



**CONTINUATION INQUIRY 333**

**CONTINUATION OF ANTI-DUMPING MEASURES**

**PINEAPPLE FRUIT - CONSUMER**

**EXPORTED FROM THE REPUBLIC OF THE PHILIPPINES  
AND THE KINGDOM OF THAILAND**

**VERIFICATION REPORT - IMPORTER**

**PAVÉ BRANDS LIMITED**

**THIS REPORT AND THE VIEWS OR RECOMMENDATIONS CONTAINED THEREIN  
WILL BE REVIEWED BY THE CASE MANAGEMENT TEAM AND MAY NOT REFLECT  
THE FINAL POSITION OF THE ANTI-DUMPING COMMISSION**

**June 2016**

# PUBLIC RECORD

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## **BACKGROUND**

### **1.1 Background**

On 9 March 2016, the Commissioner of the Anti-Dumping Commission (the Commissioner) initiated a continuation inquiry of anti-dumping measures applying to consumer pineapple (pineapple) exported from the Republic of the Philippines (Philippines) and the Kingdom Of Thailand (Thailand) in response to an application lodged by Golden Circle Limited (Golden Circle). The background relating to the initiation of the inquiry is contained in CON 333.<sup>1</sup>

Following the initiation, the Commission wrote to Pavé Brands Limited (Pavé) and other importers of pineapple fruit inviting them to cooperate with the inquiry. Pavé cooperated with the inquiry and completed an importer questionnaire response and relevant attachments.

### **1.2 Videoconference meeting details**

<b>Company</b>	Pavé Brands Limited
<b>Address</b>	Suite 1.7 Axis Building 1 Cleveland Road Parnell Auckland 1052 NEW ZEALAND
<b>Date of verification</b>	19 May 2016

The following were present at the videoconference meeting.

<b>Pavé</b>	Angus Hamilton – CEO Christopher Wong – Director
<b>The Commission</b>	Michelle Gibson – Assistant Director Adam Hourigan – Investigator

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<sup>1</sup> Accessible at <http://www.adcommission.gov.au>.

## **2 VERIFICATION OF IMPORTS**

### **2.1 The goods**

Pavé confirmed that it imported pineapple - prepared or preserved in containers not exceeding one litre (consumer pineapple) from the Republic of the Philippines during the inquiry period.

### **2.2 Import and distribution functions**

Pavé is a privately owned New Zealand company, registered in New Zealand. All accounting data is in New Zealand dollars. Pavé represent agency lines, importing, distributing and marketing products.

Pavé provide marketing and distribution services for Dole Pineapple in the food service and retail sectors in New Zealand and the retail sector only in Australia. When the current owners acquired Pavé in 2006 it came with distribution rights for Dole pineapple in New Zealand and other products. Pavé was appointed the agent for Dole Pineapple in Australia (consumer pineapple only) in 2010. The company does not functionally change or 'value-add' to pineapple products before selling them to customers.

Pavé hold distribution rights for several agencies other than Dole. Pavé have strong relationships with all the agencies they represent, with Dole Packaged Foods - Asia making regular visits to Pavé.

Pavé's head office is in Auckland, New Zealand and it has staff located in Australia that manage sales in Australia.

Pavé stated that they have no relationships with any of their customers or suppliers.

### **2.3 Verification of import listing**

Pavé confirmed that the import listing extracted from the Department of Immigration and Border Protection (DIBP) import database is a complete list of its imports of consumer pineapple over the inquiry period.

The verification team calculated the weighted average FOB export price at **Confidential Attachment 1**.

### **2.4 Verification of importation costs**

The verification team verified the accuracy of Pavé's imports by reconciling selected imports to the source documents in accordance with ADN 2016/30.

The Commission selected 12 shipments from the DIBP import database to examine in further detail.

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Pavé calculated the cost to import and sell (Part B of the importer questionnaire) which was verified at the visit.

The verification team was provided with source documents for some of the cost components of Australian Importation costs and was able to verify these. The team was able to verify the invoice price, dates, invoice numbers and credit terms and found these to be accurate.

The verification team is satisfied that the sample shipments have been verified with source data. The verified data is attached at **Confidential Attachment 1**.

Details of the verification are contained within the verification work program as **Confidential Attachment 2**.

### **2.4.1 Overseas freight**

Pavé provided figures for overseas freight incurred for each sample shipment in **Confidential Attachment 3**. No issues were noted.

### **2.4.2 Marine Insurance**

Pavé provided figures for marine insurance incurred for each sample shipment in **Confidential Attachment 3**. No issues were noted.

### **2.4.3 Australian Importation Costs**

Pavé's response to the importer questionnaire detailed the key importation costs such as Customs entry and broker's fees, delivery fees and port charges such as Port service charges and terminal handling fees. The verification team verified and cross referenced with source data the accuracy of dumping duty paid.

### **2.4.4 Into-store costs summary**

The verification team calculated Pavé's weighted average into-store costs of the selected importations at **Confidential Attachment 3**.

### **2.4.5 Selling, general and administrative costs**

Pavé provided selling, general and administrative (SG&A) expense allocations in its response to the importer questionnaire, which it calculated using its 2015 profit and loss (P&L) statement. The verification team requested a copy of the 2015 P&L statement. The verification team was able to reconcile the SG&A expense allocations in the importer transaction form to the relevant costs in the P&L statement.

To further test the SG&A, the verification team requested general ledgers and P&L statements for two months of 2015. The verification team was able to trace the SG&A expenses from the general ledger to the P&L statement for the two selected months.

The verification team is satisfied that the SG&A expenses in its response to the importer questionnaire are accurate.

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The original SG&A expense allocations in the importer transaction form were submitted as a proportion of cost of goods sold. The verification team recalculated these as a proportion of total sales revenue. The revised SG&A expense is at **Confidential Attachment 4**.

### **2.5 Forward orders**

Pavé provided a listing of its forward orders. The verification team observed that the supplier, products, volume and price information of the forward orders were consistent with past purchasing behaviour. The verification team is satisfied that the forward orders listing is reasonable.

### **2.6 The importer**

The verification team considers Pavé to be the beneficial owner of the goods at the time of importation and therefore the importer.

### **2.7 The exporter**

The verification team considers that Pavé's supplier is the principal in the country of export, which manufacture the goods and gave up the goods for shipment directly to Pavé and therefore can be considered exporter of the goods imported by Pavé.

### **2.8 Arms length**

Pavé advised that it has no relationship with its supplier of consumer pineapple from the Philippines. Pavé stated further that it does not receive any reimbursement, rebates or other support from its supplier in respect of the goods. Pavé advised that the invoice price was the price paid to its suppliers, which was verified as accurate during the verification visit.

The verification team did not find any evidence that, in respect of the purchase of consumer pineapple:

- there was any consideration payable for, or in respect of, the goods other than price;
- the price was influenced by a commercial or other relationship between Pavé, or an associate of Pavé, and its supplier or an associate of the supplier; and/or
- Pavé, or an associate of Pavé, was directly or indirectly reimbursed, compensated or otherwise received a benefit for or in respect of the whole or any part of the price.<sup>2</sup>

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<sup>2</sup> Section 269TAA of the Act states the circumstances in which the price paid or payable shall not be treated as being at arms length.

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Further, the verification team's examination of Pavé's P&L statement and review of a sample of shipments and subsequent sales showed that the company was profitable.

The verification team is satisfied that transactions between Pavé and its supplier are at arms length in terms of section 269TAA of the Act.

### **3 VERIFICATION OF AUSTRALIAN SALES**

#### **3.1 Verification of sales to financial statements**

The verification team attempted to verify the completeness and relevance of Pavé sales listing by reconciling it to management accounts in accordance with Anti-Dumping Notice (ADN) 2016/30.

Details of the verification are contained within the verification work program at **Confidential Attachment 2**.

During the meeting, the verification team requested that Pavé provide further details on quantity in the sales listing so that the verification team could determine quantity by kilogram. Pavé provided an updated sales listing with further quantity (**Confidential Attachment 5** refers).

Pavé provided a copy of the 2015 P&L statement. The verification team was able to reconcile the total Australian sales value during the inquiry period in the sales listing to the 2015 P&L statement, with an appropriate exchange rate conversion and deductions for discounts. The verification team was also able to reconcile the total discount value in the sales listing to the 2015 P&L statement, with an appropriate exchange rate conversion.

To further test the completeness and relevance of sales, the verification team requested P&L statements and general ledgers for two months of 2015. The verification team was able to reconcile within a reasonable margin the sales and discount value in the general ledger to the P&L statement for the two months.

The verification team is satisfied that Pavé sales listing is a complete and relevant list of its sales of consumer pineapple during the inquiry period.

#### **3.2 Verification of sales to source documents**

The verification team verified the accuracy of Pavé sales listing by reconciling it to source documents in accordance with ADN 2016/30. The verification team did not find any discrepancies or issues.

The verification team also requested that Pavé provide copies of price lists and trading terms to its customers (**Confidential Attachment 6** refers). The verification team did not find any issues.

##### **3.2.1 Rebates and discounts**

Pavé stated that a cooperative discount applies to certain customers for the purpose of retailer marketing initiatives. Pavé explained that this discount represents a relatively standard amount in the market.

Pavé advised that it also provided settlement discounts for payments made by customers within the stipulated payment terms.



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During the verification meeting, the verification team selected a sample of sales invoices and were provided with proof of payment that confirmed the price paid by customers was the invoice prices less any cooperative and settlement discounts.

### **3.3 Profitability of sales**

Of the sales transactions verified, for the import transaction that was shipped and delivered directly to the customer, the verification team assessed it as profitable and consistent with the level of profitability observed in the 2015 P&L statement.

For the remaining shipments the verification team reviewed the corresponding sales of the products in the same or following month and found them all to be profitable.

## **4 RECOMMENDATIONS**

The verification team are of the opinion that, the goods imported by Pavé:

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

The verification team recommend that the export price for consumer pineapple can be established under paragraph 269TAB(1)(a) of the Act, using the invoiced price, less deductions, to the FOB level as required.

## **5 GENERAL COMMENTS**

Pavé stated that it believes exporters of consumer pineapple are unlikely to be dumping into Australia due to the global market experiencing undersupply in recent years with corresponding price increases.

Pavé noted that during the last few years, the processed pineapple market has experienced supply shortages, in part due to pineapple growers in South-East Asia switching to other crops, as well as adverse climate effects. Pavé advised that crop switching occurred in response to a prior period of oversupply, during which prices dropped below the cost of production.

Pavé stated that it believes Golden Circle controls the market for consumer pineapple. This is based on the assertions that Golden Circle:

- is the only buyer of Australian pineapple raw material for consumer pineapple
- controls the manufacturing, distribution and sales of all Australian-grown product
- owns an iconic Australian brand under which all Australian pineapple is sold
- successfully launched a range of imported product from Indonesia under Golden Circle Tropical; and
- retains the largest share of the consumer pineapple market by a significant margin.

Pavé assert that as such Golden Circle has a vested interest to protect its business – both Australian-made and imported pineapple from Indonesia - from competition.

Pavé advised that it does not believe Golden Circle is being injured from imports.

Pavé noted that there are two distinct and sustainable segments in the branded consumer pineapple category – Australian-made and imported. Golden Circle Australian-made pineapple can command a premium and based on retail sales data continues to outsell branded imported products. The imported segment is clearly established in Australian retail (as an alternative for budget conscious consumers) and supported by Golden Circle's actions to import consumer Pineapple from Indonesia under Golden Circle Tropical and sell it at a discount to Australian-made and other imported brands.

Pavé stated that Golden Circle have been aggressively competing on price, with prices of Golden Circle Tropical regularly and significantly discounted to prices lower than the price of Dole pineapple. The Golden Circle Tropical business is rapidly growing and gaining share now being ranged in both Woolworths and Coles. At the same time Australian grown pineapple has not been promoted and the shelf price has been increased.

Pavé asserted that Golden Circle may have an unfair advantage in the Australian market for its Golden Circle Tropical business as consumer processed pineapples from the Philippines and Thailand are subject to anti-dumping duties, but Golden Circle imports from Indonesia are not.

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### 6 ATTACHMENTS

<b>Confidential Attachment 1</b>	Export price
<b>Confidential Attachment 2</b>	Verification Work Plan
<b>Confidential Attachment 3</b>	Into-store costs
<b>Confidential Attachment 4</b>	Revised SG&A expenses
<b>Confidential Attachment 5</b>	Updated sales listing
<b>Confidential Attachment 6</b>	Price lists and trading terms