

# ADRP CONFERENCE SUMMARY

## 2016/48 – Consumer and FSI Pineapples

Date	29 November 2016
Participants	Paul O'Connor (Anti-Dumping Review Panel Member), Matthew Williams (Anti-Dumping Commission) and Con Soumbassis (Anti-Dumping Commission)
Review:	2016/48: Continuation of Anti-Dumping measures applying to canned pineapples exported from the Republic of the Philippines, the Kingdom of Thailand and the continuation of Anti-Dumping Measures applying to FSI Pineapple Exported From the Kingdom of Thailand.

On 29 November 2016, ADRP Panel Member Paul O'Connor, pursuant to s.269ZZHA of the Act, held a telephone conference with the ADC regarding several of the grounds of appeal identified by certain appellants to the decisions to continue the above-mentioned measures. Outlined below is a summary of the issues canvassed in the conference.

### **Kuiburi Fruit Canning Co., Ltd (Kuiburi) - FSI Thailand**

The appellant alleges that the ADC did not include sales of pineapple purée at a loss in Quarter 3 in constructing the normal value of exports of the goods by Kuiburi contrary to the provisions of s. 269TAC(2)(c) of the Act.

The ADC explained the methodology applied to conform to s.269TAC in relation to sales at a loss. The weighted average cost to make and sell was weighted by selling volumes, rather than weighting by production volumes. The production of canned pineapples is seasonal, with those periods having the lowest per unit production costs corresponding with the periods of higher supply and availability of the product. The ADC undertook to reflect upon the appropriateness of both weighting methodologies and will provide a final position in the ADC submission.

The appellant, Kuiburi, also alleges that the ADC erred in using the local manufacturer's profit achieved by its sales of consumer pineapples (on the basis that the ADC viewed such sales as being of a 'similar' category of goods). In doing so, the ADC applied a profit rate to the FSI goods that reflected a higher volume/margin market to a rate reflective of a lower volume/margin market. The ADC noted, although the initial investigation in 2001 had taken the view that FSI and consumer grades were not like product as defined by the Act, nevertheless, the ADC is of the view that it was open to regard the products as 'similar' and therefore appropriate as a basis for identifying a reasonable level of profit. The ADC undertook to further elaborate on its reasoning in this regard in its submission.

### **Dole Philippines Incorporated (DPI) – Philippines Consumer**

DPI alleges that the ADC erred in refusing to make any adjustments to normal value, on account of differences in selling, marketing and trade promotion expenses applying to domestic and export sales. It is claimed, if adjustments were made to normal value, on account of one or more of the expense categories, the resulting dumping margin attributed to DPI would be less than zero. It was noted that DPI's data had been accepted by

the ADC's verification team and, further, that similar adjustments had been made in the 2011 continuation enquiry.

The ADC noted that such adjustments were not identified in DPI's response to the Exporter's Questionnaire. Although a claim for the adjustments was made in the course of the exporters verification visit, the justification for the allowances were not particularised i.e. the price impact was not demonstrated. Notwithstanding that such adjustments had been made in the past, the ADC believed justification for such allowances had not been demonstrated in this instance. The ADC noted that it would further address this issue in its submission.

The ADC also undertook to address DPI's claim in relation to increasing export prices over time and the likely recurrence of material injury.

### **Prime Products Industrial Co., Ltd (PPI) – Thailand Consumer**

The appellant alleges the ADC departed from its past practice. The ADC asserts that the prior decisions identified by the appellant were made in the context of new exported determinations. In these cases the investigations were generally focused on information from one source (the applicant exporter), but in the present case, information was available from multiple exporters from multiple countries. The ADC noted that in new exported reviews referred to by PPI the ADC had information available from the applicant exporter relating to both its normal value and export prices. However, in the continuation enquiry PPI had neither domestic sales nor exports to Australia.

The appellant also challenged the appropriateness of comparing export prices from Thailand against domestic prices in the Philippines due to the different climatic conditions (and therefore costs) between those two countries. The ADC undertook to further address these concerns in its submission.

Paul O'Connor  
Anti-Dumping Review Panel Member  
18 December 2016