



Review 478

**REVIEW OF ANTI-DUMPING MEASURES ON
CONSUMER PINEAPPLE EXPORTED FROM THE
KINGDOM OF THAILAND**

VERIFICATION REPORT – EXPORTER (JOINT)

**KUIBURI FRUIT CANNING COMPANY LIMITED
AND KUIBURI FRUIT CUP COMPANY 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

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1 BACKGROUND

1.1 This review

On 18 June 2018, following an application by Prime Products Industry Co.,Ltd (PPI), the Commissioner of the Anti-Dumping Commission (the Commissioner) initiated a review of the anti-dumping measures applying to pineapple fruit – consumer (consumer pineapple or the goods) exported to Australia from the Kingdom of Thailand (Thailand), and furthermore extended the review to include all exporters of consumer pineapple from Thailand.

The review is examining whether the variable factors relevant to the taking of the anti-dumping measures should be varied.

Public notification of the initiation of the review was published on the Commission's website. The background relating to the initiation of this investigation is contained in Consideration Report No. 478.

Following initiation of the review, the Anti-Dumping Commission (the Commission) wrote to Kuiburi Fruit Canning Co., Ltd. (KFC) and Kuiburi Fruit Cup Co.,Ltd. (KFCup), as well as other known exporters of consumer pineapple, inviting them to cooperate with the review by completing an exporter questionnaire and relevant attachments. KFC and KFCup cooperated with the review and completed the exporter questionnaire and relevant attachments.

It is noted that the Commission conducted on-site verification of KFC and KFCup's records in March 2018 in relation to a previous review, Review No. 455¹. Review No. 455 examined a period of 1 October 2016 to 30 September 2017. This Review No. 478 is examining a period of 1 April 2017 to 31 March 2018. Given that the review periods subject to examination overlap by a period of six months, for the purposes of Review No. 478, the Commission requested data only for the last two quarters of the review period, being 1 October 2017 to 31 March 2018.

Additionally, as the Commission has already verified KFC and KFCup's records recently, the Commission decided not to conduct an on-site verification of KFC and KFCup's exports for this review. This verification report should be read in conjunction with the verification report for Review No. 455 which is available at www.adcommission.gov.au.

1.2 Application of third country sales to determine export sales

Neither KFC nor KFCup sold consumer pineapple to Australia during the review period.

If the Minister for Industry, Science and Technology (the Minister) determines that there is insufficient or unreliable information to ascertain the price due to an absence or low volume of exports of the goods to Australia by an exporter subject to a review of

¹ Reference is made to Report No. 455, which can be accessed at www.adcommission.gov.au.

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measures, subsection 269TAB(2A)2 of the *Customs Act 1901*³ provides for the Minister to determine the export price under subsection 269TAB(2B) having regard to the following:

- (i) previous volumes of exports of those goods to Australia by that exporter;
- (ii) patterns of trade for like goods;
- (iii) factors affecting patterns of trade for like goods that are not within the control of the exporter.

For the purposes of subsection (2A), the export price of those goods is the price determined by the Minister to be the export price, having regard to, amongst other things, the price paid or payable for like goods sold by the exporter in arm's length transactions for exportation from the country of export to a third country determined by the Minister to be an appropriate third country.

During the review period for Review No. 455, KFC and KFCup did not make sales of consumer pineapple to Australia. The relevant Minister determined the export price to be the price paid for like goods sold by the exporter in arm's length transactions for exportation from the country of export to a third country determined by the Minister to be an appropriate third country. The relevant Minister determined the United States of America (the US) to be an appropriate third country.

During the period for Review No. 478, KFC and KFCup also did not make sales of consumer pineapple to Australia. Accordingly, in keeping with the approach undertaken in Review No. 455, in relation to Review No. 478, the Commission requested KFC and KFCup provide information relating to sales to the US in order to determine the export price of the goods.

² *Customs Amendment [Anti-Dumping Measures] Act 2017* commenced on 31 October 2017 refers.

³ References to any section or subsection in this report relate to provisions of the *Customs Act 1901*, unless specifically stated otherwise.

2 THE GOODS AND LIKE GOODS

2.1 The goods exported to Australia

KFC and KFCup did not export the goods to Australia during the review period.

2.2 Export sales to third countries

KFC exported goods to the US during the review period.

The models exported to the US included pineapple in chunks, slices, tidbits and crushed pineapple, canned in either light syrup, heavy syrup or natural juice. All models were in metal tins, some models with traditional lid and some models with easy opening lid.

KFCup also exported the goods to US only during the review period. KFCup sold two models to its US customers being tidbits in light syrup in plastic cups and tidbits in natural juice in plastic cups.

The verification team considers that the goods exported to US are similar to the goods that KFC and KFCup may export to Australia in the future.

2.3 Like goods sold on the domestic market

During the review period, KFC sold very small quantities of like goods to domestic customers in Thailand, whereas KFCup did not. The models sold on the domestic market by KFC included slices and chunks in heavy syrup only in cans with and without easy opening lids.

The verification team considers that the goods manufactured for domestic consumption by KFC are identical to, or have characteristics closely resembling, the goods exported to the US, as they:

- are not distinguished from the exported goods during production (the exported goods and goods sold on the domestic market are produced in the same way, subject to individual customer specifications, and the costs of production are the same);
- are processed at the same facility, using the same raw material inputs and manufacturing processes; and
- can be considered functionally and commercially alike, as they have similar end uses.

2.4 Model matching

KFC and KFCup provided cost data by its internal product code which enabled the verification team to compare the normal value to export price by matching the product code. The product code delineates the goods by type of can (e.g. tin or cup), can size (e.g. 8 oz, 15 oz, 20 oz etc.), type of can end (standard, easy open etc), the type of pineapple (e.g. cut, crush, ring etc.), and packing media (e.g. light syrup, pineapple juice, heavy syrup etc.). **See Chapter 7 for normal value calculation.**

2.5 Like goods – preliminary assessment

The verification team considers that the goods produced by KFC have characteristics closely resembling those of the goods that may be exported to Australia and are therefore 'like goods' in accordance with subsection 269T(1) of the Act.

3 VERIFICATION OF EXPORT SALES

3.1 Verification of Australian sales

The verification team is satisfied that neither KFC nor KFCup exported consumer pineapple to Australia during the review period.

3.2 Verification of third country sales to audited financial statements

The verification team that visited KFC and KFCup in March 2018 verified the completeness and relevance of the export sales listings provided in the REQ's, for countries other than Australia for Review No. 455 by reconciling them to audited financial statements in accordance with ADN. No 2016/30.

For the purposes of this review, the verification team has analysed the additional export sales listings provided in conjunction with the verified data from Review No. 455.

The verification team did not identify any issues during this process.

3.3 Verification of third country sales to source documents

The verification team that visited KFC and KFCup for Review No. 455 in March 2018 verified the accuracy of the export sales listings submitted in the REQ's by reconciling them to source documents in accordance with ADN. No 2016/30.

For the purposes of this review, the verification team has analysed the additional export sales listings provided in conjunction with the verified data from Review No. 455.

The verification team did not identify any issues during this process.

3.4 The exporter

For all export sales to the US during the review period, the verification team considers KFC and KFCup to be the exporter of the goods.⁴ KFC and KFCup manufacture the goods that are exported to third countries and arranges delivery of the goods from its factory to the port.

3.5 The importer

In relation to the goods exported by KFC and KFCup to US during the review period, the verification team considers KFC and KFCup's customers in the US to be the beneficial owners of the goods at the time of importation, and therefore the importers of the goods.

⁴ The Commission generally identifies the exporter as a principal in the transaction, located in the country of export from where the goods were shipped, that gave up responsibility by knowingly placing the goods in the hands of a carrier, courier, forwarding company, or its own vehicle for delivery to Australia; or a principal in the transaction, located in the country of export, that owns, or previously owned, the goods but need not be the owner at the time the goods were shipped.

3.6 Related party customers

The verification team has not found any evidence that would suggest that any of KFC or KFCup's customers were related party customers.

3.7 Arms length

In respect of export sales of the goods made by KFC and KFCup to its customers in the US during the review period, the verification team found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than its price; or
- the price was 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; or
- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise received a benefit for, or in respect of, the whole or any part of the price.⁵

The verification team therefore considers that all export sales to the US made by KFC and KFCup during the review period were arms length transactions.

3.8 Export price – preliminary assessment

The verification team is satisfied that the export sales listing, incorporating the additional two quarters of data supplied by KFC and KFCup for the purposes of this review, is complete, relevant and accurate.

In relation to KFC and KFCup's US sales, the verification team is satisfied that:

- the goods have been exported to the customers in the US otherwise than by the importer; and
- the purchases of the goods were arm's length transactions.

The verification team therefore considers that the export price should be determined under subsection 269TAB(2B)(b) being the price paid or payable for like goods sold by the exporter in arm's length transactions for exportation from Thailand to the US. The verification team has calculated the export prices at free-on-board (FOB) terms.

The verification team's preliminary export price calculations are at **Confidential Appendix 1**.

⁵ Section 269TAA of the Act refers.

4 COST TO MAKE AND SELL

4.1 Verification of costs to audited financial statements

The verification team that visited KFC and KFCup for Review No. 455 in March 2018 verified the completeness and relevance of the cost to make and sell (CTMS) information provided in the REQ's by reconciling it to audited financial statements in accordance with ADN No. 2016/30.

For the purposes of this review, the verification team has analysed the additional CTMS data provided in conjunction with the verified data from Review No. 455.

The verification team did not identify any issues.

4.2 Verification of costs to source documents

The verification team that visited KFC and KFCup for Review No. 455 in March 2018 verified the accuracy of the CTMS information provided in the REQ's by reconciling it to source documents in accordance with ADN No. 2016/30.

For the purposes of this review, the verification team has analysed the additional CTMS data provided in conjunction with the verified data from Review No. 455.

The verification team did not identify any issues.

4.3 Related party purchases

The verification team found no evidence of related party purchases for the review period.

4.4 Cost to make and sell – summary

The verification team is satisfied that the CTMS spreadsheets incorporating the additional two quarters of data supplied by KFC and KFCup for the purposes of this review are complete, relevant and accurate.

The CTMS spreadsheets are at **Confidential Appendix 2**.

5 VERIFICATION OF DOMESTIC SALES

5.1 Verification of domestic sales to audited financial statements

KFC reported a small number of domestic sales transactions for the review period, whilst KFCup reported no domestic sales.

The verification team that visited KFC and KFCup in March 2018 verified the completeness and relevance of the domestic sales listings provided in the REQ's for Review No. 455 by reconciling them to audited financial statements in accordance with ADN. No 2016/30.

For the purposes of this review, the verification team has analysed the additional domestic sales listings provided in conjunction with the verified data from Review No. 455.

The verification team did not identify any issues during this process.

5.2 Verification of domestic sales to source documents

The verification team that visited KFC and KFCup for Review No. 455 in March 2018 verified the accuracy of the domestic sales listings submitted in the REQ's by reconciling them to source documents in accordance with ADN. No 2016/30.

For the purposes of this review, the verification team has analysed the additional domestic sales listings provided in conjunction with the verified data from Review No. 455.

The verification team did not identify any issues during this process.

5.3 Related party sales

The verification team found no evidence to suggest that KFC's domestic customers were related party customers.

5.4 Arms length

In respect of domestic sales of the goods made by KFC to its domestic customers during the review period, the verification team found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than its price; or
- the price was 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; or
- 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 verification team therefore considers that all domestic sales made by KFC during the review period were arms length transactions.

5.5 Ordinary course of trade and suitability of sales

Section 269TAAD of the Act provides that if like goods are sold in the country of export at a price less than the cost of such goods, and are unrecoverable within a reasonable period, then they are taken not to have been sold in the ordinary course of trade.

The verification team compared the net revenue for each of KFC's domestic sales to the corresponding quarterly domestic CTMS to test whether those sales were profitable and found that none of the domestic sales were profitable. The verification team then tested the recoverability of the sales by comparing the revenue for each transaction to the corresponding weighted average CTMS over the review period and found that none of the sales were recoverable.

Subsection 269TAC(2)(a)(i) provides that the normal value of goods exported to Australia cannot be ascertained under subsection 269TAC(1) where there is an absence, or low volume, of sales of like goods in the market of the country of export. Low volume is defined by subsection 269TAC(14) as the domestic sales of like goods being less than 5% of the total volume of exports of the goods. The verification team conducted sufficiency tests for KFC's domestic sales and found that there were insufficient quantities of domestic sales of like goods sold in the ordinary course of trade. Therefore, the verification team constructed the normal value under subsection 269TAC(2)(c). The verification team notes that there were no domestic sales made by KFCup.

5.6 Profit

As discussed in sections 2.4 and 5.5, the verification team has constructed normal values. In constructing the normal value, the verification was unable to calculate profit based on domestic sales of like goods made in the ordinary course of trade under subsection 45(2) of the *Customs (International Obligations) Regulation 2015* (the Regulation). Instead, profit has been calculated pursuant to subsection 45(3)(c) of the Regulation based on the net profit realised by KFC and KFCup respectively during the review period. The verification team considers this a reasonable method having had regard to all relevant information, including benchmarking the profit achieved by KFC and KFCup against the verified profits achieved by other exporters during the most recent review of measures.

5.7 Domestic sales – summary

The verification team is satisfied that the domestic sales listing incorporating the additional two quarters of data supplied by KFC and KFCup for the purposes of this review is complete, relevant and accurate.

KFC's domestic sales listing is at **Confidential Appendix 3**.

6 ADJUSTMENTS

The verification team made the following adjustments to the normal value in accordance with subsection 269TAC(9) to ensure that the normal value is comparable to the export price of goods that may be exported to Australia.

6.1 Inland transport

The verification team verified the inland transport for export sales and was satisfied that the amounts provided in the sales listings are accurate.

As the constructed normal values are based on ex-works costs, the verification team considers that an upwards adjustment to the normal value for export inland transport is necessary to ensure a fair comparison to the FOB export price.

The verification team has applied an upwards adjustment based on the actual cost per kilogram for these expenses over the review period.

6.2 Handling charges

The verification team has verified the export handling charges against the contract between KFC and KFCup and its freight forwarder.

As the constructed normal values are based on ex-works costs, the verification team considers that an upwards adjustment to the normal value for export handling charges is necessary to ensure a fair comparison to the FOB export price.

The verification team has applied an upwards adjustment to the normal value based on the weighted average export handling charges.

6.3 Commissions

The verification team has verified the commissions paid by KFC and KFCup to various trading companies that performs export sales functions on behalf of KFC and KFCup.

The verification team has applied an upwards adjustment to the normal value based on the actual cost per kilogram for the commissions over the review period.

6.4 Packaging

The verification team in Review No. 455 verified packaging costs as well as sighting the packaging process during a tour of the production facility. The verification team found that the costs of the containers (cans and ends for KFC and plastic cups and film for KFCup) were included in the CTMS.

However, the verification team noted that there were additional export packaging costs for cans consisting of labels and cartons. Similarly, the packaging costs for cups contains additional packaging costs in the form of cardboard slips and cartons and additional 'filling material'. The companies explained that these additional packaging costs only occur for export sales and was listed as a selling expense.

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As these additional export specific packaging expenses were excluded from domestic SG&A, the verification team considers that an upwards adjustment to the normal value for export packaging expenses is necessary to ensure a fair comparison to the FOB export price.

6.5 Credit

The verification team considers that an upward adjustment for export credit is necessary to ensure a fair comparison to the FOB export price. The verification team has applied this adjustment based on the number of credit days listed on the invoice for each US transaction and the short-term borrowing rate verified in relation to other exporters during the review period. The upwards adjustment is made based on the weighted average credit cost compared to the net invoice value.

6.6 Adjustments – conclusion

The verification team is satisfied that there is sufficient and reliable information to justify the following adjustments. The verification team considers these adjustments are necessary to ensure a fair comparison of normal values and export prices.

Adjustment Type	Deduction/addition
Export inland transport	Add the cost of export inland transport
Handling charges	Add the cost of export handling charges
Commission	Add the cost of export commission
Packaging	Add the cost of export packaging
Credit	Add the cost of export credit

7 NORMAL VALUE – ASSESSMENT

As discussed in section 5.5, the verification team found insufficient domestic sales of like goods sold in the ordinary course of trade. As a result, the verification team have constructed normal values under subsection 269TAC(2)(c) using:

- The cost to make the goods determined under subsection 43(2) of the Regulation; plus
- SG&A on the assumption that the goods have been sold for home consumption in the ordinary course of trade under subsection 44(2) of the Regulation; plus
- rates of profit based on the net profit realised by KFC and KFCup respectively during the review period under subsection 45(3)(c) of the Regulation.

In constructing a normal value, the verification has made adjustment under subsection 269TAC(9) to ensure that the normal value is comparable the export price, as outlined in Chapter 6 above.

Details of the normal value calculation are at **Confidential Appendix 4**.

8 DUMPING MARGIN

The dumping margin has been assessed by comparing the weighted average third country export prices to the corresponding constructed weighted average normal values for the review period, in accordance with paragraph 269TACB(2)(a) of the Act.

The dumping margin in respect of the goods exported by KFC and KFCup for the review period is **negative 8.1%**.

Details of the preliminary dumping margin calculation are at **Confidential Appendix 5**.

9 APPENDICES AND ATTACHMENTS

Confidential Appendix 1	Third country export sales (US)
Confidential Appendix 2	CTMS
Confidential Appendix 3	Domestic sales
Confidential Appendix 4	Normal value
Confidential Appendix 5	Dumping margin