



Australian Government
**Department of Industry,
Innovation and Science**

**Anti-Dumping
Commission**

CUSTOMS ACT 1901 - PART XVB

**STATEMENT OF ESSENTIAL FACTS
NO. 477**

**REVIEW OF ANTI-DUMPING MEASURES APPLYING TO
CERTAIN PINEAPPLE FRUIT – FOOD SERVICE AND
INDUSTRIAL
EXPORTED TO AUSTRALIA FROM
THE KINGDOM OF THAILAND BY
PRIME PRODUCTS INDUSTRY CO., LTD**

November 2018

CONTENTS

ABBREVIATIONS..... 3

1 SUMMARY 4

1.1 INTRODUCTION..... 4

1.2 LEGISLATIVE BACKGROUND 4

1.3 PRELIMINARY FINDINGS 5

1.4 PROPOSED RECOMMENDATION 5

2 BACKGROUND..... 6

2.1 INITIATION 6

2.2 HISTORY OF THE ANTI-DUMPING MEASURES..... 6

2.3 REVIEW PROCESS 8

2.4 EXTENSIONS OF TIME..... 8

2.5 SUBMISSIONS RECEIVED IN RELATION TO THIS REVIEW 8

2.6 RESPONDING TO THIS SEF 8

2.7 FINAL REPORT 9

3 THE GOODS AND LIKE GOODS 10

3.1 THE GOODS SUBJECT TO THE ANTI-DUMPING MEASURES 10

3.2 TARIFF CLASSIFICATION 10

3.3 LIKE GOODS..... 10

4 VARIABLE FACTORS..... 11

4.1 PRELIMINARY FINDING..... 11

4.2 COOPERATION WITH THIS REVIEW 11

4.3 EXPORT PRICE 12

4.4 NORMAL VALUE 12

4.5 NON-INJURIOUS PRICE 13

4.6 DUMPING MARGIN..... 14

5 LIKELIHOOD OF DUMPING AND MATERIAL INJURY CONTINUING OR RECURRING..... 15

5.1 PRELIMINARY ASSESSMENT 15

5.2 APPLICATION FOR REVOCATION REVIEW 15

5.3 BACKGROUND..... 15

5.4 LIKELIHOOD OF DUMPING CONTINUING OR RECURRING..... 15

5.5 LIKELIHOOD OF MATERIAL INJURY CONTINUING OR RECURRING 20

6 FINDINGS AND PROPOSED RECOMMENDATIONS 23

6.1 FINDINGS 23

6.2 PROPOSED RECOMMENDATIONS 23

APPENDICES AND ATTACHMENTS 24

PUBLIC RECORD

ABBREVIATIONS

ABF	Australian Border Force
the Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
ADRP	Anti-Dumping Review Panel
the Applicant	Prime Products Industry Co., Ltd (PPI)
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
consumer pineapple	Pineapple fruit - Consumer
CTMS	cost to make and sell
Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975</i>
EPR	electronic public record
FSI pineapple	Pineapple fruit – Food services and industrial
GCL	Golden Circle Limited
the goods	the goods the subject of the application (also referred to as the goods under consideration or GUC)
IDD	interim dumping duty
KFC	Kuiburi Fruit Canning Company Limited
the Minister	The Minister for Industry, Science and Technology
NIP	non-injurious price
OCOT	ordinary course of trade
the then Parliamentary Secretary	the then Assistant Minister for Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science
PPI	Prime Products Industry Co., Ltd
the Regulation	<i>Customs (International Obligations) Regulation 2015</i>
REP 279	<i>Anti-Dumping Commission Report No. 279</i>
REP 295	<i>Anti-Dumping Commission Report No. 295</i>
REP 334	<i>Anti-Dumping Commission Report No. 334</i>
REQ	response to the exporter questionnaire
review period	1 April 2017 to 31 March 2018
SEF	statement of essential facts
Thailand	the Kingdom of Thailand

1 SUMMARY

1.1 Introduction

This statement of essential facts (SEF) sets out the facts on which the Commissioner of the Anti-Dumping Commission (the Commissioner) proposes to base his recommendations to the Minister for Industry, Science and Technology (the Minister)¹ in relation to a review of anti-dumping measures.

The review examines whether the anti-dumping measures (in the form of a dumping duty notice) applying to certain pineapple fruit – food service and industrial (also referred to in this report as FSI pineapple or the goods) exported to Australia from the Kingdom of Thailand (Thailand) by Prime Products Industry Co., Ltd (PPI) should be revoked or varied.

This review was initiated on 10 May 2018 following an application lodged by PPI.²

PPI sought a review on the basis that:

- one or more of the variable factors relevant to the taking of the anti-dumping measures, in relation to its exports, have changed. The variable factors that PPI assert have changed are the export price and the normal value; and
- the current anti-dumping measures applying to PPI's exports are no longer warranted.

PPI is currently subject to a floor price, meaning that interim dumping duty (IDD) is only payable if the export price is below the normal value, as last ascertained.

1.2 Legislative background

Division 5 of Part XVB of the *Customs Act 1901* (the Act)³ sets out, among other things, the procedures to be followed by the Commissioner when undertaking a review of anti-dumping measures.

Division 5 empowers the Commissioner to reject or not reject an application for review of anti-dumping measures. If the Commissioner does not reject the application, he is required to publish a notice indicating that it is proposed to review the anti-dumping measures covered by the application.⁴

The Commissioner must, within 110 days after the publication of the notice (or such longer period as is allowed)⁵, place on the public record a SEF on which the

¹ For the purposes of this review, the Minister is the Minister for Industry, Science and Technology.

² Anti-Dumping Notice (ADN) No. 2018/76 refers. The Minister at the time of initiation was the then Assistant Minister for Science, Jobs and Innovation.

³ All legislative references in this report are to the *Customs Act 1901*, unless otherwise specified.

⁴ Subsection 269ZC(4).

⁵ Subsection 269ZDA(1). It is noted that, on 14 January 2017, the then Parliamentary Secretary for Industry, Innovation and Science, as the relevant Minister at the time, delegated the powers and functions of the Minister under section 269ZH1 to the Commissioner. Refer to ADN No. 2017/10 for further information.

PUBLIC RECORD

Commissioner proposes to base his recommendation to the Minister in relation to the review of anti-dumping measures.⁶

Pursuant to subsection 269ZDA(1A)(b), the Commissioner must make a revocation recommendation to the Minister in relation to the anti-dumping measures, unless he is satisfied that revoking the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping or subsidisation and the material injury that the measures are intended to prevent.

1.3 Preliminary findings

The Commissioner has examined PPI's exports of FSI pineapple from Thailand for the review period (1 April 2017 to 31 March 2018) and has found that the variable factors have changed. In particular, the export price and the normal value have changed, since last ascertained.

Having regard to available information, the Commissioner is not satisfied that, in relation to PPI, revoking the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping or subsidisation and the material injury that the measures are intended to prevent.

Accordingly, the Commissioner must make a revocation recommendation to the Minister.

1.4 Proposed recommendation

The Commissioner proposes to recommend to the Minister that, in accordance with subsection 269ZDA(1A)(b), the dumping duty notice be revoked in relation to FSI pineapple exported to Australia from Thailand by PPI.

It is proposed that any decision by the Minister in this matter take effect from 10 May 2018, a retrospective date allowed under subsection 269ZDB(6)(a), being the date of the publication of the initiation notice under section 269ZC indicating the Commissioner's proposal to undertake a revocation review.

The effect of this proposed recommendation would be that IDD will not apply to the goods entered for home consumption on and after 10 May 2018. If this recommendation is accepted by the Minister, importers who have paid IDD in relation to the anti-dumping measures applicable to PPI on and after 10 May 2018 would be eligible for a refund.

⁶ Subsection 269ZD(1).

2 BACKGROUND

2.1 Initiation

Following consideration of the application, the Commissioner decided not to reject the application and on 10 May 2018, initiated a review of whether the anti-dumping measures applying to the goods exported to Australia from Thailand by PPI should be revoked or varied.

Notification of the initiation of the review was made in ADN No. 2018/76, which was published on the Anti-Dumping Commission (the Commission) website⁷ on 10 May 2018.

Consideration Report No. 477 was also published on the Commission's website detailing the Commissioner's reasons for not rejecting the application.

For the purposes of assessing PPI's variable factors in this review, a period of 1 April 2017 to 31 March 2018 (the review period) was examined.

2.2 History of the anti-dumping measures

Since 2001, the Commission has conducted numerous investigations, reviews and inquiries relating to FSI pineapple. Full details can be found on the electronic public record (EPR) on the Commission's website. The matters most relevant to this review are outlined below:

2.2.1 Original investigation

On 8 January 2001, Golden Circle Limited (GCL) lodged an application requesting that the then Minister for Justice and Customs publish dumping duty notices in respect of certain pineapple products exported to Australia from Thailand. The then Minister accepted the recommendations in *Trade Measures Report No. 41* and published dumping duty notices for consumer pineapple and FSI pineapple exported to Australia from Thailand with the exception of FSI pineapple exported by Malee Sampran Public Co (MSP).

2.2.2 First continuation inquiry

On 26 February 2006, following consideration of applications by GCL, continuation inquiries and reviews of measures were initiated in relation to the anti-dumping measures imposed on consumer and FSI pineapple. On 28 September 2006, the then Minister for Justice and Customs accepted the recommendations contained in *Trade Measures Branch Report Nos 110 and 111* to continue the anti-dumping measures applying to both consumer and FSI pineapple for a further five years and fix different variable factors in relation to the anti-dumping measures.

⁷ www.adcommission.gov.au – refer to item 003 on the electronic public record (EPR) for Review No. 477.

2.2.3 Second continuation inquiry

On 15 April 2011, following consideration of an application for the continuation of measures by GCL, continuation inquiries and reviews of measures were initiated in relation to the anti-dumping measures imposed on consumer and FSI pineapple. The then Minister for Home Affairs, accepted the recommendations contained in *Trade Measures Branch Report Nos 171c and 171d*, to continue the anti-dumping measures for a further five years from 18 October 2011.

2.2.4 Accelerated Review 279

On 4 December 2014, PPI lodged an application for an accelerated review in respect of FSI pineapple exported from Thailand. The Commission conducted an accelerated review and found that there was insufficient information to determine an export price or normal value for PPI, on the basis that PPI had no export sales to Australia and no domestic sales in the ordinary course of trade (OCOT) during the review period.

On 31 March 2015, the then Parliamentary Secretary declared that the original dumping duty notice was to remain unchanged. The effect of this decision was that any exports of FSI pineapple from Thailand by PPI remained subject to the rate of IDD applicable to 'all other exporters'. The Commission's full findings and the Commissioner's recommendations to the then Parliamentary Secretary are set out in *Anti-Dumping Commission Report No. 279*.

2.2.5 Accelerated Review 295

On 3 May 2015, PPI lodged an application for an accelerated review of the measures applicable to FSI pineapple exported from Thailand. The outcome of the accelerated review was published in ADN No. 2015/110 on 8 September 2015.⁸ As a result of this accelerated review no IDD was to be payable on exports of the goods by PPI unless the export price was below the ascertained normal value. The Commission's full findings and the Commissioner's recommendations to the then Parliamentary Secretary are set out in *Anti-Dumping Commission Report No. 295* (REP 295).

2.2.6 Third continuation Inquiry

On 9 March 2016, following consideration of an application by GCL, a continuation inquiry was initiated in relation to the anti-dumping measures imposed on consumer and FSI pineapple.

The findings of this inquiry were detailed in *Anti-Dumping Commission Report No. 334* (REP 334).

The then Parliamentary Secretary accepted the recommendations contained in REP 334, to continue the anti-dumping measures in relation to FSI pineapple for a further five years from 17 October 2016.

REP 334 examined the period of 1 January 2015 to 31 December 2015 (review period for the existing measures) and PPI cooperated with that inquiry. As a result of the inquiry no

⁸ All ADNs and reports referenced in this report are available on the Commission's EPR at www.adcommission.gov.au.

IDD is payable on exports of the goods by PPI unless the export price is below that ascertained normal value.

On 28 April 2017, the decision to continue the measures as they applied to Kuiburi Fruit Canning Company Limited (KFC) was substituted with a new decision by the then Parliamentary Secretary upon accepting a recommendation that followed a review of certain findings in REP 334 by the Anti-Dumping Review Panel (ADRP).⁹ The new decision meant that the measures did not continue in relation to KFC.

2.3 Review process

If anti-dumping measures have been taken in respect of certain goods, an affected party may consider it appropriate to review those measures as they affect a particular exporter or exporters generally. Accordingly, the affected party may apply for,¹⁰ or the Minister may request that the Commissioner conduct,¹¹ a review of those measures if one or more of the variable factors has changed.

The Minister may initiate a review at any time. However, a review application must not be lodged earlier than 12 months after publication of the dumping duty notice or countervailing duty notice or the notice(s) declaring the outcome of the last review of the dumping or countervailing duty notice.¹²

If an application for a review of anti-dumping measures is received and not rejected, the Commissioner has up to 155 days, or such longer time as is allowed, to conduct a review and report to the Minister on the review of the anti-dumping measures.¹³

2.4 Extensions of time

On 9 August 2018, the Commissioner notified affected parties of an extension of 30 days to the SEF and final report for this review.¹⁴ A second extension of 36 days to the SEF and final report was notified by the Commissioner on 27 September 2018.¹⁵

2.5 Submissions received in relation to this review

No submissions have been received as part of this review.

2.6 Responding to this SEF

This SEF sets out the essential facts on which the Commissioner proposes to base his final recommendations to the Minister.

⁹ ADRP Report No. 50 available at www.adreviewpanel.gov.au refers.

¹⁰ Subsection 269ZA(1).

¹¹ Subsection 269ZA(3).

¹² Subsection 269ZA(2)(a).

¹³ Subsection 269ZDA(1).

¹⁴ ADN No. 2018/129 refers.

¹⁵ ADN No. 2018/152 refers.

PUBLIC RECORD

The SEF represents an important stage in the review as it informs interested parties of the facts established and allows them to make submissions in response to the SEF.

It is important to note that the SEF may not represent the final views of the Commissioner. The final report will recommend whether or not the dumping duty notice should be revoked or varied, and the extent of any IDD's that are, or should be, payable.

Interested parties are invited to make submissions to the Commissioner in response to the SEF within 20 days of the SEF being placed on the public record. The due date to lodge written submissions in response to this SEF therefore is **22 November 2018**. The Commissioner is not obliged to have regard to any submission made in response to the SEF received after this date if to do so would, in the opinion of the Commissioner, prevent the timely preparation of the report to the Minister.¹⁶

Submissions should preferably be emailed to investigations3@adcommission.gov.au. Alternatively, they may be sent to fax number +61 3 8539 2499, or posted to:

Director Investigations 3
Anti-Dumping Commission
GPO Box 2013
CANBERRA ACT 2601
AUSTRALIA

Confidential submissions must be clearly marked accordingly and a non-confidential version of any submission is required for inclusion on the public record.

A guide for making submissions is available at the Commission's website at www.adcommission.gov.au.

The public record contains non-confidential submissions by interested parties and other publicly available documents. It is available by request in hard copy in Melbourne (phone (03) 8539 2478 to make an appointment), or online at www.adcommission.gov.au

Documents on the public record should be read in conjunction with this SEF.

2.7 Final report

The Commissioner's final report and recommendations must be provided to the Minister by **20 December 2018** or within such longer period as may be allowed.

¹⁶ Subsection 269ZDA(4).

3 THE GOODS AND LIKE GOODS

3.1 The goods subject to the anti-dumping measures

The goods the subject to the anti-dumping measures are:

Pineapple prepared or preserved in containers exceeding one litre.

Glace and/or dehydrated pineapple are excluded from the measures.

3.2 Tariff classification

The goods are generally, but not exclusively, classified to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995*:

Tariff	Statistical code	Description
2008.20.00	27	Pineapples – Canned, in containers exceeding one litre
2008.20.00	28	Pineapples – Other

3.3 Like goods

Subsection 269T(1) defines like goods as:

“...goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration”.

The definition of like goods is relevant in the context of this review in determining the variable factors. The Commission’s framework for assessing like goods is outlined in Chapter 2 of the Commission’s *Dumping and Subsidy Manual* (the Manual).¹⁷

¹⁷ Available at www.adcommission.gov.au.

4 VARIABLE FACTORS

4.1 Preliminary finding

The Commissioner finds that the variable factors (being the export price and the normal value) relevant to the determination of dumping duty payable under the *Customs Tariff (Anti-Dumping) Act 1975* (Dumping Duty Act) have changed.

However, the Commissioner proposes to recommend to the Minister that the dumping duty notice be revoked in relation to PPI, for reasons set out in chapter 5 of this report.

Therefore, the Commissioner does not propose to recommend to the Minister that the dumping duty notice have effect in relation to PPI as if different variable factors had been ascertained. The findings in this chapter are nevertheless relevant to assessing the likelihood of there being a continuation of, or a recurrence of, the dumping that the measures are intended to prevent (as addressed in section 5.4).

4.2 Cooperation with this review

4.2.1 The exporter – PPI

Upon initiation of this review, the Commission provided PPI with an exporter questionnaire to complete. PPI provided detailed information and data in their response to the exporter questionnaire (REQ), including data relating to sales of the goods and details of the cost to make and sell (CTMS). PPI provided additional information as requested by the Commission.

The Commission conducted an on-site verification of the information provided in PPI's REQ. A report of the verification visit is available on the EPR.¹⁸

4.2.2 Importer questionnaires and verification

The Commission performed a search of the Australia Border Force (ABF) import database and identified importers of FSI pineapple exported from Thailand by PPI during the review period.

The Commission contacted the relevant importers requesting that they provide a response to an importer questionnaire. The Commission received and reviewed importer information from:

- FTA Food Solutions Pty Ltd (FTA);
- RD2 International Limited (RD2); and
- SPC Ardmona Operations Limited.

The Commission verified the data submitted by FTA and RD2. Importer verification reports are available on the EPR.¹⁹

¹⁸ Item number 009 Review No. 477.

¹⁹ Item numbers 007 and 008 for Review No. 477.

4.3 Export price

The Commission found that PPI exported the goods to Australia during the review period.

Based on information obtained as part of the exporter verification visit, as well as information obtained from importers, the Commission considers that:

- the goods have been exported to Australia otherwise than by the importer;
- the goods have been purchased by the importer from the exporter; and
- the purchase of the goods by the importer were arms length transactions.

The export prices for PPI have therefore been calculated under subsection 269TAB(1)(a) using the invoiced price, less transport and other costs arising after exportation.

The Commission's export price calculation is at **Confidential Attachment 1**.

4.4 Normal value

4.4.1 Applicable legislation

Under subsection 269TAC(1) the normal value of any goods exported to Australia is the price paid or payable for like goods sold in the OCOT for home consumption in the country of export in sales that are arms length transactions.

Subsection 269TAC(2)(a)(i) provides that the normal value of the goods exported to Australia cannot be ascertained under subsection 269TAC(1), where the Minister is satisfied:

... of the absence, or low volume, of sales of like goods in the market of the country of export that would be relevant for the purpose of determining a price under subsection (1)...

4.4.2 Normal value method

The Commission found that, in relation to domestic sales by PPI, there was an insufficient volume of like goods sold in the OCOT, for the purpose of determining a normal value under subsection 269TAC(1).

Normal value has been constructed under subsection 269TAC(2)(c), in accordance with the *Customs (International Obligations) Regulation 2015* (the Regulation), using PPI's:

- cost to make the goods exported to Australia, including an adjustment to account for the net realisable value of different cuts of pineapple, in accordance with subsection 43(2) of the Regulation;
- selling, general and administrative expenses on the assumption that the goods, instead of being exported, were sold domestically, in accordance with subsection 44(2) of the Regulation; and
- an amount of profit realised from domestic sales of like goods in the country of export, in accordance with subsection 45(2) of the Regulation.

4.4.3 Adjustments to normal value

To ensure the normal value is comparable to an export price at free on board (FOB) terms, the Commission made the following adjustments to the normal value in accordance with subsection 269TAC(9):

Adjustment Type	Deduction/addition
Domestic inland transport	Deduct the cost of domestic inland transport
Domestic handling and other	Deduct domestic handling and other costs
Domestic commission	Deduct commission for domestic sales
Domestic credit terms	Deduct the cost of domestic credit terms
Export inland transport	Add the cost of export inland transport
Export handling and other	Add the cost of export handling and other expenses
Export commission	Add commission for export sales
Export incentive	Deduct the cost of export incentives
Export credit terms	Add the cost of export credit terms

The normal value calculation is located at **Confidential Attachment 2**.

4.5 Non-injurious price

Although PPI did not allege that there has been a change in the non-injurious price (NIP) as part of their application, subsection 269T(4E) defines that, in relation to a review of a dumping duty notice, the variable factors are the export price, normal value and NIP.

Under subsection 8(5B) of the Dumping Duty Act, if the NIP is less than the normal value, the Minister must have regard to the desirability of specifying a method such that the sum of the export price and the IDD payable does not exceed the NIP (the “lesser duty rule”). Subsection 269TACA(a) identifies the NIP of the goods exported to Australia as the minimum price necessary to remove the injury caused by the dumping.

In REP 334 (which examined the period of 1 January 2015 to 31 December 2015) the Commission found that the NIP was higher than the normal value for all exporters of the goods from Thailand and therefore the lesser duty rule did not apply. The data examined in REP 334 is considered to be the most contemporaneous data available.

The Commission has reviewed the evidence available for this review and is satisfied that the NIP determined in REP 334 remains relevant. The Commission therefore recommends that the NIP applicable to exports by PPI be calculated as being equal to the current NIP applicable to all exporters of the goods from Thailand, as last ascertained for the purposes of REP 334. This means that the NIP is higher than PPI’s normal value and that the lesser duty rule has no practical effect.

4.6 Dumping margin

The Commission has calculated a preliminary dumping margin based on the revised variable factors for the review period. The dumping margin has been calculated by comparing the Australian export prices of the goods during the review period, with the corresponding normal values in accordance with subsection 269TACB(2)(a).

The dumping margin in respect of the goods exported to Australia by PPI is **negative 7.7 per cent.**

The dumping margin calculation is located at **Confidential Attachment 3.**

5 LIKELIHOOD OF DUMPING AND MATERIAL INJURY CONTINUING OR RECURRING

5.1 Preliminary assessment

The Commissioner preliminarily finds that:

- revoking the measures as they apply to PPI would not lead, or would not be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the measures are intended to prevent.

5.2 Application for revocation review

In its application, PPI stated that the measures are no longer warranted as its exports to Australia are not at dumped prices, and that dumping is unlikely to recur.

PPI contends that it is not currently, nor has it ever engaged in exporting FSI pineapple to Australia at dumped prices. PPI makes this assertion on the basis that the Commission did not find PPI's exports to Australia to be dumped during the conduct of REP 295 and REP 334, the two cases which examined PPI's exports.

In terms of the prospects of dumping recurring in the absence of measures, PPI argues that it runs a profitable export business, taking into account the movement in farm-gate prices for pineapple fruit and regional tinplate prices, and not adopting a short-term pricing strategy when negotiating sales.

5.3 Background

In examining the likelihood of dumping and material injury continuing or recurring, the Commissioner has had regard to relevant case law and WTO jurisprudence. For example, in *Siam Polyethylene Co Ltd v Minister for Home Affairs (No. 2)* [2009] FCA 838 at [49] the word "likely" in subsection 269ZHF(2) was taken to mean "more probable than not".

5.4 Likelihood of dumping continuing or recurring

As discussed on page 170 and 171 of the Manual, the Commissioner may have regard to a number of factors in assessing the likelihood of dumping continuing or recurring. Relevant considerations undertaken by the Commission are detailed below:

5.4.1 Patterns of exports

PPI's export volumes

PPI was assessed as a 'new exporter' of FSI pineapple to Australia in Accelerated Review 295, with exports beginning in 2015. Exports examined in that accelerated review were also covered by REP 334, which examined the period from January 2015 to December 2015.

During the current review period, PPI's export volumes of FSI pineapple to Australia were significantly higher than they were during the review period examined in REP 334.

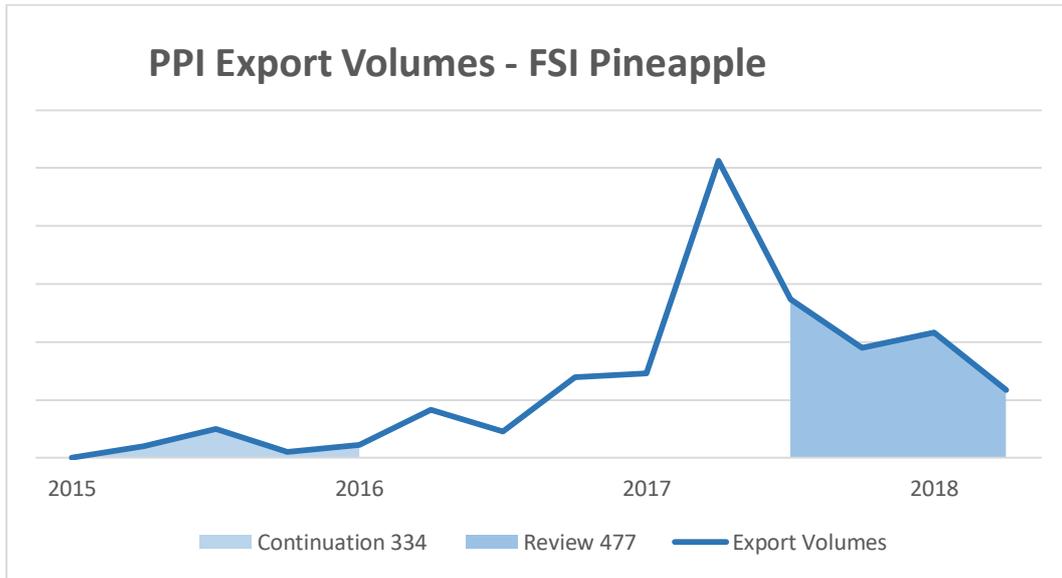


Figure 1 – PPI's exports of FSI pineapple to Australia (kg)²⁰

Figure 1 shows that PPI's exports of FSI pineapple to Australia peaked in the first quarter of 2017, with PPI being the largest exporter of FSI pineapple to Australia in 2017. PPI's exports have since decreased relative to this peak.

Export strategy

The Commission notes that PPI is an export-oriented business, with a vast majority of its sales of FSI pineapple (by volume and value) made on the export market during the review period.²¹

In the periods that have been assessed since PPI commenced exports of FSI pineapple to Australia in 2015, PPI has been assessed not to be dumping.

Furthermore, the Commission has assessed PPI to be profitable with regard to its overall sales of FSI pineapple in these periods.

Production capacity

According to PPI's REQ, PPI was operating at a high proportion of its production capacity during the review period and preceding periods.²²

²⁰ Confidential Attachment 4, 'Export volumes'

²¹ Confidential Attachment 5, 'Turnover'

²² Confidential Attachment 5, 'Production'

However, exports to Australia only account for one of PPI's export markets, and therefore there is potential for greater export volumes to Australia, as was observed in the quarter immediately preceding the current review period (first quarter of 2017).

5.4.2 Export prices

PPI's export prices

In its application, PPI stated that there had been a decline in its export prices, coinciding with a reduction in production costs. PPI stated that the declined export prices and production costs are likely to persist, given trends in relation to raw pineapple fruit prices in Thailand.

Figure 2 shows that, by the Commission's estimates, PPI's weighted average export price did decrease from the period examined in REP 334 to the current review period. This trend was observed, independent of exchange rate movements.

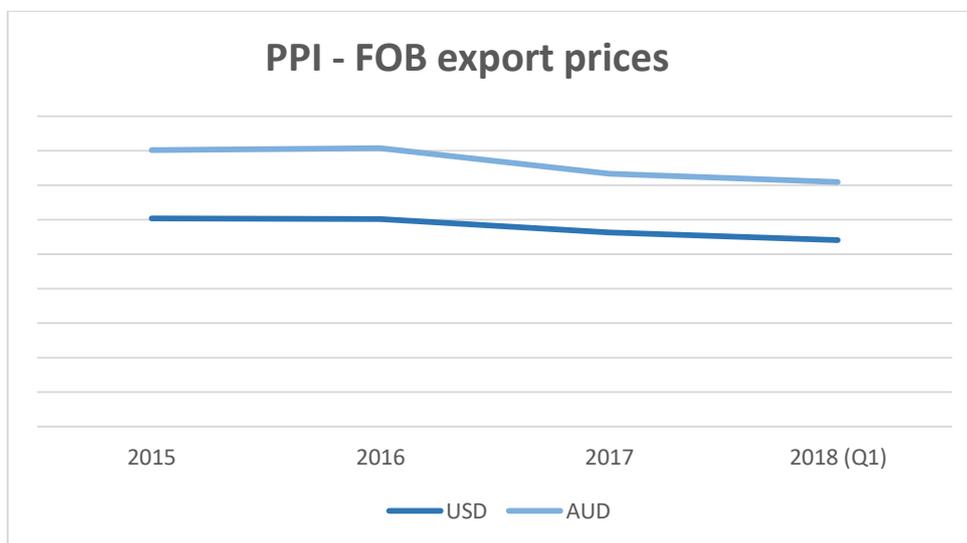


Figure 2 – PPI FOB export prices²³

Whilst Figure 2 supports PPI's claims that the weighted average export price decreased by a margin comparable to that asserted, the Commission notes that this could also be influenced by other factors including variations in product mix.

In its application, PPI submitted evidence of Thai fresh pineapple farm-gate prices, which is stated to have a major effect on production costs. In comparison to the data, quarterly price movements show greater fluctuations, although the overall trend in export prices does follow that of farm-gate price movements.²⁴

²³ Confidential Attachment 4, 'Export Prices'

²⁴ Bank of Thailand, [RG_NR_038 - Farm Prices in the Northern Region](#)

Changes to normal values

PPI stated that dumping was unlikely to recur, due to the substantial reduction in production costs. In its application, PPI stated that fresh pineapple contributes a significant proportion of production costs and submitted to support its claim that fresh pineapple prices have fallen by approximately 59 per cent from the period examined in REP 334 to the current review period.

Based on verified CTMS data from the current review period and the inquiry period examined in REP 334, the Commission has observed a considerable decrease in PPI's production costs (which includes fresh pineapple), which supports PPI's claims made in the application.²⁵ Furthermore, this reduction in production costs has coincided with a reduction in the normal value of the goods.²⁶

Comparison of export prices to other exports

The Commission sought to compare PPI's export prices to those of other exports of FSI pineapple to Australia from 2015 until the end of the current review period. Due to limitations in verified data available, the Commission was unable to carry out an extensive comparison.

The Commission has, however, analysed import data from the ABF import database and found that PPI's weighted average export price per kilogram was consistently higher than the aggregated weighted average export price of other Thai exporters.

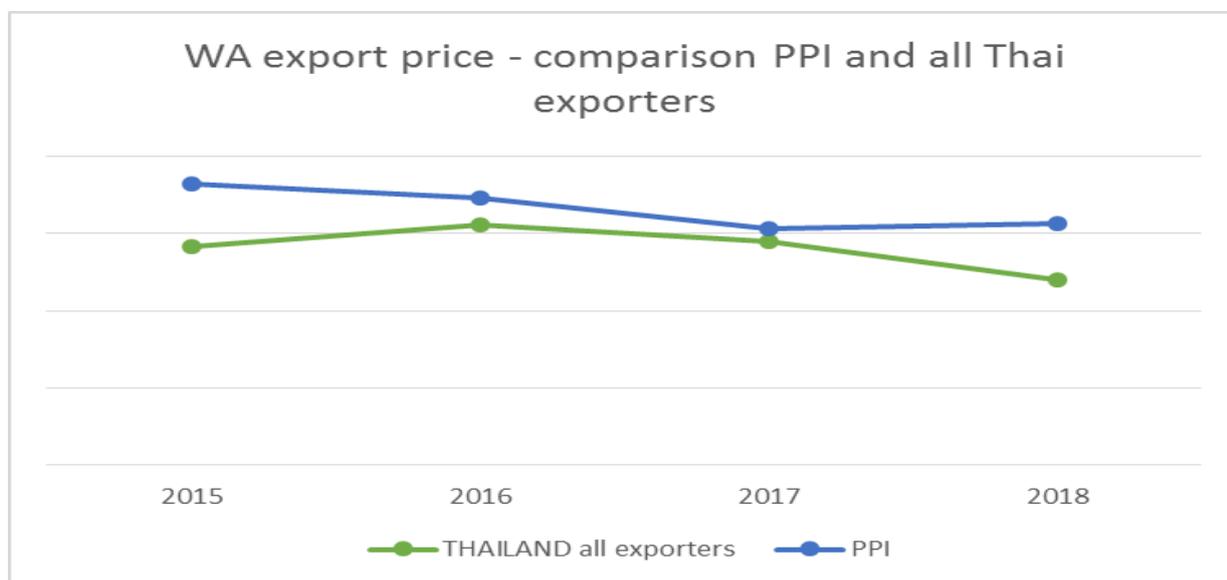


Figure 3 – WA export prices PPI v all exporters from Thailand

²⁵ Confidential Attachment 6 – 'CTMS and NV comparison'

²⁶ Confidential Attachment 6 – 'CTMS and NV comparison'

Third country sales

Australia was one of PPI's export markets for FSI pineapple during the review period. In terms of sales to other countries,²⁷ PPI's export prices to Australia were generally higher.²⁸

It is difficult to draw definitive conclusions from this comparison because third country sales are aggregated, with less detailed information. However, the data indicates that PPI is not pursuing a particularly aggressive export strategy in regards to the Australian market.

5.4.3 Historical dumping margins

As outlined in 5.3.1, PPI was assessed as a 'new exporter' of FSI pineapple to Australia in Accelerated Review 295. In the periods assessed by the Commission, covered by Accelerated Review 295, Continuation Inquiry 334 and the current review, PPI has been found not to have dumped the goods, as indicted in the following table.

Inquiry	Period	Dumping Margin
Accelerated Review 295	1 April 2014 to 31 March 2015 ²⁹	-17.4%
Continuation Inquiry 334	1 January 2015 to 31 December 2015	-6.5%
Review 477	1 April 2017 to 31 March 2018	-7.7%

5.4.4 Commission's assessment—likelihood of dumping occurring or recurring

The Commission considers that, due to PPI's pattern of export volumes and its export orientated focus, PPI is likely to continue to export FSI pineapple to Australia. PPI could increase its export volumes to Australia in the future should anti-dumping measures be removed.

However, to the Commission's knowledge, PPI has not engaged in dumping FSI pineapples to Australia, nor is the Commission aware of current measures in place against PPI for dumped exports of FSI pineapple to third countries.

Based on the information available to the Commission, including PPI's third country sales data which has been compared to PPI's export prices to Australia, PPI does not appear to be pursuing an aggressive export pricing strategy to Australia and has not shown the propensity to dump FSI pineapple into the Australian market. PPI has been able to increase its volumes of the goods to Australia without dumping.

Having regard to PPI's past export conduct and other relevant considerations discussed above, the Commission is satisfied that dumping is not continuing and is not likely to recur.

²⁷ Confidential Attachment 5 – 'Third country sales'

²⁸ Confidential Attachment 4 – 'Third country export price comparison'

²⁹ PPI's exports commenced in Q1 2015.

5.5 Likelihood of material injury continuing or recurring

As discussed on page 171 of the Manual, the Commissioner may have regard to a number of factors in assessing the likelihood of material injury continuing or recurring. Relevant considerations undertaken by the Commission are detailed below:

5.5.1 Previous finding

In REP 334, it was found that FSI pineapple products (from sources other than PPI) were purchased at dumped prices that undercut the Australian industry's 'Golden Circle' brand, and that FSI pineapple from Thailand would likely be exported at increased levels of price undercutting that would lead to the recurrence of material injury to the Australian industry.

It was noted that dumping, in and of itself, had impacted Golden Circle's financial and operational performance, and that in the absence of measures, injury would likely worsen as the level of price undercutting would likely increase.

However, as stated previously, FSI pineapple products purchased from PPI were not found to be dumped in that continuation inquiry.

5.5.2 Current review

As part of this review, the Commission had regard to contemporary cost and sales information submitted by Golden Circle as well as information submitted previously.

Golden Circle's financial performance in the FSI pineapple segment has shown losses in the review period and prior periods. The Australian market has been found to be price sensitive, making it difficult for Golden Circle to build price premiums into FSI pineapple pricing.

The Commission acknowledges that, whilst imports of FSI pineapple are likely to be undercutting the Australian industry prices, given the findings of no dumping by PPI as outlined at section 4.6, injury cannot have occurred due to dumped exports from PPI.

PPI has gained a significantly larger market share since the previous inquiry and it is noted that, although PPI's export prices have declined, this has coincided with a reduction in production costs in the current review period.

5.5.3 The Australian market

The Commission has reviewed data from the ABF import database in conjunction with production and sales data provided by the Australian industry.

It was found that the size of the Australian market as a whole is fairly constant. The Australian industry's share of the market has decreased, as has the share of imports from the Philippines, a country also subject to the dumping duty notice. However, the data indicates that there are increasing quantities of exports from countries not subject to anti-dumping measures which may be eroding the Australian industry's market share.

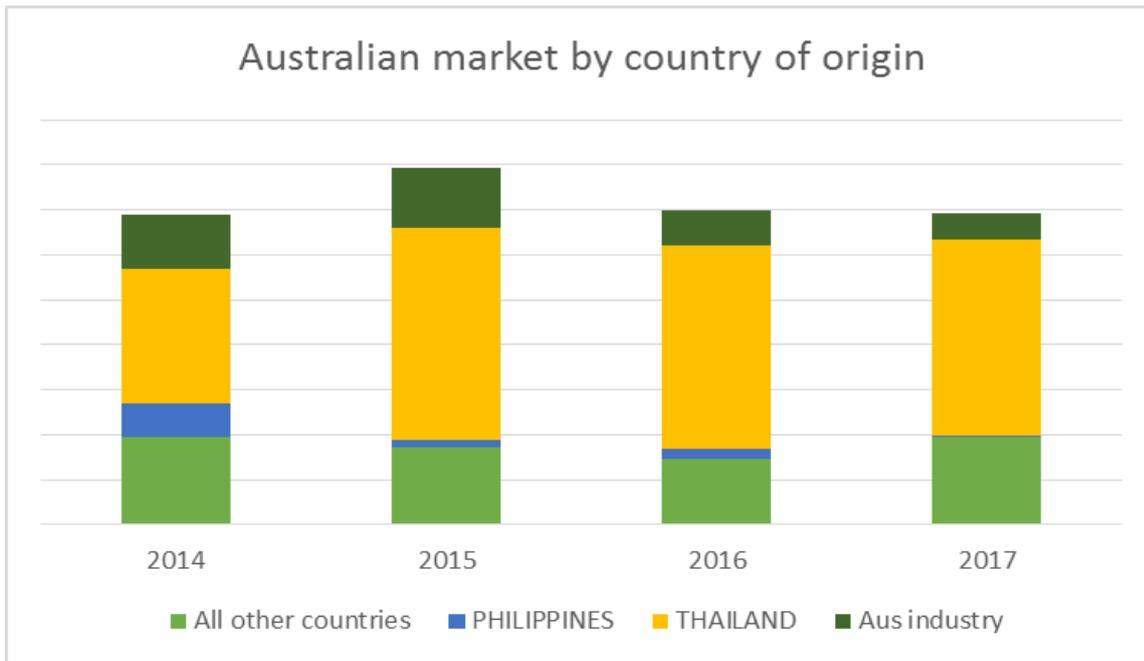


Figure 4 – Australian market for FSI by country of origin

5.5.4 The Australian market – Cost and price comparison

The Commission has reviewed data from the ABF import data base in conjunction with production and sales data provided by the Australian industry.

The Commission compared the weighted average export price at FOB terms to the Australian industry's CTMS data. It was found that the weighted average export price of the imported goods from all countries is significantly lower cost than the Australian industry's CTMS. The Commission estimates that the free into store Australian selling prices of the imported goods from all countries, after accounting for reasonable amounts of import costs and adding them to the export prices, remains significantly below the Australian industry's CTMS.

The Commission considers that the relatively low price of imports, including imports from countries not subject to the anti-dumping measures, has contributed to the Australian industry's decreased market share. Based on the pattern of trade in the goods from all countries, this is likely to continue in the future.

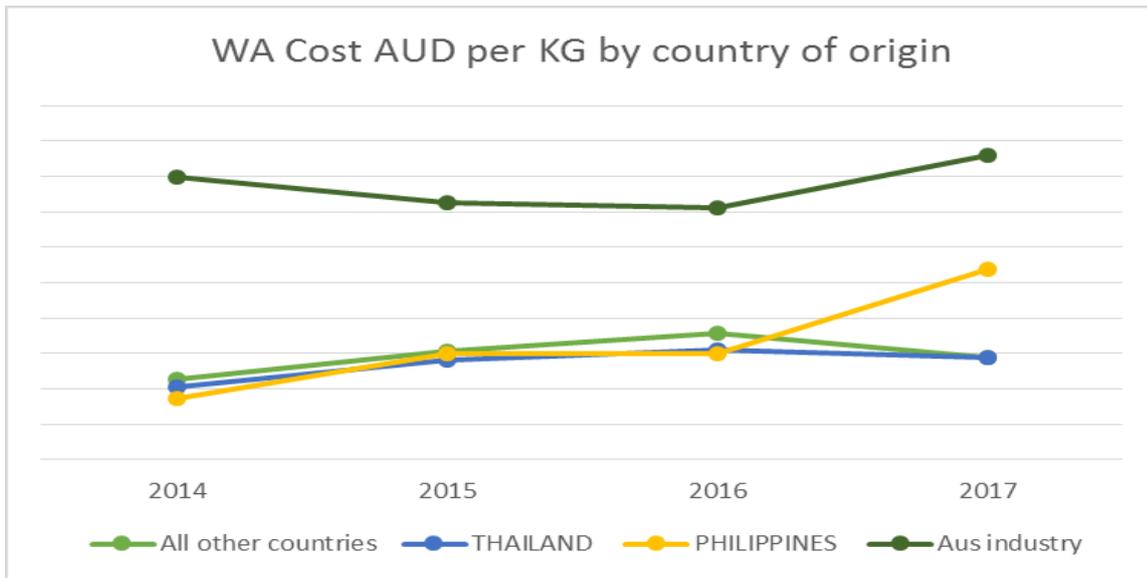


Figure 5 – WA cost AUD/kg by country of origin

5.5.5 Commissioner’s assessment—likelihood of material injury continuing or recurring

The Commissioner is satisfied that any injury to the Australian industry in the review period is due to factors other than dumping of FSI pineapple from PPI. The Commission’s analysis of the data available, including trends in import volumes and prices, indicates that this is likely to remain the case in the future.

The Commissioner is not satisfied that revoking the measures in relation to PPI would lead, or would likely lead, to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent.

6 FINDINGS AND PROPOSED RECOMMENDATIONS

6.1 Findings

After conducting this revocation review, subsection 269ZDA(1A) provides that, the Commissioner must make a revocation recommendation, unless the Commissioner is satisfied that revoking the measures would lead, or be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the measures are intended to prevent.

The Commissioner is not satisfied that, in relation to exports of FSI pineapple to Australia from Thailand by PPI, revoking the measures as they apply to PPI would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the measures are intended to prevent.

6.2 Proposed recommendations

The Commissioner proposes to recommend to the Minister that the dumping duty notice in respect of exports of FSI pineapple from Thailand from PPI be revoked with effect from 10 May 2018, a retrospective date allowed under subsection 269ZDB(6)(a), being the date of the publication of the initiation notice under section 269ZC indicating the Commissioner's proposal to undertake a revocation review.

APPENDICES AND ATTACHMENTS

Confidential Attachment 1	Calculation of export price
Confidential Attachment 2	Calculation of constructed normal value
Confidential Attachment 3	Calculation of dumping margin
Confidential Attachment 4	Analysis of PPI's export prices and export volumes
Confidential Attachment 5	PPI's REQ spreadsheets
Confidential Attachment 6	Analysis of PPI's CTMS and normal values