



Australian Government  
Department of Industry,  
Science and Resources

Anti-Dumping  
Commission

# Exporter verification report

## Verification and case details

<b>Initiation date</b>	4/08/2023	<b>Anti-Dumping Notice (ADN)</b>	2023/047
<b>Case number</b>	628		
<b>The goods under consideration</b>	Pineapple Fruit (Food Service and Industrial)		
<b>Case type</b>	Dumping Investigation		
<b>Exporter</b>	Kuiburi Fruit Canning Co Ltd		
<b>Location</b>	288-290 Krung Thon Muang Kaew Bldg, Sirindhorn Rd, Bangplad, Bangkok 10700, Thailand		
<b>Verification date</b>	11/12/2023	to	18/12/2023
<b>Investigation period</b>	1/07/2022	to	30/06/2023

The Anti-Dumping Commission will review this report, including its views and recommendations.

This report may not reflect the Anti-Dumping Commission's final position.

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## **Introduction**

Kuiburi Fruit Canning Co Ltd (KFC) submitted data to the Anti-Dumping Commission (the commission) in response to an exporter questionnaire for Dumping Investigation 628 (case 628) into Pineapple Fruit (Food Service and Industrial) from the Republic of Indonesia and the Kingdom of Thailand (Thailand).

A verification team (the team) has verified whether the data KFC submitted is complete, relevant and accurate for use in case 628. [Anti-Dumping Notice \(ADN\) 2016/30](#) describes the commission's verification procedure.

This report explains the team's key findings, including the evidence considered and material issues identified. Where KFC or the team materially revised the submitted data, this report outlines the nature, extent, and outcomes of these revisions.

The commission prepared this report to publish on the electronic public record for case 628.

Verification teams are authorised to conduct verifications under sections 269SMG and 269SMR of the *Customs Act 1901 (Cth)* (the Act).<sup>1</sup>

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<sup>1</sup> All legal citations in this report are to the Act unless otherwise stated.

## **1 Company background**

### **1.1 Corporate structure and ownership**

Kuiburi Fruit Canning Co., Ltd. (KFC) was established in 1992 to produce and export pineapple products. Canning operations and exports started in 1993 and, after Thailand Board of Investment granted promotional privileges, KFC expanded globally to cover all continents.

KFC's business is to manufacture and export canned pineapple fruit, tropical fruit salad, pineapple juice concentrate, and dehydrated fruit. All manufacturing takes place in Thailand and most of the final product is exported.

In 2010, KFC purchased a new production line for plastic cups, and established Kuiburi Fruit Cup Co., Ltd (KFCup), a wholly owned subsidiary, to manufacture and export fruit cups. The two companies are co-located. KFCup purchase the processed fruit for the fruit cups from KFC at cost.

The goods produced by KFCup are not the goods and were not verified.

### **1.2 Related parties**

The team examined the relationships between KFC and the parties involved in producing or selling the goods.

The team found no related party customers or suppliers involved in KFC producing or selling the goods during the investigation period.

### **1.3 Accounting records**

The team is satisfied that KFC's financial statements are audited and include a statement that the financial accounts comply with Thai Financial Reporting Standards for Non-Publicly Accountable Entities.

Therefore, the team considers that the accounting records held by the company comply with the generally accepted accounting principles of Thailand.

## 2 Goods under consideration and like goods

### 2.1 Production process

- **Raw materials:** Raw pineapple, sugar, citric acid, container (such as can and end or aseptic bag)
- **Receipt of pineapple:** Local farmers deliver fresh pineapple daily during the season. KFC weighs the loaded trucks and conducts sample quality checks of pineapple prior to receipting.
- **Sorting of pineapples:** The pineapples are mechanically sorted by size. Larger and medium size pineapples are directed to production lines while the small ones are diverted to by products.
- **Peeling, cutting and trimming:** The pineapples are peeled by Ginaca machine that separates the core, cylinder, juice and peel. The cylinder is used for making the GUC. The cylinders are moved down the production line where they are cut to desired specification and graded by colour and defect. KFC staff manually trim and sort the fruit. Some of the fruit is packed as slices, other fruit is further cut in chunk or tidbit style by a segmentor.
- **Canning:** Packing media such as syrup or juice is added to the container and the container is cooked, cooled, and dried.
- **Finished goods:** The finished goods exit the production process in the storeroom after having been labelled and packed in cartons.
- **Scrap:** Pineapple peel gets juiced, and then mulched. The juice and mulch are both sold as separate product categories. The peel is therefore treated as a by-product and not as scrap.
- **Packaging:** The processed pineapple is packed depending on container and sometimes market. Pouches and 23KG aseptic bags were packed in a cardboard box. The 210KG aseptic bags were placed in steel drums.
- **Domestic tinned product** was packed as bright cans on pallets.
- **Export tinned** product was labelled and packed in cartons that were placed in shipping containers.
- **Despatch:** The goods are despatched on trucks.

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## 2.2 Model control codes

The commission proposed the below model control code (MCC) structure detailed in ADN 2023/47:

Category	Sub-category	Identifier	Sales data	Cost data
<b>Quality</b>	Prime	P	Mandatory	Mandatory
	Non-prime (e.g. damaged can)	N		
<b>Pineapple cut</b>	Chunks	CH	Mandatory	Mandatory
	Crushed	CR		
	Pieces	PC		
	Pizza cut	PZ		
	Sliced	SL		
	Tidbits	TB		
	Thin sliced	TS		
<b>Container type</b>	Tin can	T	Mandatory	Mandatory
<b>Container size</b>	Provide container size in net weight (grams)	e.g. '1250'	Mandatory	Mandatory
<b>Packing medium</b>	Light syrup	LS	Mandatory	Mandatory
	Heavy syrup	HS		
	Natural juice (sweetened)	NJS		
	Natural juice (unsweetened)	NJU		

**Table 1: Proposed MCC structure**

The sales and costs data KFC submitted largely complied with the proposed MCC structure, however the team found that KFC had mis-interpreted Category 1 - Quality to mean grade of fruit.

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### Exception 1: Re-classification of non-prime goods

**Description:** The team found that KFC had interpreted Category 1 - Quality to mean grade of fruit, and in its response provided the sub-categories C=Choice grade and S=Standard grade. KFC explained that Choice grade refers to riper fruit that is sweeter and a deeper yellow. Standard grade is a lighter colour fruit of a paler yellow. Customers may prefer one or the other for different applications. The team compared the weighted average selling price for the sole model that was sold in both choice and standard grade and found that price was almost identical. The KFC staff agreed that the fruit grade does not impact selling price but is a preference.

**Resolution:** KFC agreed to amending the quality category to be prime and non-prime.

The verification team noted that KFC had already identified non-prime goods in the domestic sales listing. There were no non-prime goods sold for export. The team notes that non-prime goods refer to goods with short shelf life that is typically sold to local/domestic customers below cost.

### 2.2.1 Amendment to the MCC structure

After comparing prices of different models of the goods, the team recommends amending the MCC structure applying to KFC. The amendments to the MCC structure are detailed below and are summarised at Table 2.

#### Sub-category amendment – pineapple cut

The team analysed the cut size of tidbits, pieces and chunks using the product specification sheets provided by KFC.

Products with a cut size described as pieces or tidbits had different product codes and specification sheets.

The team found that there is no difference in dimension between a tidbit and a piece.

### Exception 2: Amendment of MCC category 'Cut size'

**Description:** The verification team reviewed the product specification sheets provided by KFC. KFC's product specification sheets described the cut size (tidbits and pieces) as well as the dimensions of the cut. The verification team observed that the dimensions of a 'tidbit' were the same as the dimensions for a 'piece'.

**Resolution:** All product codes described as 'pieces' were reclassified to 'tidbits'.

#### Sub-category amendment – container type

The MCC structure lists one container type only, being tin can while KFC use tin cans, lacquer cans (tin cans with an additional lacquer coating), aseptic bags, and plastic pouches, these were classified as separate container types in the export and domestic sales listings.

The team analysed whether the nature of the additional container types warranted separate MCC sub-categories. The team found that the pricing structure of aseptic bags and pouches respectively is differentiated from that of cans. Therefore, the team is satisfied that these types of containers should be included in the MCC structure.

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The team also analysed the price of aseptic bags packaged in drums. These bags are approx. 10 times larger by weight than aseptic bags packaged in cartons. The team found that there is a distinct price difference between aseptic bags in cartons and aseptic bags in drums and recommends the MCC change.

The team also analysed if lacquer cans should form its own sub-category. Having reviewed the weighted average selling prices for models that sold in the same quarters in tin and lacquer cans, but otherwise in the same cut and packing media, the team found that there was no consistent price difference. The team also found, after reviewing the purchase orders, that customers did not differentiate between tin cans and lacquer cans when placing the orders. The team therefore found insufficient evidence that lacquer can and tin can should be separate sub-categories. The sub-category tin can will include both lacquered and unlacquered cans.

### Exception 3: Amendment of MCC category 'Container type'

**Description:** The commission's proposed MCC structure lists one container type only, being 'tin can' while KFC used tin cans, lacquer cans, aseptic bags, and plastic pouches and listed these as separate container types in the Australian and domestic sales listings.

**Resolution:** After analysing the weighted average prices of each container type when adjusting for other sub-categories driving price, the team accepted KFC's proposed sub-category amendment to include aseptic bag and plastic pouch to the MCC structure.

Additionally, the verification team noted that aseptic bags were used for a larger weight product than provided in cans, and that some products in aseptic bags were required to be packaged in a drum. These drum products had a higher price than other aseptic bag products. The team decided that products packaged in aseptic bags and drums should be identified separately from products in aseptic bags.

The team also decided the sub-category 'tin can' will include both lacquered and unlacquered cans.

### Sub-category amendment – packing medium

The proposed MCC structure lists the packing media light syrup, heavy syrup, natural juice (sweetened), and natural juice (unsweetened). In its response, KFC stated the use of light syrup, heavy syrup, natural juice (unsweetened) as well as water.

The team analysed whether the nature of the additional packing medium 'water' warranted a separate MCC sub-category. The team reviewed source data and is satisfied that KFC use water as a packing medium for some models of the like domestic goods. Analysis of the domestic sales indicated a price difference for the goods that use water as a packing medium and so the verification has accepted KFC's MCC amendment.

### Exception 4: Amendment of MCC category 'Packing medium'

**Description:** The commission's proposed MCC structure for packing medium is light syrup, heavy syrup, natural juice sweetened, and natural juice unsweetened. KFC also use water as a packing medium for some domestic products and therefore added water (W) as a separate packing medium identifier in the domestic sales listing.

**Resolution:** After reviewing relevant source data in relation to specification and analysing the weighted average sales prices, the team accepted KFC's proposed sub-category of water.



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Table 2 summarises the MCC structure applying to KFC after the above adjustments are made.

Category	Sub-category	Identifier	Sales data	Cost data
Quality	Prime	P	Mandatory	
	Non-prime	N		
Pineapple cut	Chunks	CH	Mandatory	Mandatory
	Crushed	CR		
	Pizza cut	PZ		
	Sliced	SL		
	Tidbits	TB		
Container type	Tin Can	T	Mandatory	Mandatory
	Aseptic bag	AB		
	Aseptic bag in drum	ABD		
	Pouch	PP		
Container size	Provide container size in net weight (grams)	e.g. '1250'	Mandatory	Mandatory
Packing medium	Light syrup	LS	Mandatory	Mandatory
	Heavy syrup	HS		
	Natural juice (unsweetened)	NJU		
	Natural juice (sweetened)	NJS		
	Water	W		

**Table 2: MCC structure after adjustments**

### 2.3 Verification of model control codes

Table 3: MCC sub-category determination

3 details how the team determined MCC sub-categories and verified them to source documents.

Category	Determination of the sub-category
Quality	KFC sold non-prime goods to one domestic customer only. The team sampled one of these transactions and obtained source data including an invoice showing a unit price below cost, and a warehouse approval stating that the goods could be sold at this low price due to short shelf life. <sup>2</sup>
Pineapple cut	As per purchase order invoice and goods specification
Container type	As per purchase order invoice and goods specification
Container size	As per purchase order invoice and goods specification
Packing medium	As per purchase order invoice and goods specification

**Table 3: MCC sub-category determination**

<sup>2</sup> Reference to Confidential attachment 1.

## 2.4 The Australian export goods and domestic like goods

### 2.4.1 Australian export goods (the goods under consideration)

The team was satisfied that, during the investigation period, KFC produced the goods under consideration (Australian export goods) and exported them to Australia.

### 2.4.2 Domestic like goods (like goods sold in the domestic market)

The team is satisfied that KFC produced and sold like goods for home consumption in its domestic market, being the country of export (domestic like goods).

The team considers that the domestic like goods were identical to, or had characteristics closely resembling, the Australian export goods, because:

- **Physical likeness:** e.g. are not distinguished from the exported goods during production (exporter produces the exported goods and goods sold on the domestic market in the same way, subject to individual customer specifications, and the costs of production for models sold domestically and for export are the same).
- **Production likeness:** e.g. produced at the same facilities, using the same raw material inputs and manufacturing processes.
- **Commercial likeness:** e.g. the goods compete in the same market sector, are interchangeable and use similar distribution channels.
- **Functional likeness:** e.g. considered functionally alike, as they have similar end uses.

## 2.5 List of model control codes

KFC produced and sold the following MCCs during the investigation period:

Australian Sales	Australian CTM	Domestic Sales	Domestic CTM
P-CR-ABD-210000-NJU	CR-ABD-210000-NJU		CR-AB-23000-NJU
P-CR-AB-23000-NJU	CR-AB-23000-NJU	P-CR-T-3010-NJU	CR-T-3010-NJU
P-CR-T-3060-NJU	CR-T-3060-NJU	P-CH-T-3000-W	CH-T-3000-W
P-CH-T-3060-LS	CH-T-3060-LS	P-SL-T-3035-HS	SL-T-3035-HS
P-SL-T-3060-LS	SL-T-3060-LS		SL-T-3060-LS
P-TB-T-3060-LS	TB-T-3000-LS	P-TB-T-3060-LS	TB-T-3060-LS
P-TB-T-3000-LS	TB-T-3060-LS	P-TB-PP-3000-LS	TB-PP-3000-LS
		N-TB-T-3060-HS	TB-T-3060-HS

**Table 4: List of MCCs produced and sold**

## 2.6 Like goods assessment

The team considers that goods KFC produced and sold for domestic home consumption had characteristics closely resembling those of the Australian export goods and were therefore 'like goods' according to section 269T(1).

### 3 Verification of sales completeness and relevance

The commission typically verifies sales as complete and relevant by reconciling the revenue and quantity in sales listings up to management accounts and then audited financial accounts. ADN 2016/30 further describes this verification process.

The team verified whether the sales listings KFC submitted are complete and relevant by reconciling them to the audited financial statements, consistent with ADN 2016/30.

The team verified whether the sales data was complete and relevant by:

1. confirming the match between the total sales in the audited financial statement and revenue presented as a starting point for upwards verification.
2. examination and live confirmation of adjustments between financial year and investigation period.
3. examination and reconciliation of KFC's sales ledger as provided to data submitted with the REQ.
4. sampling and examination of source documents to support the data.

The team identified one issue, outlined below. The team detailed this process in the verification work program and its relevant attachments in **Confidential attachment 1**.

#### 3.1 Sales completeness and relevance exceptions

##### Exception 5: Upwards sales of the goods to traders

**Description:** KFC incorrectly included sales to export-oriented domestic traders as domestic sales in its REQ.

**Resolution:** The team reclassified these trader sales as Australian and Third country export sales. The team reviewed the remainder of the domestic sales listing to make sure that the market categorisation was correct.

The team's changes to the value and volume of domestic sales affected the unit SG&A calculation submitted by KFC.

The team is satisfied that the sales data KFC submitted is complete and relevant, including the revision outlined in the exception above.

## 4 Verification of sales accuracy

The commission typically verifies sales as accurate by reconciling a selection of volume, revenue, and other key data in the sales listings down to source documents. ADN 2016/30 further describes this verification process.

The team verified whether the export and domestic sales listings KFC submitted are accurate by reconciling them to source documents, consistent with ADN 2016/30.

The team identified one issue, outlined below. The team detailed this process in the verification work program and its relevant attachments in **Confidential attachment 1**.

### 4.1 Sales accuracy exceptions

#### Exception 6: Misclassification of FAS export sale

**Description:** KFC incorrectly described an export transaction with Ex Works shipping terms, when the shipping terms were FAS (free alongside ship). classified the trading terms of this sales as Ex Works.

**Resolution:** The verification team reviewed the contract terms for this sale, the invoice and other relevant documents. KFC demonstrated that it paid for inland transport expenses from its factory to the port.

The verification team reclassified the transaction to FAS.

#### Exception 7: Overstated sales commission for export sales

**Description:** The team found that the sales commission recorded for one transaction in the Australian export sales listing was overstated, as source documents show that a smaller commission amount was paid.

**Resolution:** The sales commission figure was corrected to reflect the actual sales commission paid for the invoice. In addition, the team verified the sales commission paid for other Australian sales and found that these were correctly recorded.

### 4.2 Sales accuracy finding

The team is satisfied that the sales data KFC submitted is accurate, including the revisions outlined in the exceptions above.

## 5 Verification of cost to make and sell completeness and relevance

The commission typically verifies cost to make and sell (CTMS) as complete and relevant by reconciling the total cost to make (CTM) and selling, general and administrative (SG&A) expenses in cost listings up to management accounts and then audited financial accounts. ADN 2016/30 further describes this verification process.

The team verified whether the CTM and SG&A listings KFC submitted are complete and relevant by reconciling it to audited financial statements, consistent with ADN 2016/30.

The team verified the CTM data as complete and relevant by:

1. reconciling the cost of goods sold (COGS) in the income statement to the audited financial statements for CY 2022.
2. reconciling the difference between the investigation period and financial year (CY 2022) by deducting the amounts for the March and June quarters of 2022 and adding the March and June quarter of 2023 as per relevant trial balance amounts.
3. reconciling the difference between COGS and cost to make in the investigation period to the total of the change in finished goods inventory during the same period.
4. reconciling a variance consisting of the COGS of packaging materials (cartons and labels).
5. reconciling the cost to make of each category of goods, including the GUC, to a system generated report.

The team verified the SG&A data as complete and relevant by:

1. reconciling the SG&A listing to the audited profit and loss statement and trial balance.
2. verifying that the direct selling expenses had been correctly categorised and excluded where appropriate.
3. reconciling the direct selling expenses to the sales listings.
4. verifying a sample expense to the financial system.
5. reviewing and removing expenses not to be included in the domestic SG&A calculation.
6. verifying that the SG&A expenses had been correctly allocated in accordance with the commission's preferred methodology.

The team identified the issues outlined below. The team detailed this process in the verification work program and its relevant attachments in **Confidential attachment 1**.

### 5.1 Cost to make and sell completeness and relevance exceptions

#### Exception 8: Revised SG&A listing provided

**Description:** The verification team found that the SG&A listing in KFC's REQ was incomplete as it excluded the company's administration and finance expenses.

**Resolution:** KFC presented a revised SG&A listing that included the administration and finance expenses and this revised list was verified.

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### Exception 9: Removal of export related items from domestic SG&A expenses

**Description:** The verification team identified that export SG&A expenses were classified as domestic SG&A expenses.

**Resolution:** Through sampling and verification, the verification team was satisfied that the expenses were export SG&A expenses. These expenses were excluded from the domestic SG&A calculation.

## 5.2 Cost to make and sell completeness and relevance finding

The team is satisfied that the CTMS data KFC submitted is complete and relevant, including any revision outlined in an exception above.

## **6 Verification of cost to make and sell accuracy**

The commission typically verifies CTMS as accurate by reconciling a selection of volume, cost, and other key data in the CTM and SG&A listings down to source documents. ADN 2016/30 further describes this verification process.

The team verified whether the CTM and SG&A listings KFC submitted are accurate by reconciling them to source documents, consistent with ADN 2016/30.

The team did not identify any issues. The team detailed this process in the verification work program and its relevant attachments in **Confidential attachment 1**.

### **6.1 Cost allocation method**

Table 5: Cost allocation method

outlines how the team allocated each cost component.

<b>Cost component</b>	<b>Method applied</b>
Raw material - pineapple	KFC allocated raw pineapple by filled weight of finished product.
Raw material - sugar	KFC allocated sugar based on actual usage.
Raw material – can and end	KFC allocated can and end based on actual usage.
Direct labour	KFC allocated direct labour by filled weight of finished product
Manufacturing overheads	KFC allocated manufacturing overheads by filled weight of finished product
Depreciation	KFC allocated depreciation by filled weight of finished product.

**Table 5: Cost allocation method**

### **6.2 Cost to make and sell accuracy finding**

The team is satisfied that the CTMS data KFC submitted is accurate and reasonably reflects the costs associated with the production and sale of the goods.

## 7 Export price

### 7.1 Background

Section 269TAB states the general rules for calculating export price. Under this section, the commission assesses the following to identify the correct method of calculating export price:

- Who is the importer?
- Who is the exporter?
- Did the importer purchase from the exporter at arms length?

This chapter discusses how the team assessed KFC's Australian export sales.

### 7.2 The importers

KFC sold the Australian export goods at FOB and FAS incoterms. The team notes that some of KFC's FOB export sales to Australia were facilitated by brokers on a commission basis. The team is satisfied that these brokers were not the legal owners of the goods at any point of the supply chain. The remaining FOB export sales to Australia were sold directly to the customer.

In relation to the goods sold at FAS incoterms, KFC sold the goods to an Australian customer via a domestic trader. In this case, KFC contracted with the trader but was aware that the goods were destined for Australia.

For all sales by KFC to Australia, the team considers the customer listed for each sale of the Australian export goods was the beneficial owner of the goods at the time of importation into Australia and, therefore, the importer.

For each sale, the Australian customer:

- was named as the customer on the commercial invoice.
- was named as the consignee on the bill of lading.
- was named as the importer on the importation declaration to ABF.

### 7.3 The exporter

The team considers KFC to be the exporter of the Australian export goods<sup>3</sup> because KFC:

- produced the Australian export goods.
- is named as the supplier on the commercial invoice.
- is named as consignor on the bill of lading.
- paid for inland transport to the port of export.
- paid for port handling charges at the port of export.

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<sup>3</sup> The commission generally identifies the exporter as a principal in transacting the Australian export goods, located in the country of export and either:

- gave up responsibility by knowingly placing the goods in the hands of another company, or its own vehicle, for delivery to Australia.
- owned the goods, either at the time the goods were shipped or previously.



## 7.4 Australian export arms' length assessment

The team is satisfied that none of KFC's Australian customers are related party entities. The team assessed whether KFC sold the Australian export goods at arms' length to any unrelated customers during the investigation period.

The team found no evidence that:

- there was consideration payable for, or in respect of, the goods other than its price.
- the price appeared to be influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller.
- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated, or otherwise receive a benefit for, or in respect of, the whole or any part of the price.
- sold the Australian export goods at similar prices to all customers.
- referred to a market price index when setting prices for all customers.
- appeared to genuinely negotiate the price with customers.

The team therefore considers that, for all the unrelated customer sales, KFC sold the Australian export goods at arms length.<sup>4</sup>

## 7.5 Export price assessment

For Australian exports of the goods made by KFC directly to the Australian customer, the team recommends that the export price be determined under section 269TAB(1)(a), being the price paid by the importer, other than any part of that price that represents a charge of any other matter arising after exportation.

For the sales made by KFC to the Australian customer, via a trader, the team notes that the Australian customer did not purchase the goods directly from the exporter. Accordingly, the team cannot determine the export price under sections 269TAB(1)(a) or 269TAB(1)(b).

The team therefore recommends that the export price be determined under section 269TAB(1)(c), having regard to all circumstances of the exportation. For the FOB transactions, the team has used the FOB invoice price.

For the FAS transaction to the domestic trader, the team recommends that the export price be the price paid by the trader to KFC. The team also added an amount for port and handling to calculate an FOB export price. Specifically,

The team has calculated export price at **Confidential appendix 1**.

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<sup>4</sup> See section 269TAA.

## **8 Domestic sales**

### **8.1 Background**

Section 269TAC states the general rules for calculating normal value. Under this section, the commission must assess the following to identify the correct method of calculating normal value:

- Did like goods sell domestically at arms length?
- Did like goods sell domestically in the ordinary course of trade (OCOT)?
- Did like goods not sell domestically, or sold domestically in low volumes?

This chapter discusses how the team assessed KFC's domestic sales for use in normal value.

### **8.2 Domestic arms length assessment**

#### **8.2.1 Unrelated customers**

The team is satisfied that none of KFC's domestic customers are related party entities. The team assessed whether KFC sold the domestic like goods at arms length to any unrelated customers during the investigation period.

The team found no evidence that:

- there was consideration payable for, or in respect of, the goods other than its price.
- the price appeared to be influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller.
- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated, or otherwise receive a benefit for, or in respect of, the whole or any part of the price.

The team notes that KFC:

- sold domestic like goods at similar prices to all customers.
- referred to a market price index when setting prices for all customers.
- appeared to genuinely negotiate the price with customers.

The team therefore considers that, for all the domestic sales, KFC sold at arms length.<sup>5</sup>

### **8.3 Ordinary course of trade assessment**

Section 269TAA states that domestic sales of like goods are not in the OCOT if arms length transactions are both:

- unprofitable in substantial quantities over an extended period
- unlikely to be recoverable within a reasonable period.<sup>6</sup>

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<sup>5</sup> See section 269TAA.

<sup>6</sup> The commission generally considers the inquiry, investigation or review period – whichever applies in the given case – is the relevant 'extended period' and 'reasonable period'.

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For domestic sales of like goods, the team assessed:

- if each sale was unprofitable by comparing the price to the relevant CTMS
- if each MCC had substantial quantities of unprofitable sales by calculating the volume of unprofitable sales as a percentage of total sales
- if any unprofitable sale was unlikely to be recoverable by comparing the price to the relevant weighted average CTMS.

The following table summarises the figures the team used to assess OCOT:

<b>OCOT particulars</b>	<b>Details</b>
Extended unprofitability period	The investigation period
Reasonable recoverability period	The investigation period
Price	Net invoice price
Cost	Quarterly CTMS, including direct selling expenses for each transaction.
Weighted average cost	Weighted average CTMS over the investigation period, including direct selling expenses for each transaction.

**Table 6: OCOT details**

## 8.4 Domestic sales volume assessment

### 8.4.1 Overall sales volumes

Section 269TAC(2) provides alternative methods for calculating the normal value of the Australian export goods where there is an absence, or low volume, of relevant sales of like goods in the market of the country of export.

An exporter's domestic sales of like goods are taken to be in a low volume under section 269TAC(14) where the total volume of sales of like goods for home consumption in the country of export by the exporter is less than 5% of the total volume of the goods exported to Australia by the exporter – unless the Minister is satisfied that the volume is still large enough to permit a proper comparison for the purposes of assessing a dumping margin.

The team assessed the total volume of relevant sales of like goods as a percentage of the Australian export goods and found that the volume of sales was less than 5%. As the volume was below 5% the team analysed the domestic sales to consider if these would still be suitable to permit a proper comparison for the purposes of assessing a dumping margin.<sup>7</sup>

There were insufficient domestic sales on an MCC basis, and the team examined what surrogate domestic models could be used as a comparison to the export MCCs.

The team found that only 2 export MCCs could be compared with surrogate domestic MCCs in a sufficient quantity. There were no comparable domestic models in OCOT, and in sufficient quantities to compare with the remaining 6 export MCCs.

Additionally, the domestic MCCs were not sold consistently in each quarter of the investigation period, with over half of the MCCs sold in 1 quarter only. The team considers that the low volume and inconsistent sales affect the domestic price.

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<sup>7</sup> Refer to Confidential attachment 1

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The team considers that these factors could mean that the low volume of relevant sales may affect a comparison between domestic prices and export prices.

Therefore, the team is not satisfied that the volume of relevant sales is large enough to permit a proper comparison for the purposes of assessing a dumping margin.

## **9 Adjustments**

To properly compare an export price of the Australian export goods to the corresponding normal value, the team considered applying each of the following adjustments.

### **9.1 Rationale and method**

<b>Adjustment type</b>	<b>Adjustment assessment</b>	<b>Calculation method and evidence</b>	<b>Did KFC claim this adjustment?</b>	<b>Did the team apply the adjustment?</b>
Export packaging	KFC claimed that export packaging costs are different from domestic packaging costs.	Actual costs calculated as part of the export CTM.	Yes	No
Export inland transport	KFC sells at FOB or FAS terms of trade to its Australian customers and therefore incurs charges for inland transport.	Actual costs. Based on source documents.	Yes	Yes
Export port charges	KFC sells at FOB terms of trade to its Australian customers.	Actual costs. Based on source documents.	Yes	Yes
Export credit terms	KFC extends credit to some of its Australian customers.	Calculation based on average payment days and KFC short term bank rate in the period.	Yes	Yes

**Table 6: Assessment of adjustments**

### **9.2 Adjustments**

The team recommends the following adjustments so to properly compare export price of the Australian export goods to the corresponding normal value.

<b>Adjustment Type</b>	<b>Deduction/addition</b>
Export inland transport	Add an amount for export inland transport
Export port charges	Add an amount for port charges
Export credit terms	Add an amount for export credit terms

**Table 7: Summary of adjustments**

The team calculated and applied adjustments in the normal value calculations at **Confidential appendix 3**.

## 10 Normal value

The team is satisfied that because of the 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 section 269TAC(1), the normal value of the Australian export goods cannot be ascertained under section 269TAC(1).

The team has therefore calculated a normal value under section 269TAC(2)(c) using the sum of:

- the cost to make the exported goods based on the company's records in accordance with section 43(2) of the *Customs (International Obligations) Regulation 2015* (Cth) (the Regulation).
- SG&A on the assumption that the goods, instead of being exported, were sold for home consumption in the OCOT in the country of export based on the company's records in accordance with section 44(2) of the Regulation.
- an amount for profit based on data relating to the production and sale of like goods in the domestic market in the OCOT in accordance with section 45(2) of the Regulation.

In constructing normal value under 269TAC(2)(c), the team considers that certain adjustments are necessary to ensure that the normal values are properly comparable with export prices, in accordance with section 269TAC(9) and as outlined in chapter 9.

The team's normal value calculations are at **Confidential appendix 3**.

## **11 Dumping margin**

The team calculated KFC's dumping margin by comparing weighted average Australian export prices to the corresponding weighted average normal values for the investigation period under section 269TACB(2)(a).

The team calculated KFC's dumping margin as **7.1%**.

The dumping margin calculation is at **Confidential appendix 4**.

**12 Appendices and attachments**

<b>Confidential appendix 1</b>	Export price
<b>Confidential appendix 2</b>	Cost to make and sell
<b>Confidential appendix 3</b>	Normal value
<b>Confidential appendix 4</b>	Dumping margin
<b>Confidential attachment 1</b>	Verification work program