

**Testimony of Dole Packaged Foods, LLC
In Support of Petition to Add Single Strength Pineapple Juice to GSP Eligibility
ITC Investigation No. 332-500**

Good morning. My name is Regina Vargo, Senior Director for Global Trade and Investment at Greenberg Traurig, and I am here today representing Dole Packaged Foods, LLC. Dole Packaged Foods is pleased to have this opportunity to present its views to the Commission on the probable economic effect on the U.S. industry, and on U.S. consumers, of adding single strength pineapple juice, classified under HTS Subheadings 2009.41.20 and 2009.49.20, to GSP eligibility. For the reasons I will discuss, we believe that the addition of this product to GSP eligibility will have no adverse effect on the U.S. industry, or on U.S. consumers, of this product.

Dole Packaged Foods is a wholly-owned subsidiary of Dole Food Company, Inc. It imports and sells single strength pineapple juice in the United States. Dole Packaged Foods also produces frozen fruit products domestically and imports other packaged food products into the United States.

Pineapple juice is a co-product in the manufacture of other pineapple products. Pineapples are grown, picked, washed and graded by size. Juice is extracted from the pineapple's flesh and is then subjected to centrifugation to the desired level of pulp. This single strength juice is then canned. It is this single strength juice that is the subject of Dole Packaged Food's petition.

From-concentrate pineapple juice undergoes further processing. The juice is passed through a series of plate evaporators for concentration. The concentrate is chilled and filled into containers. Water is added later to turn the concentrate into juice. From-concentrate pineapple juice is not the subject of this petition.

There is a single consumer market for pineapple juice in the United States. It includes both single strength and from-concentrate pineapple juice. This simple fact can be confirmed by a visit to the supermarket or grocery store. Pineapple juice is sold in a three

tier market: (1) national brands (Dole, Del Monte); (2) private labels (e.g., Giant, Safeway); and (3) regional brands (e.g., Langers, Big Tex, Jumec). National brands and private labels, which account for about 80 percent of the market, sell both single-strength and from-concentrate juice. Single strength and from-concentrate pineapple juice are sold on the same shelves at the retail level, with price competition occurring between brands, but not by whether the product is single strength or from-concentrate pineapple juice.

Evidence that single strength and from-concentrate pineapple juice are part of the same market can be found in the pricing of both types of pineapple juice for retail sale. Single strength pineapple juice and from-concentrate pineapple juice sell at similar price points. While any particular retailer may have its own pricing strategy for its pineapple juice products, it is typical to find single strength and from-concentrate pineapple juices selling in the same price range within the same marketing tier. Examples of this are provided in our Prehearing Comments.

Dole Packaged Food's petition focuses on single strength pineapple juice due to the peculiar structure of the U.S. Tariff Schedule, which, for historical reasons, charges a much higher tariff on single strength pineapple juice than on from-concentrate pineapple juice.

Pineapple juice falls into four different tariff provisions under the U.S. Harmonized Tariff Schedule. Single strength pineapple juice is classified under two subheadings, broken out by its Brix (or sweetness) value, and then by its concentration. *Single strength pineapple juice classified under these two provisions is subject to an MFN duty rate of 4.2¢/liter.*

The other two tariff provisions, covering from-concentrate pineapple juice, are **not** the subject of this case. *Both of these provisions are subject to a MFN rate of duty of 1¢/liter, a much lower rate of duty than the 4.2¢/liter imposed on single strength pineapple juice.*

The U.S. tariff structure is an anomaly insofar as it differentiates between single strength and from-concentrate pineapple juice. The Harmonized Tariff System nomenclature for pineapple juice, reflecting the practice of the rest of the world, provides for two tariff subheadings based on Brix value. It seems that only the U.S. HTS breaks out pineapple juice first by Brix value, then by whether the juice is single strength or from-concentrate.

While at one time there may have been a significant domestic industry to protect from imported single strength pineapple juice, as I will discuss later, today there is very little U.S. production and the very high tariff imposed on this product no longer serves a protective purpose. It does, however, distort the market.

Price is definitely a factor in pineapple juice sales. The 4.2¢/liter duty on single strength pineapple juice is equivalent to about a 10 percent *ad valorem* tariff, while the 1¢/liter duty on from-concentrate juice is equivalent to about a 4% *ad valorem* tariff. While tariffs below 5 percent are often regarded as nuisance tariffs, a tariff of 10 percent is considered meaningful. This high duty on single strength pineapple juice serves to shift demand between single-strength and from-concentrate pineapple juice and needlessly discriminates against the U.S. companies and developing countries that produce and market single-strength pineapple juice. **Eliminating this unnecessary cost would also increase price competition in the U.S. market for pineapple juice and thereby benefit U.S. consumers.**

The Philippines are the third largest source of imported single strength pineapple juice under HTS Subheading 2009.41.20. Thailand is the number one source of supply, and Costa Rica is second.

The situation with respect to single strength pineapple juice classified under HTS Subheading 2009.49.20 is quite different. Imports are far larger and there is essentially only one source of supply -- the Philippines.

However, looking at imports under these HTS Subheadings is misleading. A better view of the U.S. import market for pineapple juice, and the role that imported single strength pineapple juice plays in this market, is provided by combining imports of single strength

and from-concentrate pineapple juice (*i.e.*, imports under all four tariff provisions). When combined, single strength pineapple juice accounts for less than 40% of total U.S. imports of pineapple juice. Imports of single strength pineapple juice *from the Philippines* accounted for approximately 35% of U.S. pineapple juice imports in 2007, and less than 30% of total U.S. pineapple juice imports during the first eight months of 2008.

It is also misleading to look at the specific tariff subheadings for single strength pineapple juice to try to determine whether the product from a single country is sufficiently competitive. Competitiveness in this market is best measured by looking at pineapple juice imports under all four tariff provisions. On this basis, the Philippines accounts for only 44% of total U.S. imports of pineapple juice for the first eight months of 2008. It is not, and should not be, deemed sufficiently competitive in this market to be excluded from GSP benefits (in addition to the strong foreign policy arguments that would warrant a CNL waiver regardless.)

Favorable action on the petition filed by Dole Packaged Foods, including the grant of a Competitive Need Waiver, will not have any cognizable adverse affect on the U.S. pineapple juice industry, as there is little production of single strength pineapple juice in the United States today. Maui Pineapple Company, Ltd., of Hawaii, was the last significant U.S. producer of single strength pineapple juice. Recent press reports and SEC filings indicate that Maui Pineapple is voluntarily restructuring its operations, focusing its efforts on the sale of fresh premium pineapples and consequently limiting its production of pineapple juice. The only other U.S. producer of single strength pineapple juice of which Dole Packaged Foods is aware is Campo Fresco, located in Puerto Rico, which produces a very small amount of product, most of which is sold locally.

Maui Pineapple's 2007 10-K filing states that as a result of ceasing substantially all canning and processing of solid-pack pineapple products, the company eliminated 133 positions in its pineapple operations. In July 2008, the company announced that another 240 jobs were being eliminated. The reason given for these layoffs were the weak economy and rising fuel costs.

Maui Pineapple opposed an earlier effort by Dole Packaged Foods to obtain GSP treatment for single strength pineapple juice based on claims that a grant of GSP eligibility would have an adverse effect on its workforce. Since 2004, Maui Pineapple has, on its own volition, closed its cannery and greatly reduced its workforce in its processing operations. Favorable action on this petition will not exacerbate the conditions which led Maui Pineapple to refocus its operations on fresh pineapple and reduce its workforce, nor would the denial of this petition cure these problems. Factors other than imports have caused Maui to effectively exit the juice segment of the pineapple business.

In conclusion, the addition of single strength pineapple juice to GSP eligibility at this time will not adversely affect the very limited production that constitutes the U.S. industry today and should benefit U.S. consumers.

Dole Packaged Foods thanks the Commission for this opportunity to present its views on this subject.

I will be glad to respond to any questions that the Commission may have.