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NON-CONFIDENTIAL

Mr Con Soumbassis
Anti-Dumping Commission
Melbourne Vic 3000

Dear Mr. Soumbassis,

FSI Pineapple from Thailand – Form of Measures

Whilst we maintain Kuiburi (KFC) is not dumping, and should be found not to be dumping, we note with concern the recommendation in the SEF at section 10 that of the form of measures it proposes is the combination fixed and variable method which consists of:

- an amount equal to the ad valorem interim dumping duty rate; plus
- the amount, if any, by which the actual export price is lower than the ascertained export price.

The guidance for the key considerations for the combination of fixed and variable duty method state that:-

- *This form of duty, like the floor price duty method and fixed duty method, may not suit those situations where there are many models or types of the good with significantly different prices.*
- *It is suited to circumstances where there are complex company structures with related parties; and where circumvention of measures is likely.*
- *It can be applied more precisely to certain goods in some cases.*

- *The 'effective' rate of this duty, when the duty has been imposed as a fixed amount per unit, diminishes in a rising market making it ineffective. The 'effective' rate increases in a declining market making it punitive.*
- *Consequently, reviews may be more likely due to the effects of a rising or falling market than would be the case with an ad valorem duty method.*
- *The punitive effect in a falling market of the fixed form of this duty can have adverse effects on downstream industries. The Minister may need to consider these effects when deciding on the duty method.*
- *The ascertained export price used in this measure can become out-of-date*

The SEF report has recognized that market prices increased significantly in the review period due to the shortfall in supply of raw pineapple. This fact is supported in KFC export prices increasing by up to 25% as a result. With the expected future fall in market prices of raw pineapple, not only will the (flawed) USP for the Australian industry drop significantly, with the use of the combination fixed and variable method on exports from Thailand the landed costs would be significantly higher than the USP of the Australian industry with the amount of dumping duty being higher than what is necessary to prevent injury. While the Australian industry may support the combination method, it should be recognized it also creates a situation that results in significant adverse effects on downstream industries.

We would respectfully request that, in following the Commissions own guidelines above, the form of measures it proposes, if any in the case of KFC, should not be the combination fixed and variable method, but rather the ad valorem method.

Yours sincerely



John McDermott