imports:

8.1.1 Volumes

Consumer pineapple

Imports of dumped consumer pineapple exported from China and the Philippines were negligible (less than one per cent of the market) in 2003. By 2005, exports from both countries had increased to approximately 7 per cent market share.

GCL's market share in the consumer pineapple market declined by 10 per cent during 2005 (in a market which expanded by 10 percent).

FSI pineapple

GCL has continued to experience a decline in market share since the imposition of measures on exports of Thai product in 2001. In the years prior to the imposition of measures GCL's market share was in the range of 50 to 60 percent. In the period 1998 to 2000, exports from China and the Philippines of FSI pineapple were negligible.

Exports from China and the Philippines have increased from negligible levels at the time of imposition of measures in 2001 to approximately 37 percent market share in 2005. GCL's market share has fallen to 27 percent.

8.1.2 Price, profits and profitability

Consumer pineapple

Profitability for consumer pineapple in 2005 was approximately half that of the levels achieved prior to the anti-dumping investigation which imposed measures on exports of the goods from Thailand. The decline in profitability is attributed to:

- a decline in market share (through reduced volumes);
- increased competition from imports;
- a preparedness by GCL not to reduce prices against dumped import competition; and
- increasing raw material costs that are not being recovered in the marketplace.

As costs are rising, GCL has not “matched” selling prices for dumped imports of consumer pineapple from China, the Philippines or Thailand. Rather, it has maintained prices at the expense of sales volumes and market share.

FSI pineapple

FSI pineapple has experienced a substantial reduction in market share and sales volume during 2005.

The substantial levels of price undercutting evident from the exports from China and the Philippines have resulted in lost volumes for GCL. Had GCL elected to compete head-on with the dumped exports from China and the Philippines, GCL would have experienced significant declines in profit and profitability.

Price quotations by wholesalers/distributors for imported FSI pineapple up to 50 per cent below GCL’s comparable product, overwhelmingly supports GCL’s view that it is dumping from the nominated countries that is responsible for GCL’s rapid decline in market share.

8.2 Claims by other interested parties

Several parties made claims regarding injury attributable to dumping in submissions to the investigation and during Customs verification visits. Non-confidential submissions were placed on the public record. Claims are summarised below:

- GCL has increased prices, profits and profitability from 2003 to 2005 for both the consumer and FSI pineapple markets, and therefore cannot be deemed to have suffered injury, let alone material injury.
- GCL ceased supplying pineapple fruit to pizza businesses as they were providing negative returns. This decision was a commercially prudent approach and raised GCL’s profitability. Injury has therefore not been incurred.
- GCL’s poor economic performance (for all products) has been caused by factors other than loss of sales due to imports from Thailand, China and the Philippines. These include drought and supply shortages, low asset utilisation, operating inefficiencies and poor management decisions.
- GCL lags behind world’s best practice in terms of production costs.
- Prior to the implementation of GCL’s ‘Restructure Plan’, processing of pineapple fruit was inefficient and costly, presumably leading to expensive products that were not competitive in the Australian market.
- GCL has not paid a dividend since the 2003 financial year to its shareholders, who are the growers and suppliers of its pineapple fruit, and that it may be compensating them instead with higher pineapple purchase prices. When considering costs and injury, a question arises as to whether prices paid by GCL to growers are arms length market prices and how such prices are determined.
- Substitution of imports from Thailand by imports from China and the Philippines in 2001 was not substantiated by evidence. If substitution had in fact occurred, it would be reasonable to expect that it had caused no injury

to GCL, otherwise appropriate action against China and the Philippines would have been taken earlier.

- GCL elected to compete in the FSI market by importing pineapple from Indonesia in 2005. Imports in 2005 were therefore competing with other imports and not against Australian pineapple fruit in the FSI market.
- GCL did not include Indonesia in its application because it was importing FSI pineapple from Indonesia. Prices from Indonesia were similar to those from other sources. GCL would gain an unfair advantage if measures were imposed on sources other than Indonesia.
- GCL cannot meet the volume requirement of the FSI market. GCL did not have sufficient production and did not physically have the stock to meet its sales commitments.
- GCL cannot meet the volume requirements of the consumer pineapple market. GCL was no longer willing to supply generic brands. One retailer claimed that the volume of 'Golden Circle' branded product often fell short of the volume ordered during 2005.
- GCL pineapples are being sold at very low prices, with GCL's brand equity and awareness, it should be able to price its products more highly.

8.3 Other possible causes of injury

Customs examined evidence and claims as to whether the injury suffered by GCL had been caused by factors other than dumped imports from China and the Philippines. Customs found that GCL's performance in consumer and FSI pineapple has been affected by a number of other factors. These are addressed below.

8.3.1 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. The 2005 year however appears to be a 'normal' year in terms of weather.

8.3.2 Fresh pineapple prices

Profit is influenced by the price paid to growers for fresh pineapple. Pineapple growers, collectively, are significant shareholders in GCL. 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 the 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.

8.3.3 Other imports

Customs found that imports of consumer and FSI pineapple from sources other than China and the Philippines were also entering the Australian market at low prices.

Consumer pineapple

Significant volumes of consumer pineapple, mostly generic brand, were imported from Thailand in 2005.

In statement of essential fact TM 110 and TM 111, Customs reported that imports of consumer pineapple from Thailand were made at prices below those achieved in the domestic market in Thailand. Interim dumping duty (IDD) was paid on all imports of consumer pineapple from Thailand. GCL claims that measures on Thailand in recent years have not been effective at removing injury by Thai imports, and that levels need to be set higher to reflect increases in costs and prices (the measures are currently being reviewed).

Prices of Thai consumer pineapple were found to be significantly lower than those of GCL's generic and branded product. Imports from Thailand are likely to have contributed to GCL's loss of sales volume and market share.

FSI pineapple

Significant volumes of FSI pineapple were imported from Thailand and Indonesia in 2005. Imports from these sources undercut GCL's prices, some by over 50 percent.

In statement of essential facts TM 110 and TM 111, Customs has reported that imports of FSI pineapple from Thailand were made at prices below those achieved in the domestic market in Thailand. IDD was paid on all imports (apart from FSI pineapple exported by Malee). GCL claims that measures on Thailand in recent years have not been effective at removing injury by Thai imports, and that levels need to be set higher to reflect increases in costs and prices (the measures are currently being reviewed).

GCL has not applied for measures against Indonesia and has itself imported significant quantities from Indonesia, stating that it did so in an attempt to hold market share with lower cost imports. Customs compared prices of GCL sales, both inclusive and exclusive of sales of imports, to prices of imports of FSI pineapple and found, in both cases, that the prices for imported FSI pineapple from China and the Philippines have been consistently and significantly lower than those of GCL.

8.3.4 Inability to supply the market

Some parties have claimed that GCL has stated that it is unable to supply their required volume of product.

Consumer pineapple

In the consumer pineapple market, whilst GCL had previously supplied Woolworths Limited (Woolworths) and Coles Myer Limited (CML), the two major retailers in Australia, with generic product, both Woolworths and CML claimed that GCL no longer wished to supply them with generic and housebrand pineapple. GCL has denied this claim.

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

FSI pineapple

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. GCL has stated that it remains committed to supplying the FSI market segment.

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.

8.3.5 Other products

In its application GCL noted that it had reduced the cost to make and sell pineapple by increasing plant utilisation on the processing of other products, rather than passing on costs to pineapple fruit production through underutilised assets.

8.4 Customs assessment

Customs considered the claims made by all interested parties and its findings in relation to dumping and injury. Customs considered whether the injury suffered by GCL in relation to consumer pineapple and FSI pineapple was caused by factors other than dumped imports.

For consumer pineapple, only material injury in relation to exports from the Philippines will be assessed.

For FSI pineapple, Customs considered whether it would be appropriate to cumulate the effects of the dumped exports from China and the Philippines for

material injury assessment. From its investigations Customs noted that dumped exports from both countries:

- had similar physical characteristics to the goods produced by GCL and could be substituted with each other
- were present throughout the investigation period
- sold at similar prices into the Australian market
- had similar channels of distribution
- were sold in the same geographic region

Customs concludes that it would be appropriate to cumulate the effects of the dumped exports of FSI pineapple from China and the Philippines for material injury assessment.

8.4.1 Price effects

Consumer pineapple

Customs found that during the investigation period significant volumes of dumped consumer pineapple from the Philippines had been sold into the Australian market at prices that had undercut GCL's prices. Whilst GCL did not suffer injury in the form of price depression, price suppression, reduced profit or reduced profitability, Customs examined the effects that price undercutting had on injury through lost sales volumes, revenues and market share. This analysis has been addressed in the relevant section below.

FSI pineapple

Customs found that during the investigation period significant volumes of dumped FSI pineapple from China and the Philippines had been sold into the Australian market at prices that had significantly undercut GCL's prices. At the same time, GCL suffered injury in the form of price suppression and reduced profitability.

Customs considered the claims of interested parties and other possible causes of injury. Several other causes of injury to GCL identified by interested parties related to other areas of business were not relevant or specific to pineapple fruit – Customs isolated its injury assessment to pineapple fruit. The unfavourable weather conditions of 2003/2004 and the resultant detrimental effect on GCL's performance appear not to have had an effect in 2005.

Customs considered the effects of imports from Indonesia on prices in the Australian market. Customs compared GCL's selling price, both inclusive and exclusive of sales of imports, to the equivalent price of imports of FSI pineapple and found that the prices for imported FSI pineapple from China and the Philippines have been consistently and significantly lower than those of GCL in both cases.

As the volumes of imports from Indonesia by other than GCL were modest in comparison to volumes from China, the Philippines and Thailand, Customs considers that those imports could be regarded as being non-injurious. It is

probable that prices from Indonesia have been affected by the presence of dumped imports from other sources. The presence of the comparatively small volumes from Indonesia does not preclude injury from other sources.

Customs considered the claim that the cessation of supply of pineapple fruit to some pizza businesses could not be regarded as injury as this decision raised GCL's profitability. GCL claimed that competing with dumped prices would have led to further declines in profit and profitability. Customs considers that a loss sales volume and market share as a result of price undercutting constitutes injury. The absence of dumping and undercutting from imports may have allowed GCL to set prices in that market at a sustainable level and maintain sales volume and market share.

Examination of price and cost information shows that while prices have risen for sales of FSI pineapple from the period 1998-2000 to 2005, costs have risen at a greater rate. It is possible that the presence of dumped imports and undercutting had a suppressing effect on prices, which may have led to the loss of profitability by GCL. However, Customs considered the possibility that prices paid for fresh pineapple to growers who are significant shareholders in GCL may not be at levels that would exist in a normal market situation. Customs noted the level of prices paid by GCL as compared with prices paid to growers overseas. Given that the price paid to growers has an effect on GCL's profit and profitability, and that there exists the possibility of setting prices above those which would exist in a normal market, Customs will not rely on injury caused by a decrease in profitability as the sole cause of material injury to GCL.

Customs examined the effects that price undercutting had on injury through lost sales volumes, revenues and market share. This analysis has been addressed in the relevant section below.

8.4.2 Volume effects

Consumer pineapple

Customs found that consumer pineapple of Philippines origin had emerged in significant quantities in 2005, had been exported at dumped prices, and had significantly undercut GCL's prices. At the same time, GCL's sales volumes, revenues and market share of consumer pineapple had declined.

Consumer pineapple from the Philippines is branded product and competes directly with GCL's product. Customs considered the claim that GCL did not supply the full quantity ordered by one of the major retailers, and noted that the claimed shortfall was not a substantial proportion of the total. Customs also noted that the other major retailer in the market stated that it had no problems with supply.

It is reasonable to conclude that the dumping from the Philippines has contributed to the injury suffered by GCL.

FSI pineapple

Customs found that FSI pineapple of Chinese and Philippines origin had emerged in significant quantities in 2002 following the imposition of measures on Thailand, and have increased since that time. Customs found that imports from both China and the Philippines in 2005 were at dumped prices and had significantly undercut GCL's prices.

Customs considered claims that GCL was unable to supply the Australian market. Whilst GCL may not be able to supply the entire Australian market, it has still suffered a loss of sales and market share that it previously held. It is noted that the drought affected production and sales volumes in 2003 and 2004, however volumes could have been expected to return to normal in 2005 following the end of the drought.

It is reasonable to conclude that the dumping from China and the Philippines has contributed to the injury suffered by GCL.

8.4.3 Conclusion

Consumer pineapple

Customs concludes that dumped imports of consumer pineapple from the Philippines have caused material injury to the Australian industry producing like goods. Customs considers that its analysis of other possible causes of injury shows nothing to detract from this finding.

FSI pineapple

Customs concludes that dumped imports of FSI pineapple from China and the Philippines have caused material injury to the Australian industry producing like goods. Customs considers that its analysis of other possible causes of injury shows nothing to detract from this finding.

8.5 Will dumping & material injury continue?

The analysis in the previous sections has shown that dumping of consumer pineapple from the Philippines and FSI pineapple from China and the Philippines has caused material injury to the Australian industry.

In the case where the Minister is satisfied that dumping has caused material injury to an industry, anti-dumping measures may be imposed on future exports of the goods only if the Minister is also satisfied that future exports of like goods may be dumped.

As required by s. 269TEA(2) of the Act, Customs examined import data for like goods not covered by the application but imported into Australia during the period starting on the date of initiation of the investigation and ending 20 days after the SEF was placed on the public record

Customs also considered whether there had been or was likely to be any change in circumstance that would remove the injury to the Australian industry currently being experienced as a result of the dumped goods.

Consumer pineapple

Import data covering the period starting on the date of initiation of the investigation and ending 20 days after the SEF was placed on the public record showed that imports of consumer pineapple from the Philippines continued in substantial quantities during the period.

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

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.

FSI pineapple

Import data examined showed that imports of FSI pineapple from China and the Philippines continued in substantial quantities during the period starting on the date of initiation of the investigation and ending 20 days after the SEF was placed on the public record.

Customs also noted that sales contracts and/or supply agreements are in place for the supply of FSI pineapple from China and the Philippines into Australia, and importers have indicated a willingness to continue importing product from those sources.

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.

9 SUBMISSIONS IN RESPONSE TO THE SEF

SEF no. 112 was placed 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 in response to the SEF were received on behalf of:

- GCL
- DPI
- Del Monte
- RD2 International

The submissions are at confidential attachment 8, together with a detailed analysis of the issues raised in each submission.

A further confidential submission 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

On 30 August 2006 Customs placed a document on the public record regarding a review of the DPI visit report and spreadsheets together with supplementary information and effect on remaining exporters. Comments were invited from interested parties. Submissions were received on behalf of two interested parties, who requested that Customs revise interim measures to take account of the change in dumping margins. These submissions are included in confidential attachment 8.

9.1 Issues raised in submissions

9.1.1 GCL

- welcomed Customs findings in respect of each SEF report
- 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 that it could not guarantee supply
- disagreed with Customs' decision to terminate the investigation on consumer pineapple exported from China
- requested Customs to reconsider the profitability of GCL's beetroot business as a basis for profitability in calculating the USP for consumer pineapple
- requested that a revised PAD be issued that reflects amended dumping margins following Customs' review of the DPI visit report

9.1.2 DPI

- disagreed with Customs' basis for calculation of export price
- supplied information relating to its sales agreements and costs
- requested a revision to the level of interim measures to reflect revisions to dumping margins for DPI
- requested a reassessment of the cost of production for DPI

9.1.3 Del Monte

- commented that it had not provided an exporter questionnaire due to concerns about confidentiality
- claimed that Customs had ignored its submission, which, it claimed, demonstrated that Del Monte had not dumped.

- provided a selection of invoices to domestic and Australian customers to further demonstrate that Del Monte had not dumped
- argued that adjustments would be required to those invoice prices for fair comparison
- requested that Customs visit to verify this information
- does not accept Customs' calculation of dumping margins for Del Monte
- argued that Indonesia should be used as a reference point for comparison with GCL and as a basis for comparison with exporters from the Philippines and China

9.1.4 RD2 International

- claimed that Customs had ignored one of the exporters' submissions, which, it claimed, demonstrated that the exporter had not dumped, and asked that Customs consider that exporters' information
- claimed a judgement cannot be made against that exporter on the basis of information supplied by another party
- claimed GCL has been selling its FSI pineapple below cost for the entire period (apart from year 2000) reviewed, both before and after anti-dumping measures were initiated against Thailand. This leads to the conclusion that GCL are an inefficient packer of canned pineapple and this is the cause of its injury
- claimed as no conclusion could be reached on 'other injury factors' in the SEF, no conclusion can be drawn on dumping from the Philippines
- claimed GCL's cost of production has been reached under as false basis as it does not pay prices for fresh fruit that are in keeping with the world market
- claimed GCL are importing from Indonesia and are using the anti-dumping process to manipulate themselves into a position of power as an importer from the sole efficient manufacturer of pineapple (Indonesia) who are not subject to anti-dumping duties. Pricing for one of the companies in Indonesia is very similar and in many cases less than that of the Philippines exporter referred to above

9.2 Customs assessment

Detailed analysis and assessment of the each of the issues raised are contained in confidential attachment 8. All of the issues raised have been considered by Customs and, where appropriate, have been covered in the relevant section of the report.

10 ANTI-DUMPING MEASURES

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 WTO Anti-Dumping Agreement and s. 8(5A) of the *Customs Tariff (Anti-Dumping) Act 1975*.

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.

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

10.1 Unsuppressed selling price

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.

10.1.1 Australian industry 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.

10.1.2 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.

10.2 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 are deducted from the USP. Customs has determined these costs separately for consumer pineapple and FSI pineapple and for each country against which measures will be imposed.

An example of this calculation is shown below:

Unsuppressed selling price	1,000
Less post exportation costs	
Ocean freight & overseas insurance	100
Duty	38
Port & broker charges	25
Cartage to store	20
SG&A costs	45
Profit	50
Total	278
Non-injurious price	722

Details of applicable NIPs are at confidential attachment 9.

10.3 Interim Dumping Duties

An interim duty is collected on each importation of goods subject to anti-dumping measures.

In determining the amount of interim dumping duty payable, the Minister must ascertain an export price, a normal value and a non-injurious price for the goods. The interim duty is based on the difference between the ascertained export price and the lower of the ascertained normal value and the ascertained NIP.

An importer can apply for repayment of any interim duty paid in excess of the actual duty liability. An affected party can seek a review of the interim duty.

11 RECOMMENDATIONS

Customs recommends the Minister impose anti-dumping measures in respect of consumer pineapple exported from the Philippines and FSI pineapple exported from China and the Philippines.

Section 8(5) of the *Customs Tariff (Anti-Dumping) Act 1975* provides that the Minister must direct that the interim dumping duty referred to in paragraph 4(a) of s. 8 be ascertained as a proportion of the export price, by reference to a measure of the quantity or by a combination of these. In this case, Customs

recommends the Minister direct that the interim duty be ascertained by reference to a measure of the quantity.

All references to legislation in this section, unless otherwise specified, are to the *Customs Act 1901*.

Customs recommends that the Minister be satisfied:

Consumer pineapple

- in accordance with s. 269TAB(3), sufficient information has not been furnished, or is not available, to enable the export price of consumer pineapple exported to Australia from the Philippines by all exporters to be ascertained under the preceding subsections of s. 269TAB; other than those exports by DPI in its sales via CCWW that are sold direct to its Australian customers;
- in accordance with s. 269TAC(6), sufficient information has not been furnished or is not available to enable the normal value of consumer pineapple exported to Australia from the Philippines by all exporters other than DPI to be ascertained under the preceding subsections of s. 269TAC;
- in accordance with s. 269TACB(4), the weighted average of export prices of consumer pineapple over the investigation period is less than the weighted average of corresponding normal values over that period in respect of exports from the Philippines;
- in accordance with s. 269TG(1), the export prices of consumer pineapple that has been exported to Australia from the Philippines is less than the normal values of those goods and because of that material injury to the Australian industry producing like goods has been caused;
- in accordance with s. 269TG(2), the export prices of consumer pineapple already exported to Australia from the Philippines is less than the normal values of those goods and the export prices of consumer pineapple that may be exported to Australia from the Philippines may be less than the normal values of the goods and because of that, material injury to the Australian industry producing like goods has been, is being and may continue to be caused;

FSI pineapple

- in accordance with s. 269TAB(3), sufficient information has not been furnished, or is not available, to enable the export price of FSI pineapple exported to Australia from China to be ascertained under the preceding subsections of s. 269TAB;
- in accordance with s. 269TAB(3), sufficient information has not been furnished, or is not available, to enable the export price of FSI pineapple exported to Australia from the Philippines by all exporters other than DPI to be ascertained under the preceding subsections of s. 269TAB;

- in accordance with s. 269TAC(6), sufficient information has not been furnished or is not available to enable the normal value of FSI pineapple exported to Australia from China to be ascertained under the preceding subsections of s. 269TAC;
- in accordance with s. 269TAC(6), sufficient information has not been furnished or is not available to enable the normal value of FSI pineapple exported to Australia from the Philippines by all exporters other than DPI to be ascertained under the preceding subsections of s. 269TAC;
- in accordance with s. 269TACB(4), the weighted average of export prices of FSI pineapple over the investigation period is less than the weighted average of corresponding normal values over that period in respect of exports from China;
- in accordance with s. 269TACB(4), the weighted average of export prices of FSI pineapple over the investigation period is less than the weighted average of corresponding normal values over that period in respect of exports from the Philippines;
- in accordance with s. 269TG(1), the export prices of FSI pineapple that has been exported to Australia from China is less than the normal values of those goods and because of that material injury to the Australian industry producing like goods has been caused;
- in accordance with s. 269TG(1), the export prices of FSI pineapple that has been exported to Australia from the Philippines is less than the normal values of those goods and because of that material injury to the Australian industry producing like goods has been caused;
- in accordance with s. 269TG(2), the export prices of FSI pineapple already exported to Australia from China is less than the normal values of those goods and the export prices of FSI pineapple that may be exported to Australia from China may be less than the normal values of the goods and because of that, material injury to the Australian industry producing like goods has been, is being and may continue to be caused; and
- in accordance with s. 269TG(2), the export prices of FSI pineapple already exported to Australia from the Philippines is less than the normal values of those goods and the export prices of FSI pineapple that may be exported to Australia from the Philippines may be less than the normal values of the goods and because of that, material injury to the Australian industry producing like goods has been, is being and may continue to be caused.

Customs recommends that the Minister declare:

Consumer pineapple

- in accordance with s. 269TG(1), by public notice, that s. 8 of the Customs Tariff (Anti-Dumping) Act applies to exports of consumer pineapple already exported to Australia from the Philippines;

- in accordance with s. 269TG(2), by public notice, that s. 8 of the Customs Tariff (Anti-Dumping) Act applies to exports of consumer pineapple exported to Australia from the Philippines after the date of publication of the notice;

FSI pineapple

- in accordance with s. 269TG(1), by public notice, that s. 8 of the Customs Tariff (Anti-Dumping) Act applies to exports of FSI pineapple already exported to Australia from China;
- in accordance with s. 269TG(1), by public notice, that s. 8 of the Customs Tariff (Anti-Dumping) Act applies to exports of FSI pineapple already exported to Australia from the Philippines;
- in accordance with s. 269TG(2), by public notice, that s. 8 of the Customs Tariff (Anti-Dumping) Act applies to exports of FSI pineapple exported to Australia from China after the date of publication of the notice; and
- in accordance with s. 269TG(2), by public notice, that s. 8 of the Customs Tariff (Anti-Dumping) Act applies to exports of FSI pineapple exported to Australia from the Philippines after the date of publication of the notice.

Customs recommends that the Minister determine:

Consumer pineapple

- in accordance with s. 269TAB(1)(c), having regard to all the circumstances of the exportation, the export price of consumer pineapple exported from the Philippines by DPI and sold via CCWW direct to its Australian customers;
- in accordance with s. 269TAB(3), having regard to all relevant information, the export prices of consumer pineapple exported to Australia from the Philippines, other than those exports by DPI in its sales via CCWW that are sold direct to its Australian customers;
- in accordance with s. 269TAC(6), having regard to all relevant information, the normal value of consumer pineapple exported from the Philippines by exporters other than DPI;
- in accordance with s. 269TACB(1), by comparison of the weighted average export price and the weighted average normal value over the investigation period, that exports of consumer pineapple from the Philippines were dumped;

FSI pineapple

- in accordance with s. 269TAB(1)(c), having regard to all the circumstances of the exportation, the export price of FSI pineapple exported from the Philippines by DPI;

- in accordance with s. 269TAB(3), having regard to all relevant information, the export prices of FSI pineapple exported to Australia from China;
- in accordance with s. 269TAB(3), having regard to all relevant information, the export prices of FSI pineapple exported to Australia from the Philippines by exporters other than DPI;
- in accordance with s. 269TAC(6), having regard to all relevant information, the normal value of FSI pineapple exported from China;
- in accordance with s. 269TAC(6), having regard to all relevant information, the normal value of FSI pineapple exported from the Philippines by exporters other than DPI;
- in accordance with s. 269TACB(1), by comparison of the weighted average export price and the weighted average normal value over the investigation period, that exports of FSI pineapple from China were dumped; and
- in accordance with s. 269TACB(1), by comparison of the weighted average export price and the weighted average normal value over the investigation period, that exports of FSI pineapple from the Philippines were dumped.

Customs recommends the Minister direct:

Consumer pineapple

- in accordance with s. 269TAC(8), the price paid for consumer pineapple sold by DPI be taken to be such a price adjusted for differences between domestic and export sales in transportation, market expenses, service charges and credit terms;
- in accordance with s. 8(5) of the Customs Tariff (Anti-Dumping) Act 1975, that the element of interim dumping duty payable on consumer pineapple the subject of a notice under s. 269TG(1) and s. 269TG(2) be ascertained by reference to a measure of the quantity of those particular goods;

FSI pineapple

- in accordance with s. 269TAC(8), the price paid for FSI pineapple sold by DPI be taken to be such a price adjusted for differences between domestic and export sales in transportation, market expenses, service charges, credit terms and physical differences;
- in accordance with s. 8(5) of the Customs Tariff (Anti-Dumping) Act 1975, that the element of interim dumping duty payable on FSI pineapple the subject of a notice under s. 269TG(1) and s. 269TG(2) be ascertained by reference to a measure of the quantity of those particular goods.

12 STATEMENT OF FACTS & EVIDENCE RELIED UPON

Section 269TEA(5) requires that the report set out the material findings of fact on which the recommendations are based and also provide particulars of the evidence relied upon to support those findings.

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

Topic	Section of report detailing facts relied upon	Evidence relied upon
Goods under consideration	3	Submissions from industry and other interested parties; and TM41.
Like goods	4	Submissions from industry and other interested parties; and TM41.
Australian industry	4	Submissions from industry and other interested parties; information gathered during visits to industry and other interested parties; and TM41.
Australian market	5	Submissions from industry and other interested parties; information gathered during visits to industry and other interested parties; Customs' commercial system; and TM41.
Export price	6	Submissions from industry and other interested parties; information gathered during visits to interested parties; and Customs' commercial system.
Normal value	6	Submissions from industry and other interested parties; and information gathered during visits to interested parties.
Economic condition of the industry	7	Submissions from industry and other interested parties; information gathered during visits to industry and other interested parties; Customs' commercial system; and TM41.
Has dumping caused material injury?	8	Submissions from industry and other interested parties; information gathered during visits to industry and other interested parties; Customs' commercial system; and TM41.
Will dumping and material injury continue?	8	Submissions from industry and other interested parties; information gathered during visits to industry and other interested parties; and Customs' commercial system.
Anti-dumping	10	Submissions from industry and

measures

other interested parties; information gathered during visits to industry and other interested parties; and Customs' commercial system.

13 LIST OF ATTACHMENTS

Confidential attachment 1	Export volumes
Confidential attachment 2	Data and graphs - Australian market
Confidential attachment 3	Importer/exporter matrix
Confidential attachment 4	Export price, normal value and dumping margins
Confidential attachment 5	Data and graphs - Australian industry
Confidential attachment 6	Price undercutting analysis
Confidential attachment 7	Import data for period after initiation of investigation
Confidential attachment 8	Submissions to the SEF and Customs' assessment
Confidential attachment 9	USP and NIP calculations