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NON-CONFIDENTIAL

Mr Con Soumbassis
Anti-Dumping Commission
Melbourne Vic 3000

Submission to Statement of Essential Facts re FSI pineapple

I refer to the ADC Statement of essential facts in relation to Food service and Industrial Pineapple (FSI). Kuiburi (KFC) disputes the SEF in a number of areas.

The major concern of KFC is that it has been found to be dumping FSI pineapple by a margin of 9.2%. The normal value for KFC was based on a constructed basis with a margin of profit attributed to the profit achieved on only two sales models on the domestic market. When KFC disputed the findings to the ADC verification it was advised that:

We have not used all domestic models for the determination of profit. We have only used domestic sales of like goods that were in the ordinary course of trade (OCOT). Model 41000238 was not considered like to the export goods when comparing domestic goods sold to export sales, there were no sales of 4100238 like goods on the export market.

To refute this, KFC point out that the models used in the ADC verification to determine a rate of profit, models 41000188, which is sold on both the domestic and export market to Australia, and model 41000041, which is sold on the domestic market but not exported to Australia. KFC maintains that the model rejected as a like product, model 41000238 which, like model 41000041, is also sold on the domestic market but not exported to Australia, is a like product under the definition of like product. Both models 41000041 and 41000238 consist of pineapple only and, when sold on the domestic market are in the ordinary course of trade. In addition, if both models were exported to Australia, both would be subject to dumping duties and both are classified under the same HS tariff classification. Both models comply within the definition of like goods. It is difficult therefore to accept the reasons for

excluding model 41000238 as its inclusion lowers the constructed profit margin allocated to the constructed normal value attributed to KFC, and a finding of no dumping of FSI pineapples by KFC would result.

A further concern is that the USP was calculated by constructing Australian industry prices based on its CTMS and a profit. The level of profit recommended by the Australian industry is the level of profit to that achieved for consumer pineapple. The level of profit achieved in a separate market should not be used to calculate a USP. From this irregular USP, importers cost data was deducted to calculate the NIP. As the Commission has found the NIP to be higher than the normal value it incorrectly recommends that dumping duties be continued. As the method of arriving at the NIP is flawed, the Commission cannot find it to be higher than normal values ascertained.

As previously noted, the Australian industry supplied evidence of tenders where it claimed lost sales to import prices that were lower than previous contracts and at a price point that it was unable to compete profitably. The average selling price of KFC's sales to Australia increasing approx. 25% in 2015 over 2014. Dumping cannot therefore be the cause.

The Australian industry has higher prices than un-dumped imports from Thailand, which can mainly be attributed to lower labour and raw material costs due to economy of scale. The fact it has to import raw material to produce both FSI and consumer pineapple must also contribute it to greater costs. We suspect that FSI pineapple consists of more imported product due to the consumer market, being the larger of the two markets would require more raw material. The Australian industry cannot supply enough raw material to produce and has not been able to compete with imports for the last 15 years with dumping duties in place.

Pursuant to subsection 269ZHE(2) the Commissioner must be satisfied that the expiration of measures would lead to a continuation of material injury. KFC is of the opinion the Commissioner cannot be so satisfied as it maintains it is not dumping, there are flaws in arriving at an NIP and the injury being claimed cannot be attributed to KFC. The continuation of measures for another 5 years would still be ineffective to the Australian industry's needs and should not be continued.

Yours sincerely'



John McDermott