

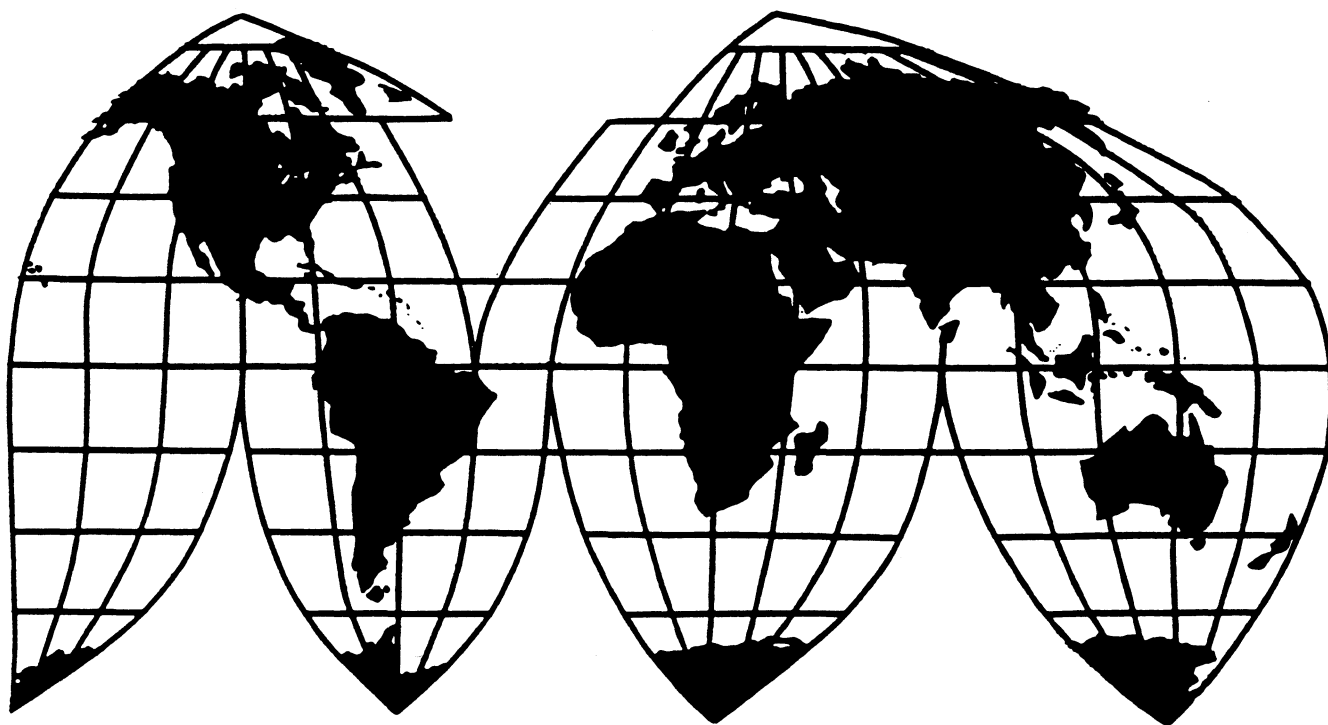
# **Canned Pineapple Fruit From Thailand**

Investigation No. 731-TA-706 (Preliminary)

**Publication 2798**

**July 1994**

**U.S. International Trade Commission**



# **U.S. International Trade Commission**

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---

### *Staff assigned:*

Brad Hudgens, Investigator  
Lee Frankel, Industry Analyst  
Cindy Cohen, Economist  
Marshall Wade, Accountant  
Rachele Valente, Attorney

Robert Carpenter, Supervisory Investigator

**Address all communications to**  
**Secretary to the Commission**  
**United States International Trade Commission**  
**Washington, DC 20436**

# **U.S. International Trade Commission**

Washington, DC 20436

## **Canned Pineapple Fruit From Thailand**



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# C O N T E N T S

|   | <u>Page</u> |
|---|-------------|
| Part I: Determination and views of the Commission . . . . .   | I-1         |
| Determination . . . . .   | I-3         |
| Views of the Commission . . . . .   | I-5         |
| Part II: Information obtained in the investigation . . . . .  | II-1        |
| Introduction . . . . .  | II-3        |
| The product . . . . .   | II-3        |
| Description . . . . .   | II-3        |
| Production process . . . . .  | II-4        |
| Uses . . . . .  | II-4        |
| Substitute products . . . . .   | II-4        |
| U.S. tariff treatment . . . . .   | II-5        |
| The nature and extent of alleged sales at LTFV . . . . .  | II-5        |
| The U.S. market . . . . .   | II-5        |
| Apparent U.S. consumption . . . . .   | II-5        |
| U.S. producers . . . . .  | II-6        |
| Maui . . . . .  | II-6        |
| Dole . . . . .  | II-6        |
| Puerto Rico Land Authority . . . . .  | II-7        |
| U.S. importers . . . . .  | II-7        |
| Channels of distribution . . . . .  | II-7        |
| Consideration of alleged material injury to an industry in the United States . . . . .  | II-9        |
| U.S. capacity, production, and capacity utilization . . . . .   | II-9        |
| U.S. producers' shipments . . . . .   | II-10       |
| U.S. producers' inventories . . . . .   | II-10       |
| Employment, wages, and productivity . . . . .   | II-10       |
| Financial experience of Maui . . . . .  | II-11       |
| Overall establishment operations . . . . .  | II-11       |
| Operations on canned pineapple fruit . . . . .  | II-11       |
| Investment in productive facilities . . . . .   | II-12       |
| Capital expenditures . . . . .  | II-12       |
| Research and development expenses . . . . .   | II-13       |
| Capital and investment . . . . .  | II-13       |
| Consideration of the question of threat of material injury to an industry in<br>the United States . . . . .                       | II-13       |
| U.S. importers' inventories . . . . .   | II-14       |
| U.S. importers' current orders . . . . .  | II-15       |
| Ability of foreign producers to generate exports and the availability of export<br>markets other than the United States . . . . . | II-15       |
| Consideration of the causal relationship between imports of the subject merchandise<br>and the alleged material injury . . . . .  | II-17       |
| U.S. imports . . . . .  | II-17       |
| Market penetration by the subject imports . . . . .   | II-19       |
| Prices . . . . .  | II-19       |
| Marketing practices . . . . .   | II-19       |
| Transportation costs . . . . .  | II-20       |
| Product comparisons . . . . .   | II-20       |

## CONTENTS

|   | <u>Page</u> |
|---|-------------|
| Information obtained in the investigation--Continued  |             |
| Consideration of the causal relationship between imports of the subject merchandise and the alleged material injury--Continued  |             |
| Prices--Continued   |             |
| U.S. producer and importer price data . . . . .   | II-21       |
| Price trends . . . . .  | II-22       |
| Price comparisons . . . . .   | II-22       |
| Lost sales and lost revenues . . . . .  | II-23       |
| Exchange rates . . . . .  | II-23       |
| Appendixes  |             |
| A. <i>Federal Register</i> notices . . . . .  | A-1         |
| B. List of participants in the conference . . . . .   | B-1         |
| C. Summary data . . . . .   | C-1         |
| D. Maui's cost of production and value added as a percent of cost of production . . . . .   | D-1         |
| E. Comments received from U.S. producers on the impact of imports of canned pineapple fruit from Thailand on their growth, investment, ability to raise capital, and/or existing development and production efforts . . . . . | E-1         |
| Figures   |             |
| 1. Products 1 and 2: Weighted-average net f.o.b. prices for sales to retailers reported by U.S. producers and importers, by quarters, Jan. 1991-Mar. 1994 . . . . .   | II-22       |
| 2. Products 3 and 4: Weighted-average net f.o.b. prices for sales to retailers (product 3) and food service customers (product 4) reported by U.S. producers and importers, by quarters, Jan. 1991-Mar. 1994 . . . . .        | II-22       |
| 3. Exchange rates: Indexes of the nominal and real exchange rates of the Thai baht, by quarters, Jan. 1991-Mar. 1994 . . . . .  | II-23       |
| Tables  |             |
| 1. Canned pineapple fruit: U.S. shipments of domestic product, U.S. imports, by sources, and apparent U.S. consumption, 1991-93, Jan.-Mar. 1993, and Jan.-Mar. 1994 . . . . .   | II-6        |
| 2. Canned pineapple fruit: U.S. shipments of U.S. producers and U.S. shipments of U.S. importers of Thai product, by types, 1991-93, Jan.-Mar. 1993, and Jan.-Mar. 1994 . . . . .   | II-8        |
| 3. Canned pineapple fruit: U.S. capacity, production, and capacity utilization, 1991-93, Jan.-Mar. 1993, and Jan.-Mar. 1994 . . . . .   | II-10       |
| 4. Canned pineapple fruit: Shipments by U.S. producers, by types, 1991-93, Jan.-Mar. 1993, and Jan.-Mar. 1994 . . . . .   | II-10       |
| 5. Canned pineapple fruit: End-of-period inventories of U.S. producers, 1991-93, Jan.-Mar. 1993, and Jan.-Mar. 1994 . . . . .   | II-10       |

# CONTENTS

|   | <u>Page</u> |
|---|-------------|
| Tables--Continued   |             |
| 6. Average number of total employees and PRWs in the U.S. establishments wherein canned pineapple fruit is produced, hours worked, wages and total compensation paid to such employees, and hourly wages, productivity, and unit production costs, by products, 1991-93, Jan.-Mar. 1993, and Jan.-Mar. 1994 . . . . . | II-11       |
| 7. Income-and-loss experience of Maui on the overall operations of its establishments wherein canned pineapple fruit is produced, fiscal years 1991-93, Jan.-Mar. 1993, and Jan.-Mar. 1994 . . . . .  | II-11       |
| 8. Income-and-loss experience of Maui on its operations producing canned pineapple fruit, fiscal years 1991-93, Jan.-Mar. 1993, and Jan.-Mar. 1994 . . . . .  | II-12       |
| 9. Income-and-loss experience of Maui on a per-case basis on its operations producing canned pineapple fruit, fiscal years 1991-93, Jan.-Mar. 1993, and Jan.-Mar. 1994 . . . .  | II-12       |
| 10. Value of assets and return on assets by Maui on its operations producing canned pineapple fruit, as of the end of fiscal years 1991-93, Mar. 31, 1993, and Mar. 31, 1994 . . . . .  | II-12       |
| 11. Capital expenditures by Maui on its canned pineapple fruit operations, fiscal years 1991-93, Jan.-Mar. 1993, and Jan.-Mar. 1994 . . . . .   | II-13       |
| 12. Research and development expenses of Maui on its canned pineapple fruit operations, fiscal years 1991-93, Jan.-Mar. 1993, and Jan.-Mar. 1994 . . . . .  | II-13       |
| 13. Canned pineapple fruit from Thailand: End-of-period inventories of U.S. importers, 1991-93, Jan.-Mar. 1993, and Jan.-Mar. 1994 . . . . .  | II-15       |
| 14. Canned pineapple fruit: Thailand's capacity, production, inventories, capacity utilization, and shipments, 1991-93, Jan.-Mar. 1993, Jan.-Mar. 1994, and projected 1994-95 . . . . .   | II-16       |
| 15. Canned pineapple fruit: U.S. imports, by sources, 1991-93, Jan.-Mar. 1993, and Jan.-Mar. 1994 . . . . .   | II-18       |
| 16. Canned pineapple fruit: Apparent U.S. consumption and market shares, 1991-93, Jan.-Mar. 1993, and Jan.-Mar. 1994 . . . . .  | II-19       |
| 17. Product 1: Weighted-average net f.o.b. prices for sales to retailers reported by U.S. producers and importers, and margins of underselling (overselling), by quarters, Jan. 1991-Mar. 1994 . . . . .  | II-21       |
| 18. Product 2: Weighted-average net f.o.b. prices for sales to retailers reported by U.S. producers and importers, and margins of underselling (overselling), by quarters, Jan. 1991-Mar. 1994 . . . . .  | II-22       |
| 19. Product 3: Weighted-average net f.o.b. prices for sales to retailers reported by U.S. producers and importers, and margins of underselling (overselling), by quarters, Jan. 1991-Mar. 1994 . . . . .  | II-22       |
| 20. Product 4: Weighted-average net f.o.b. prices for sales to food service customers reported by U.S. producers and importers, and margins of underselling (overselling), by quarters, Jan. 1991-Mar. 1994 . . . . .   | II-22       |

## CONTENTS

|  | <u>Page</u> |
|--|-------------|
| Tables--Continued  |             |
| C-1. Canned pineapple fruit: Summary data concerning the U.S. market, 1991-93, Jan.-Mar. 1993, and Jan.-Mar. 1994 . . . . .  | C-3         |
| C-2. Canned pineapple fruit: Summary data concerning the U.S. market (with "producer" data for all firms except Dole), 1991-93, Jan.-Mar. 1993, and Jan.-Mar. 1994 . . . . . | C-3         |
| D-1. Cost-of-production experience of Maui on its operations producing canned pineapple fruit, fiscal years 1991-93, Jan.-Mar. 1993, and Jan.-Mar. 1994 . . . . .            | D-3         |

Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report. Such deletions are indicated by asterisks.



**PART I**  
**DETERMINATION AND VIEWS OF THE COMMISSION**



# UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-706 (Preliminary)

## CANNED PINEAPPLE FRUIT FROM THAILAND

### Determination

On the basis of the record<sup>1</sup> developed in the subject investigation, the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Thailand of canned pineapple fruit,<sup>2</sup> provided for in subheading 2008.20.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

### Background

On June 8, 1994, a petition was filed with the Commission and the Department of Commerce by Maui Pineapple Company, Ltd., Kahului, HI, and the International Longshoremen's and Warehousemen's Union, alleging that an industry in the United States is materially injured by reason of LTFV imports of canned pineapple fruit from Thailand. Accordingly, effective June 8, 1994, the Commission instituted antidumping investigation No. 731-TA-706 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of June 16, 1994 (59 F.R. 30951). The conference was held in Washington, DC, on June 29, 1994, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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<sup>1</sup> The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

<sup>2</sup> For purposes of this investigation, canned pineapple fruit is defined as pineapple prepared into various product forms, including rings, pieces, chunks, tidbits, and crushed pineapple, that is packed and cooked in metal cans with either pineapple juice or sugar (heavy) syrup added.



## IEWS OF THE COMMISSION

Based on the record in this preliminary investigation, we determine that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of canned pineapple fruit from Thailand that are allegedly sold in the United States at less than fair value ("LTFV").<sup>1</sup>

### I. THE LEGAL STANDARD FOR PRELIMINARY DETERMINATIONS

The legal standard in preliminary antidumping duty investigations requires the Commission to determine, based upon the best information available at the time of the preliminary determination, whether there is a reasonable indication that a domestic industry is materially injured or threatened with material injury by reason of the allegedly LTFV imports.<sup>2</sup> In applying this standard, the Commission weighs the evidence before it and determines whether "(1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of material injury; and (2) no likelihood exists that any contrary evidence will arise in a final investigation."<sup>3</sup>

### II. LIKE PRODUCT

#### A. In General

In determining whether there is a reasonable indication that an industry in the United States is materially injured by reason of the subject imports, the Commission must first define the "like product" and the "industry." Section 771(4)(A) of the Tariff Act of 1930 (the "Act") defines the relevant industry as the "domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product."<sup>4</sup> In turn, the Act defines "like product" as a "product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation."<sup>5</sup>

The Commission's decision regarding the appropriate like product(s) in an investigation is essentially a factual determination, and the Commission applies the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis.<sup>6</sup> No single factor is dispositive, and the Commission may consider other factors it deems relevant

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<sup>1</sup> Whether there is a reasonable indication that the establishment of an industry in the United States is materially retarded is not an issue in this investigation.

<sup>2</sup> 19 U.S.C. § 1673b(a); see also American Lamb Co. v. United States, 785 F.2d 994 (Fed. Cir. 1986); Calabrian Corp. v. United States Int'l Trade Comm'n, 794 F. Supp. 377, 381 (Ct. Int'l Trade 1992).

<sup>3</sup> American Lamb, 785 F.2d at 1001; see also Torrington Co. v. United States, 790 F. Supp. 1161, 1165 (Ct. Int'l Trade 1992), aff'd without opinion, 991 F.2d 809 (Fed. Cir. 1993).

<sup>4</sup> 19 U.S.C. § 1677(4)(A).

<sup>5</sup> 19 U.S.C. § 1677(10).

<sup>6</sup> See Torrington Co. v. United States, 747 F. Supp. 744, 749 n.3 (Ct. Int'l Trade 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991) ("[E]very like product determination 'must be made on the particular record at issue' and the 'unique facts of each case.'"). In analyzing like product issues, the Commission generally considers six factors, including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions; (5) common manufacturing facilities and production employees; and (6) where appropriate, price. Calabrian, 794 F. Supp. at 382 n.4. Alternatively, when appropriate, the Commission may engage in a finished/semi-finished product analysis to determine whether products at different stages of production are like products, as discussed further below.

based upon the facts of a particular investigation. Generally, the Commission requires "clear dividing lines among possible like products" and disregards minor variations.<sup>7</sup>

## B. The Like Product

The Department of Commerce defined the scope of this investigation as follows:

pineapple, processed and/or prepared into various product forms, including rings, pieces, chunks, tidbits and crushed pineapple, that is packed and cooked in metal cans with either pineapple juice or sugar syrup added.<sup>8</sup>

Canned pineapple fruit is the shelf-stable food prepared from mature, fresh pineapple from which the peel and core have been removed.<sup>9</sup> Canned pineapple is sold in several product forms, *e.g.*, slices (rings), spears, chunks, tidbits and crushed. When sold in the United States, canned pineapple is USDA-graded as fancy, choice, standard or substandard.<sup>10</sup>

Using the Commission's traditional, six-factor like product analysis,<sup>11</sup> we have considered whether fresh, whole pineapple and/or fresh pineapple that has been cored, peeled, packed in plastic bags and chilled ("fresh, chilled pineapple") is or are like the imported canned pineapple subject to investigation.<sup>12</sup> While the Commission must accept Commerce's determination as to which imported merchandise is within the class or kind of merchandise allegedly sold at less than fair value, the Commission determines which domestic product is like the imported articles identified by Commerce.<sup>13</sup>

Canned pineapple fruit, fresh, whole pineapple and fresh, chilled pineapple are all consumable foodstuffs of similar color, taste, aroma and texture, although these traits may be somewhat diminished in canned pineapple.<sup>14</sup> All share a variety of similar end-uses; however, specific physical characteristics may limit their interchangeability among

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<sup>7</sup> Torrington, 747 F. Supp. at 748-49.

<sup>8</sup> 59 Fed. Reg. 34408, 34409 (July 5, 1994). HTS 2008.20.0010 covers canned pineapple fruit packed in beet or cane sugar-based (heavy) syrup; HTS 2008.20.0090 covers canned pineapple fruit packed without added sugar (*i.e.*, juice-packed). *Id.*; Public Report ("PR") at II-3, 5; Confidential Report to the Commission ("CR") at I-3, I-8 nn. 11 and 12.

<sup>9</sup> PR at II-3; CR at I-4.

<sup>10</sup> PR at II-3; CR at I-4. There is no information which indicates that any substandard canned pineapple is sold in the United States. Compare PR at II-20; CR at I-48.

<sup>11</sup> Commissioner Rohr does not join his colleagues in applying the traditional six factor, horizontal like product analysis. Rather, he finds that the vertical relationships between whole pineapple, fresh, chilled pineapple and canned pineapple necessitates the application of the semi-finished product analysis set forth in note 37, below.

<sup>12</sup> The petitioning entities are Maui Pineapple Company, Ltd., Kahuli, HI ("Maui"), a producer of canned pineapple fruit, and the International Longshoremen's and Warehousemen's Union, Wailuku, HI. Maui contends that canned pineapple fruit, of all grades, product forms, container sizes, whether packed in pineapple juice or sugar syrup, is the appropriate like product. Petition at 13-14. No information or argument has been presented that suggests that the Commission should find separate like products of canned pineapple fruit based on product forms, container sizes, or packing liquid. All product forms of canned pineapple fruit are physically similar in terms of taste, color, aroma, use and shelf-life; share identical channels of distribution and manufacturing facilities and employees; and are sold at approximately the same price. Petition at 13-17; Transcript of the Public Conference (June 29, 1994) ("Transcript") at 39-41.

<sup>13</sup> See, e.g., Algoma Steel Corp. v. United States, 688 F. Supp. 639 (Ct. Int'l Trade 1988) ("ITC does not look behind ITA's determination, but accepts ITA's determination as to which merchandise is in the class of merchandise sold at LTFV."), aff'd, 865 F.2d 240 (Fed. Cir. 1989); Torrington v. United States, 747 F. Supp. 744 (Ct. Int'l Trade 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991).

<sup>14</sup> See Transcript at 71-73 ("[T]he characteristics and uses of fresh pineapple versus canned pineapple may be similar just after the fresh pineapple is picked."); Petitioner's Postconference Brief at 6 (Fresh pineapple is "roughly interchangeable" with canned pineapple fruit.); Transcript at 42 ("The nearest companion to canned pineapple fruit is fresh pineapple.").

consumers.<sup>15</sup> Canned pineapple fruit is ready to eat, whereas fresh, chilled pineapple needs minor preparation (i.e., slicing), and fresh, whole pineapple requires considerable preparation by the consumer before consumption.<sup>16</sup> Individual consumers for whom convenience is a concern would likely choose canned pineapple over fresh, whole or fresh, chilled pineapple.<sup>17</sup> Fresh, whole pineapple and fresh, chilled pineapple contain the enzyme bromelin, which prevents their use in prepared gelatin and dairy products.<sup>18</sup> Also, industrial consumers who use pineapple as an ingredient in other products (e.g., canned fruit cocktail, baked goods) purchase the canned product, rather than either fresh, whole or fresh, chilled pineapple.<sup>19</sup>

Another important physical difference among canned pineapple, fresh, whole pineapple and fresh, chilled pineapple is perishability. While canned pineapple has a shelf-life of three to four years, fresh, chilled pineapple requires refrigeration and has a shelf-life of only three to four weeks; fresh, whole pineapple is edible for only about a week.<sup>20</sup> Thus, purchasers such as grocery stores, distributors, and industrial consumers, who desire to stock and store shelf-stable products for extended lengths of time, purchase canned pineapple, rather than either fresh product.<sup>21</sup> Maui, which produces all three types of pineapple, contends that such differences in physical characteristics distinguish canned pineapple from fresh, chilled pineapple and fresh, whole pineapple; consequently, Maui markets each kind somewhat differently.<sup>22</sup>

Canned pineapple fruit, fresh, whole pineapple and fresh, chilled pineapple are all sold through retail grocery channels.<sup>23</sup> However, canned pineapple fruit is sold in the dry goods sections of grocery stores, while fresh, whole and fresh, chilled pineapple are sold in the produce section.<sup>24</sup> All three types of pineapple are sold through food service channels (e.g., restaurants), though Maui sells fresh, chilled pineapple through food service channels only in Hawaii.<sup>25</sup> Canned pineapple is also sold through institutional channels.<sup>26</sup>

For Maui's operations, all pineapples, whether destined for sale as fresh, whole pineapple, fresh, chilled pineapple, or canned pineapple, are picked by hand.<sup>27</sup> Harvesting techniques differ somewhat, depending on intended use. Pineapples destined for sale as fresh, whole pineapple are harvested first, conveyed by booms attached to a truck, into individual packing trays to prevent bruising, taken to a packing shed and packed in fiber boxes.<sup>28</sup> Pineapple destined for sale as fresh, chilled pineapple or canned pineapple is conveyed by hand to similar, though much larger, booms into the back of the truck along with the crowns, which are separated.<sup>29</sup>

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<sup>15</sup> See PR at II-4; CR at I-7. We note that there is little evidence on the record of this preliminary investigation concerning consumer (e.g., institutional, industrial end-user or individual end-user) perceptions. The Commission intends to seek such information in any final investigation.

<sup>16</sup> Transcript at 42; PR at II-4; CR at I-7; Petitioner's Postconference Brief at 6.

<sup>17</sup> Petitioner's Postconference Brief at 7.

<sup>18</sup> PR at II-4; CR at I-7; Transcript at 17-18, 73; Petitioner's Postconference Brief at 6.

<sup>19</sup> PR at II-9; CR at 20-21; Transcript at 16-17; Petitioner's Postconference Brief at 5, 7.

<sup>20</sup> PR at II-4; CR at I-6; Petitioner's Postconference Brief at 5; Transcript at 16. Petitioner's testimony about whether the shelf-life of fresh, chilled pineapple is shorter or longer than fresh is somewhat contradictory. Compare Transcript at 74-75 ("[L]ight deteriorates [fresh chilled pineapple] faster than it would if it was in a can or it was still in the shell.")

<sup>21</sup> Transcript at 16-17; Petitioner's Postconference Brief at 5, 7.

<sup>22</sup> Transcript at 74; Petitioner's Postconference Brief at 7.

<sup>23</sup> Transcript at 74; PR at II-7; CR at I-14; Petitioner's Postconference Brief at 7.

<sup>24</sup> Transcript at 79. Compare Fresh Garlic from China, Inv. No. 731-TA-683 (Preliminary), USITC Pub. 2755 (March 1994), at I-5-10,

<sup>25</sup> Transcript at 75.

<sup>26</sup> Transcript at 26-27.

<sup>27</sup> Transcript at 14, 77; the record does not reflect harvesting techniques for other domestic pineapple growers. Maui is a vertically integrated producer, "from planting pineapple, all the way through canning, labelling and warehousing." Transcript at 20, 96.

<sup>28</sup> PR at II-4; CR at I-6; Transcript at 76-77.

<sup>29</sup> Transcript at 77.

Fresh, whole pineapple is not sent through the cannery for any further processing.<sup>30</sup> For Maui's operations, pineapple destined for sale either as fresh, chilled pineapple or canned pineapple is sent to the cannery, where it is cored and peeled.<sup>31</sup> Canned pineapple, however, is sliced, placed in cans and heat-treated, whereas fresh, chilled pineapple is simply placed in cellophane bags.<sup>32</sup> The same manufacturing equipment and employees process fresh, chilled pineapple and canned pineapple fruit.<sup>33</sup>

Finally, a single retail price comparison suggests that the retail price for canned pineapple is substantially less than for fresh, chilled pineapple; however, based on Petitioner's estimates regarding the edible yield of an average five-pound pineapple, per pound prices for canned pineapple fruit are somewhat comparable to those for fresh, whole pineapple.<sup>34</sup> In addition, the record indicates significant farm price differentials per ton between fresh, whole pineapple and processed pineapple (which includes fresh, chilled pineapple, canned pineapple and juice).<sup>35</sup>

For the purposes of this preliminary investigation, we find that there are significant differences in interchangeability (due to differences in physical characteristics), channels of distribution, and producer perceptions, among canned pineapple fruit and fresh, whole pineapple and fresh, chilled pineapple, and determine that the like product is canned pineapple fruit.<sup>36 37</sup>

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<sup>30</sup> Petitioner's Postconference Brief at 8.

<sup>31</sup> Transcript at 78.

<sup>32</sup> PR at II-4; CR at I-6; Transcript at 75.

<sup>33</sup> Transcript at 78.

<sup>34</sup> Petitioner's Postconference Brief, Appendix A at 1. The record does not reflect prices for sales to industrial consumers or to grocery stores. We intend to seek comprehensive comparative pricing data in any final investigation.

<sup>35</sup> See Petition at Appendix 1.

<sup>36</sup> Commissioner Crawford determines that the like product includes canned pineapple, fresh, whole pineapple and fresh, chilled pineapple. On balance, she finds that all three forms of pineapple share the same essential physical characteristics and have significantly overlapping end-uses; are interchangeable in almost all applications; are sold through retail grocery channels; are grown on the same plants, in the same fields, cultivated in the same way, and harvested by substantially the same workers. See discussion above. In addition, the same manufacturing equipment and employees process fresh, chilled pineapple and canned pineapple fruit. Transcript at 75-77.

Commissioner Crawford did not use a finished/semi-finished analysis in this preliminary investigation. She notes that under that analytic framework, fresh, whole pineapple could be considered the semi-finished input for canned pineapple, the finished product. She concurs with note 37, below, requesting the parties to provide information in any final investigation recommending which analysis the Commission should use in this and similar cases: the Commission's traditional six-factor like product analysis or its finished/semi-finished analysis. Also, each party should discuss why the Commission should choose the analysis recommended by that party, instead of the other framework. Finally, each party should state what result the Commission should reach under the recommended framework. In particular, she requests that the parties analyze why the Commission should choose one analytic framework over the other.

<sup>37</sup> The Commission may, where appropriate, consider the like product using a vertical, finished/semi-finished product analysis because the production process for fresh, whole pineapple, fresh, chilled pineapple and canned pineapple may be viewed as a continuum with fresh, whole pineapple at the "unprocessed" stage and canned pineapple at the "most processed" stage. See Silicon Carbide from the People's Republic of China, Inv. No. 731-TA-651 (Final), USITC Pub. No. 2779 (June 1994) at I-7-9; Stainless Steel Bar from Brazil, India, Italy, Japan, and Spain, Invs. Nos. 731-TA-678-682 (Preliminary), USITC Pub. 2734 (February 1994) at I-7-13; Aramid Fiber Formed of Poly Para-Phenylene Terephthalamide from the Netherlands, Inv. No. 731-TA-652 (Preliminary), USITC Pub. 2673 (August 1993) at 8 n.13. Under this analysis, we examine (1) whether the upstream article is dedicated to the production of the downstream article or has independent uses; (2) whether there are perceived to be separate markets for the upstream and downstream articles; (3) differences in the physical characteristics and functions of the upstream and downstream articles; (4) differences in costs or value of the vertically-differentiated articles; and (5) significance and extent of

(continued...)



C. Domestic Industry

1. As derived from the like product definition<sup>38</sup>

Based upon the definition of the like product, the domestic industry consists of all domestic producers of canned pineapple fruit.<sup>39</sup> During the period of investigation, there were three domestic producers of canned pineapple fruit, namely, petitioner Maui, Dole Packaged Foods Company ("Dole") and the Puerto Rico Land Authority.<sup>40</sup>

2. Inclusion of Growers/Processors

In investigations involving processed agricultural products, the Commission may include growers of a raw agricultural product within the domestic industry producing the processed agricultural product if (1) the processed agricultural product is produced from the raw agricultural product through a single continuous line of production; and (2) there is a substantial coincidence of economic interest between the producers or growers of the raw agricultural product and the processors of the processed agricultural product based upon

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<sup>37</sup> (...continued)

the processes used to transform the upstream into the downstream articles.

Under this analysis, we would also determine in this preliminary investigation that the like product is canned pineapple fruit. Both fresh, whole pineapple and fresh, chilled pineapple are sold independently. Whole pineapple is also used to make substantial quantities of juice and juice concentrate. Letters from Petitioner to Investigator dated July 11, 1994 and to Staff Attorney dated July 12, 1994. Fresh, whole pineapple and fresh, chilled pineapple are marketed differently than canned, and are sold in different sections of grocery stores. Transcript at 74. Canned pineapple is sold through institutional channels; fresh pineapple, for the most part, is not. Transcript at 26-27; Petitioner's Postconference Brief at 7.

Differences in physical characteristics and function include convenience (due to the degree of further preparation required by the end-user), perishability and enzyme content (which limits use of the fresh product in prepared gelatin and dairy products). The limited information in the record of this preliminary investigation indicates that processing accounts for a substantial proportion of value added of canned pineapple fruit and that there are price differences among the three types of pineapple, as well as significant farm price differentials per ton between fresh, whole pineapple and processed pineapple (which includes fresh, chilled, pineapple, canned pineapple and juice). See Petition at Appendix 1. Finally, fresh, whole pineapple requires no processing following harvest, while both fresh, chilled and canned pineapple undergo additional processing.

We will seek additional data pertaining to the vertical analysis in any final investigation and may consider whether to include fresh, whole pineapple and/or fresh, chilled pineapple in the like product. We invite the parties to address whether the finished/semi-finished paradigm is more appropriate to analyze the like product issue in this investigation.

<sup>38</sup> Based on her like product determination, Commissioner Crawford determines that the domestic industry constitutes producers of canned pineapple, fresh, whole pineapple and fresh, chilled pineapple.

<sup>39</sup> If the Commission should determine in any final investigation that the like product also includes fresh, whole pineapple and/or fresh, chilled pineapple, the domestic industry definition would include all domestic growers of pineapple and/or producers of fresh, chilled pineapple, as well as producers of canned pineapple fruit. Such growers and/or producers would appear to include approximately 20 farms in Hawaii that grow pineapple, as well as entities, including Dole and Del Monte, that maintain domestic fresh fruit operations. Five of these farms account for 99 percent of domestic pineapple production. Transcript at 81; Telephone conversation between Hawaii Agricultural Statistics Service with Commission staff. In addition, pineapple is grown in Puerto Rico. PR at II-7; CR at I-13. We intend to seek additional information on pineapple growing and processing operations in the United States in any final investigation.

<sup>40</sup> Dole ceased production of canned pineapple fruit in 1991. The Puerto Rico Land Authority accounts for a very small portion of domestic production of canned pineapple fruit. PR at II-6, 7; CR at I-12-13.

relevant economic factors.<sup>41</sup> The processed product shall be considered to be processed from a raw product through a single continuous line of production if: (1) the raw agricultural product is substantially or completely devoted to the production of the processed agricultural product; and (2) the processed agricultural product is produced substantially or completely from the raw product.<sup>42</sup>

The information available in this preliminary investigation suggests that canned pineapple fruit is not produced from whole pineapple through a single continuous line of production.<sup>43</sup> However, we will re-examine this question in any final investigation.<sup>44</sup>

### III. RELATED PARTIES

#### A. Statutory Framework

The related parties provision<sup>45</sup> allows for the exclusion of certain domestic producers from the domestic industry for the purposes of an injury determination. Applying the provision involves two steps.<sup>46</sup> First, the Commission must determine whether a domestic producer meets the definition of a related party. The statute defines a related party as a domestic producer that is either related to exporters or importers of the product under investigation, or is itself an importer of that product. If a company is "related" under section 771(4)(B), the Commission then determines whether "appropriate circumstances" exist for excluding the company in question from the domestic industry.<sup>47</sup>

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<sup>41</sup> 19 U.S.C. § 1677(4)(E)(i).

<sup>42</sup> 19 U.S.C. § 1677(4)(E)(ii).

<sup>43</sup> According to information from the Hawaiian Agricultural Statistics Service, in 1993, approximately 63 percent of all pineapple grown in Hawaii was processed in some manner, while 37 percent was sold in the fresh, whole pineapple market. In 1992, approximately 76 percent of all pineapple was processed in some manner, while 24 percent was sold in the fresh, whole pineapple market. In 1991, approximately 77 percent of all pineapple was processed in some manner, while 23 percent was sold in the fresh, whole pineapple market. Petition at Appendix 1. (Petitioner reports production of fresh, chilled pineapple to the Hawaiian Agricultural Statistics Service as "processed," and contends that fresh, chilled pineapple is included with "processed" pineapple in the cited chart. See Petitioner's Postconference Brief, Appendix A at 1.) Also, according to the Petitioner, pineapple juice and juice concentrate accounted for a substantial portion of fresh pineapple production in 1993. See Letters from Petitioner to Investigator dated July 11, 1994 and to Staff Attorney dated July 12, 1994.

<sup>44</sup> The House and Senate Committee Reports to the 1988 Trade Act confirm that Congress did not expect the test to be met if the raw product is devoted to production of several different processed products. H.R. Rep. 40, Part I, 100th Cong., 1st Sess. 121 (1987); S. Rep. 71, 100th Cong., 1st Sess. 109 (1987); see Tart Cherry Juice and Juice Concentrate from Germany and Yugoslavia, Invs. Nos. 731-TA-512 and 513 (Preliminary), USITC Pub. 2378 (May 1991).

<sup>45</sup> 19 U.S.C. § 1677(4)(B).

<sup>46</sup> See, e.g., Stainless Steel Flanges from India and Taiwan, Inv. Nos. 731-TA-639 and 640 (Final), USITC Pub. 2724 at I-9-10 (February 1994).

<sup>47</sup> 19 U.S.C. § 1677(4)(B). The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude a related party include:

- (1) the percentage of domestic production attributable to the importing producer;
  - (2) the reason the U.S. producer has decided to import the product subject to investigation, i.e., whether the firm benefits from the LTFV sales or subsidies or whether the firm must import in order to enable it to continue production and compete in the U.S. market; and
  - (3) the position of the related producer vis-a-vis the rest of the industry, i.e., whether inclusion or exclusion of the related party will skew the data for the
- (continued...)

Exclusion of a related party is within the Commission's discretion based upon the facts presented in each case.<sup>48</sup> The rationale for the related parties provision is that domestic producers who are related parties may be in a position that shields them from any injury caused by subject imports.<sup>49</sup> Thus, including these parties within the domestic industry would distort the analysis of the condition of the domestic industry.<sup>50</sup>

B. Whether Dole Should be Excluded as a Related Party

During the period of investigation, Dole was a domestic producer who imported subject merchandise, and therefore is a "related party" under the statute.<sup>51</sup> However, appropriate circumstances do not appear to exist to exclude Dole from the domestic industry.<sup>52</sup> Dole was a significant producer of canned pineapple fruit during 1991; however, it ceased domestic production that year, while it continued to import canned pineapple from Thailand and elsewhere.<sup>53</sup>

Second, Dole did not provide the Commission with any financial or employment information for 1991, its last year of domestic production; it is difficult, therefore, to compare its condition to that of the rest of the industry.<sup>54</sup> The lack of such data, however, also prevents any distortion of the industry data that the Commission did obtain from Maui for 1991. It is unclear whether Dole's interests were predominantly those of a domestic producer or an importer in 1991; the lack of financial and other data for Dole prevents us

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<sup>47</sup> (...continued)  
rest of the industry.

See, e.g., Torrington Co. v. United States, 790 F. Supp. 1161 (Ct. Int'l Trade 1992), aff'd without opinion, 991 F.2d 809 (Fed. Cir. 1993). The Commission has also considered whether each company's books are kept separately from its "relations" and whether the primary interests of the related producers lie in the domestic production or in the importation. See, e.g., Garlic from the People's Republic of China, Inv. No. 731-TA-683 (Preliminary), USITC Pub. 2755 (March 1994).

<sup>48</sup> See Torrington, 790 F. Supp. at 1168; Sandvik AB v. United States, 721 F. Supp. 1322, 1331-32 (Ct. Int'l Trade 1989); Empire Plow Co. v. United States, 675 F. Supp. 1348, 1352 (Ct. Int'l Trade 1987).

<sup>49</sup> See Torrington, 790 F. Supp. at 1168; Empire Plow, 675 F. Supp. at 1353-54 (analysis of "[b]enefits accrued from the relationship" as major factor in deciding whether to exclude related party held "reasonable approach in light of the legislative history"); S. Rep. No. 249, 96th Cong. 1st Sess. at 83 (1979) ("[W]here a U.S. producer is related to a foreign exporter and the foreign exporter directs his exports to the United States so as not to compete with his related U.S. producer, this should be a case where the ITC would not consider the related U.S. producer to be a part of the domestic industry.").

<sup>50</sup> See, e.g., Sandvik, 721 F. Supp. at 1331-32 (related party appeared to benefit from dumped imports).

<sup>51</sup> See PR at II-7, 9; CR at I-13, 21. It is consistent with Commission practice to include Dole in the domestic industry, even though it ceased domestic production, unless the application of the related parties test results in exclusion. Sandvik, 721 F. Supp. at 1329-30.

<sup>52</sup> For purposes of this preliminary investigation, Commissioner Newquist concurs in this finding. He is concerned, however, that inclusion of Dole's data may skew the apparent condition of the domestic industry between 1991 and 1992. Commissioner Newquist will re-examine this issue in any final investigation.

<sup>53</sup> Maui contends that Dole indicated that Dole ceased domestic production because it could produce canned pineapple for less overseas. Transcript at 93.

<sup>54</sup> We note that we did not receive financial or employment information from Dole Packaged Foods Company for 1991, during which time it was a domestic producer of canned pineapple fruit, or import pricing data in the format requested. All parties should now be fully aware of the Commission's requirements. All questionnaire recipients are required to complete fully all portions of questionnaires in any final investigation.

from determining whether Dole's imports of allegedly LTFV canned pineapple fruit shielded its domestic operations from import competition in 1991.<sup>55</sup>

Given the limited information available, and that Dole's industry data would affect only 1991, we determine that appropriate circumstances do not exist to exclude Dole from the domestic industry in this preliminary investigation.<sup>56</sup> In any final investigation, we invite the parties to comment on whether Dole should be excluded from the domestic industry.<sup>57</sup>

### III. CONDITION OF THE DOMESTIC INDUSTRY

In assessing whether there is a reasonable indication that the domestic industry is materially injured by reason of allegedly LTFV imports, the Commission considers all relevant economic factors that bear on the state of the industry in the United States.<sup>58</sup> These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development.<sup>59</sup> No single factor is dispositive and all relevant factors are considered "within the business cycle and conditions of competition distinctive to the industry."<sup>60</sup>

Dole produced a full line of canned pineapple fruit in the United States until 1991, when it exited the domestic canned pineapple fruit industry.<sup>61</sup> Dole, which still maintains domestic fresh fruit operations, now supplies the U.S. market with canned pineapple from its operations in Thailand and the Philippines. Dole, which had existing canned pineapple fruit operations in Thailand prior to 1991, opened its second production facility in Thailand in the beginning of 1993.<sup>62</sup> Dole's exit left Maui as the only significant domestic producer of canned pineapple fruit for the majority of the period of investigation.<sup>63</sup> Thus, in our analysis of the condition of the industry, we are cognizant that many of the declines seen in 1992 in domestic production, shipments and capacity are associated with Dole's departure.

Another condition of competition is the three-tiered market structure. The first tier is composed of national brands, i.e., Dole and Del Monte.<sup>64</sup> The second tier is composed of private labels, which are typically the store brands of grocery retailers.<sup>65</sup> This tier is

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<sup>55</sup> In any final investigation, Chairman Watson and Commissioner Bragg intend to seek information that will enable them to examine whether Dole's interests in 1991 were predominantly those of a domestic producer or an importer.

<sup>56</sup> In any final investigation, Commissioner Crawford intends to seek information that will enable her to examine whether Dole's interests are primarily those of a domestic producer or an importer. If she were looking only at a domestic industry producing canned pineapple, Commissioner Crawford would exclude Dole because its primary interest is in importing, not producing, canned pineapple. However, her definition of the domestic industry includes producers of fresh, whole pineapple and fresh, chilled pineapple. Because the information concerning such producers, and the extent of Dole's production in particular, is limited, there is little basis to determine whether appropriate circumstances exist to exclude Dole from the domestic industry. Therefore, for purposes of this preliminary investigation, she does not exclude Dole from the domestic industry.

<sup>57</sup> Chairman Watson and Commissioner Crawford note, however, that the three-year period of any final investigation may not go back as far as 1991, the only year in which Dole was a domestic producer in this preliminary investigation.

<sup>58</sup> 19 U.S.C. § 1677(7)(C)(iii).

<sup>59</sup> *Id.*

<sup>60</sup> *Id.* No party suggested the existence of a business cycle unique to this industry; however, Maui noted that there are periodic peaks in demand at Thanksgiving, Christmas and Easter. See Transcript at 86.

<sup>61</sup> PR at II-6; CR at I-12.

<sup>62</sup> PR at II-6; CR at I-12.

<sup>63</sup> The Puerto Rico Land Authority, of San Truce, PR also produces canned pineapple fruit, but it accounts for an extremely small percentage of U.S. production. PR at II-7; CR at I-13.

<sup>64</sup> PR at II-7; CR at I-14.

<sup>65</sup> PR at II-7; CR at I-17.

subdivided into private first and second labels.<sup>66</sup> The third tier is composed of regional brands.<sup>67</sup> As discussed in Section III, below, information now available suggests that this tier structure affects the pricing and marketing of, and competition among, domestic products, subject imports and non-subject imports.<sup>68</sup> This three-tiered market structure exists in all three channels of distribution, namely retail, food service and industrial sales.<sup>69 70</sup>

We note two additional conditions of competition, namely, a world-wide oversupply of pineapple during the period of investigation<sup>71</sup> and periodic peaks in demand for canned pineapple fruit.<sup>72</sup>

Apparent U.S. consumption of canned pineapple fruit, by volume, increased from 1991 to 1992, and again, though to a lesser extent, in 1993.<sup>73 74</sup> Apparent U.S. consumption, by volume, was greater in interim (January - March) 1994 as compared with interim 1993.<sup>75</sup> By value, apparent U.S. consumption increased from 1991 to 1992, but declined in 1993 to a level below that of 1991.<sup>76</sup> Apparent U.S. consumption, by value, was smaller in interim 1994 as compared with interim 1993.<sup>77</sup>

Domestic production of canned pineapple fruit decreased sharply by volume from 1991 to 1992 (reflecting Dole's exit from the domestic industry), and continued to decline in 1993.<sup>78</sup> By contrast, domestic production was greater in interim 1994 as compared with interim 1993.<sup>79</sup> Average-of-period capacity declined during 1991 to 1992, again, reflecting Dole's exit. Capacity remained constant from 1992 to 1993, as well as in interim 1994 as

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<sup>66</sup> PR at II-19; CR at I-45. According to Maui, "[t]he purpose of the first private label is three-fold. It should offer a value alternative to the national brand. It should provide the retailer with greater profit margins. And it should offer a quality equal to or better than the national brand. . . . The second private label or generic label is considered the 'price warrior' in this arena. This category within private label is always priced below first private label and exists purely on price." Transcript at 29, 30.

<sup>67</sup> PR at II-7; CR at I-17.

<sup>68</sup> PR at II-7-9; CR at I-14-21.

<sup>69</sup> PR at II-8; CR at I-15, Table 2.

<sup>70</sup> Maui argues this marketing structure imposes strict pricing limitations on products in each tier relative to the other tiers. See Transcript at 28-31. Respondents argue that Maui's position as the only domestic producer of Hawaiian pineapple provides it with a competitive advantage and that Maui is shielded from import competition because the vast majority of private label purchasers will only buy Hawaiian pineapple for their first private label. Respondents contend that Thai pineapple is not substitutable in this tier of the market. Postconference Briefs of Respondent AFI Pineapple Group at 15 and Thai Food Processors Association at 11 and 18. Maui is the largest supplier in this tier. PR at II-7; CR at I-17.

In any final investigation, we intend to seek more information from purchasers on actual and perceived quality differences among national, private label and regional brands, and domestic product, subject imports and non-subject imports, and on overall competition among these items. We invite the parties to supply information obtained from independent marketing surveys.

<sup>71</sup> See Petition at 32 and at Appendix 6.

<sup>72</sup> Transcript at 86.

<sup>73</sup> Because the domestic industry data cover only one or, for some data, only two producers, the condition of the industry must be discussed in general terms to avoid disclosing business proprietary information.

<sup>74</sup> PR at II-5; CR at I-9, Table 1.

<sup>75</sup> PR at II-5; CR at I-9, Table 1.

<sup>76</sup> PR at II-5; CR at I-9, Table 1.

<sup>77</sup> PR at II-5; CR at I-9, Table 1.

<sup>78</sup> PR at II-10; CR at I-22, Table 3. Maui reported, however, that its production of canned pineapple fruit increased from 1991 to 1992 largely because of favorable climatic conditions on the island and an excellent pineapple harvest. Transcript at 45. By contrast, Maui reduced production in 1993, leaving roughly 20,000 tons of pineapple unharvested because the prices for canned pineapple fruit did not justify the incremental costs of harvesting, processing, and carrying the product in inventory. Transcript at 48; PR at II-10; CR at I-22, Table 3.

<sup>79</sup> PR at II-10; CR at I-22, Table 3.

compared with interim 1993. Capacity utilization declined in 1992, and again, more sharply, in 1993. Capacity utilization was greater in interim 1994 as compared with interim 1993.<sup>80</sup>

U.S. shipments of canned pineapple fruit decreased sharply by volume and value from 1991 to 1992 (apparently reflecting, at least in part, Dole's decision to close its last production facility in Hawaii), and continued to decline in 1993.<sup>81</sup> U.S. shipments of canned pineapple fruit, by volume and value, were smaller in interim 1994 as compared with interim 1993.<sup>82</sup> Domestic market share, by volume and value, declined from 1991 to 1992, and remained relatively unchanged in 1993.<sup>83</sup> Domestic market share was slightly greater in interim 1994 as compared with interim 1993.

From 1991 to 1992, end-of-period inventories of canned pineapple fruit increased.<sup>84</sup> In 1993, end-of-period inventories returned to roughly 1991 levels. End-of-period inventories were slightly less in interim 1994 as compared with interim 1993.<sup>85</sup> Inventories as a share of U.S. shipments more than doubled from 1991 to 1992, but declined in 1993. Inventories as a share of U.S. shipments were smaller in interim 1994 as compared with interim 1993.

Employment, wages and productivity fluctuated during the period of investigation. Employment increased during 1991 to 1992, but declined in 1993 (although remaining above 1991 levels).<sup>86</sup> Employment was smaller in interim 1994 as compared with interim 1993.<sup>87</sup> After increasing during 1991 to 1992, the number of hours worked, wages and total compensation declined in 1993 to levels near or below 1991 levels. Numbers of hours worked, wages and total compensation were less in interim 1994 as compared with interim 1993.<sup>88</sup> Hourly wages decreased between 1991 and 1992, but increased in 1993 to above the 1991 level.<sup>89</sup>

The financial performance of the domestic industry generally declined during 1991 to 1993. Net sales by value increased marginally from 1991 to 1992, before declining sharply in 1993.<sup>90</sup> Net sales by value were smaller in interim 1994 as compared with interim 1993.<sup>91</sup> Gross profits increased from 1991 to 1992, but declined significantly in 1993. Gross profits in interim 1994 were twice as high as the levels of gross profits in interim 1993.<sup>92</sup> In 1992, the domestic industry had small operating losses, which worsened significantly in 1993. The domestic industry's operating income was positive in interim 1994 as compared with losses in interim 1993. As a ratio to net sales, however, the interim 1994 operating income margin was very small.<sup>93</sup>

Cost of goods sold declined from 1991 to 1992, but increased in 1993, nearly matching the value of net sales for 1993. Costs of goods sold declined in interim 1994 as compared with interim 1993.<sup>94</sup> Cost of goods sold as a ratio to net sales declined from 1991 to 1992, but increased in 1993 to more than 1991 levels. Costs of goods sold as a ratio to net sales were lower in interim 1994 as compared with interim 1993.<sup>95</sup> Selling, general and

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<sup>80</sup> PR at II-10; CR at I-22, Table 3.

<sup>81</sup> PR at II-5; CR at I-9, Table 1.

<sup>82</sup> PR at II-5; CR at I-9, Table 1.

<sup>83</sup> PR at II-5; CR at I-9, Table 1.

<sup>84</sup> PR at II-10; CR at I-24, Table 5.

<sup>85</sup> PR at II-10; CR at I-24, Table 5.

<sup>86</sup> PR at II-11; CR at I-26, Table 6. Because Dole did not report employment data, the data discussed here do not include Dole.

<sup>87</sup> PR at II-11; CR at I-26, Table 6.

<sup>88</sup> PR at II-11; CR at I-26, Table 6.

<sup>89</sup> PR at II-11; CR at I-26, Table 6.

<sup>90</sup> PR at II-12; CR at I-30, Table 8. Because Dole did not report financial data, the data discussed here do not include Dole.

<sup>91</sup> PR at II-12; CR at I-30, Table 8.

<sup>92</sup> PR at II-12; CR at I-30, Table 8.

<sup>93</sup> PR at II-12; CR at I-30, Table 8.

<sup>94</sup> PR at II-12; CR at I-30, Table 8.

<sup>95</sup> PR at II-12; CR at I-30, Table 8.

administrative expenses increased from 1991 to 1992, and again, to a lesser degree, in 1993. These expenses were lower in interim 1994 as compared with interim 1993.<sup>96</sup> Capital expenditures increased from 1991 to 1992, but decreased in 1993. Capital expenditures were considerably lower in interim 1994 as compared with interim 1993.<sup>97 98</sup>

### III. REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF ALLEGEDLY LTFV IMPORTS

#### A. Legal Standard

In preliminary antidumping investigations, the Commission determines whether there is a reasonable indication of material injury "by reason of" the allegedly LTFV imports.<sup>99</sup> The Commission must consider the volume of imports, their effect on prices for the like product, and their impact on domestic producers of the like product, but only in the context of the U.S. production operations.<sup>100</sup> Although the Commission may consider alternative causes of injury,<sup>101</sup> it does not weigh causes.<sup>102 103 104 105</sup> For the reasons discussed below, we

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<sup>96</sup> PR at II-12; CR at I-30, Table 8.

<sup>97</sup> PR at II-13; CR at I-34, Table 11.

<sup>98</sup> Based on the foregoing, Commissioner Rohr and Commissioner Newquist find that there is a reasonable indication that the domestic industry is experiencing material injury.

<sup>99</sup> 19 U.S.C. §§ 1673b(a), 1671b(a)

<sup>100</sup> 19 U.S.C. § 1677(7)(b)(i).

<sup>101</sup> 19 U.S.C. § 1677(B).

<sup>102</sup> E.g., Citrusco Paulista, S.A. v. United States, 704 F.Supp. 1075, 1101 (Ct. Int'l Trade 1988). Alternative causes may include the following:

[T]he volume and prices of imports sold at fair value, contraction in demand or changes in patterns of consumption, trade, restrictive practices of and competition between the foreign and domestic producers, developments in technology, and the export performance and productivity of the domestic industry.

S. Rep. No. 249, 96th Cong., 1st Sess. 74 (1979). Similar language is contained in the House Report. H.R. Rep. No. 317, 96th Cong., 1st Sess. 47 (1979).

<sup>103</sup> For Chairman Watson's interpretation of the statutory requirement regarding causation, see Certain Calcium Aluminate Cement Clinker from France, Inv. No. 731-TA-645 (Final), USITC Pub. 2772 at I-14 n. 68 (May 1994).

<sup>104</sup> Vice Chairman Nuzum, Commissioner Rohr, and Commissioner Newquist further note that the Commission need not determine that imports are "the principal, a substantial, or a significant cause of material injury." S.Rep. No. 249, at 57, 74. Rather, a finding that imports are a cause of material injury is sufficient. See, e.g., Metallwerken Nederland B.V. v. United States, 728 F. Supp. 730 741 CIT 1989); Citrusco Paulista, 704 F. Supp. at 1101.

<sup>105</sup> Commissioner Crawford notes that the statute requires that the Commission determine whether a domestic industry is "materially injured by reason of" the allegedly LTFV imports. She finds that the clear meaning of the statute is to require a determination of whether the domestic industry is materially injured by reason of allegedly LTFV imports, not by reason of allegedly LTFV imports among other things. Many, if not most, domestic industries are subject to injury from more than one economic factor. Of these factors, there may be more than one that independently are causing material injury to the domestic industry. It is assumed in the legislative history that the "ITC will consider information which indicates that harm is caused by factors other than less-than-fair-value imports." S. Rep. No. 249 at 75. However, the legislative history makes it clear that the Commission is not to weigh or prioritize the factors that are independently causing material injury. *Id.* at 74; H.R. Rep. No. 317 at 46-47. The Commission is not to determine if the allegedly LTFV imports are "the principal, a substantial or a significant cause of material injury." S. Rep. No. 249 at 74. Rather, it is to determine whether any injury "by reason of" the allegedly LTFV imports is material. That is, the Commission must determine if the subject imports are causing material injury to the domestic industry. "When determining the effect of imports on the domestic industry, the Commission must consider all

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find there is a reasonable indication that the domestic canned pineapple fruit industry is materially injured by reason of allegedly LTFV imports from Thailand.<sup>106</sup>

#### B. Volume of Subject Imports

The volume and market share of allegedly LTFV imports were significant during the period of investigation. Imports of canned pineapple fruit from Thailand increased by 43.1 percent in terms of quantity and 45.9 percent in terms of value from 1991 to 1992, but declined 1.2 percent by quantity and 11.5 percent by value in 1993.<sup>107</sup> Imports of canned pineapple fruit from Thailand were 4.9 percent smaller in terms of quantity and 20.5 percent smaller in terms of value in interim 1994 as compared with interim 1993.

Market penetration of canned pineapple fruit from Thailand also increased significantly during 1991 and 1992 following Dole's exit from the domestic industry, while U.S. market share declined.<sup>108</sup> We note, however, that after 1992, Thai market share did not change very much.<sup>109</sup> Thailand's market share was much greater than U.S. share in each year of the period of investigation. The volume of non-subject imports was significant, roughly equal to that of Thai product, in 1992 and 1993.<sup>110</sup>

#### C. Effects of Allegedly LTFV Imports on Domestic Prices<sup>111</sup>

Prices in the canned pineapple fruit market varied, depending in part on the retail tier structure and channels of distribution.<sup>112</sup> National brands, consisting of Del Monte and Dole, are the highest-priced tier. Private first label products are reportedly a value alternative to the national brands, with a price 10 to 15 percent below the national brand price, but the same or better quality.<sup>113</sup> Private second label product is lower quality and competes solely on price. Regional brands, or the third retail tier, are the lowest quality and must be priced below the private labels to remain competitive. Aside from Dole's Thai imports, most Thai

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<sup>105</sup> (...continued)

relevant factors that can demonstrate if unfairly traded imports are materially injuring the domestic industry." S. Rep. No. 71, 100th Cong., 1st Sess. 116 (1987) (emphasis added).

<sup>106</sup> Commissioner Crawford determines that there is a reasonable indication that the domestic industry producing fresh, whole pineapple, fresh, chilled pineapple, and canned pineapple is materially injured by reason of subject imports. Because the record contains virtually no industry data for producers of fresh, whole pineapple and fresh, chilled pineapple, she bases her analysis on data that pertain to canned pineapple producers.

<sup>107</sup> PR at II-18; CR at I-42, Table 15.

<sup>108</sup> PR at II-19; CR at I-44, Table 16.

<sup>109</sup> PR at II-19; CR at I-44, Table 16.

<sup>110</sup> PR at II-19; CR at I-44, Table 16. In any final investigation, we intend to seek more information about non-subject imports, including how these sources are supplying regional brand and second private labels in the United States, and whether multi-national corporate relationships exist for these other sources.

<sup>111</sup> We note that Dole did not provide import pricing data in the format requested; this has prevented us from making more detailed price comparisons between subject imports and domestic products.

<sup>112</sup> PR at II-19; CR at I-45. Prices are generally not affected by the different forms of pineapple fruit (slices, chunks, tidbits, crushed) or whether the pineapple is packed in its own juice or in heavy syrup. The food service industry is the exception, where suppliers may at times charge a premium for crushed or rings, although Maui contends that customer pressure causes them to sell all forms at the same price. Transcript at 28.

<sup>113</sup> PR at II-19; CR at I-45; Transcript at 29. Maui is the largest supplier of private first label canned pineapple fruit in the United States. PR at II-8; CR at I-17.



imports are sold in the third tier.<sup>114</sup> In addition, there are a variety of discounts, incentives and other points of price competition in the canned pineapple market.<sup>115</sup>

The pricing analysis in this investigation is complicated by the fact that canned pineapple fruit is sold in three different USDA grades: fancy, choice, and standard. Dole's product from Thailand consists of both fancy and choice grade, while all other importers reported selling only choice or standard grade.<sup>116</sup> About 80 percent of Maui's sales are fancy grade.<sup>117</sup> Further, advertising and marketing of the products differ, depending on the tier in which they are sold. National brands are the most advertised, and are often perceived by customers as being the highest quality. Private first label store brands are heavily marketed by the stores in terms of displays, store advertisements, and are often displayed prominently on the shelves. The regional brands are characterized by little advertising, are frequently substituted for one another on the shelf, and often receive the least desirable shelf placement.<sup>118</sup>

The Commission collected pricing data on four varieties of canned pineapple fruit.<sup>119</sup> The record shows fairly widespread underselling by non-Dole subject imports (35 out of 40 comparisons overall). For the most popular retail variety of canned pineapple fruit, both domestic prices and prices for non-Dole subject imports fluctuated with no clear upward or downward trend for most of 1991 and 1992, before showing a clear downward trend in the latter part of 1993.<sup>120</sup> Subject imports undersold domestic product in all but one of these pricing comparisons.<sup>121</sup> Pricing comparisons for the other varieties also showed domestic prices to be lower in 1993 than in 1992, although somewhat higher than 1991 prices.<sup>122</sup> Based on the best evidence available, we conclude that subject imports had significant price depressing and/or suppressing effects.<sup>123 124 125</sup>

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<sup>114</sup> PR at II-8; CR at I-18.

<sup>115</sup> PR at II-20; CR at I-46-47;

<sup>116</sup> PR at II-20; CR at I-48-49.

<sup>117</sup> PR at II-20; CR at I-48.

<sup>118</sup> PR at II-21; CR at I-49.

<sup>119</sup> Because Dole reported its prices in a format other than that requested by the Commission, the pricing comparisons discussed here do not reflect Dole's reported prices.

<sup>120</sup> PR at II-21-22; CR at I-51-56, Tables 17-20, Figures 1 and 2.

<sup>121</sup> PR at II-21-22; CR at I-51-56, Tables 17-20, Figures 1 and 2.

<sup>122</sup> PR at II-21-22; CR at I-51-56, Tables 17-20, Figures 1 and 2.

<sup>123</sup> Maui argues that vertical price competition from allegedly LTFV Thai imports in the first and third tiers lowers the price of private label products, adversely affecting the U.S. industry. PR at II-19; CR at I-45. Further, Maui contends that horizontal competition within the private label market by Thai producers appears to be causing the domestic industry to lose exclusive labels and reduce prices. PR at II-8; CR at I-18. In the food service and industrial channels, Maui argues that price may be more important than brand and quality because final consumers do not see the brand name or container and the pineapple is often mixed with other ingredients. PR at II-19; CR at I-46; Transcript at 36. As a result, the U.S. industry may experience significant price competition in these channels because the superior quality of Hawaiian pineapple is not determinative. See PR at II-8; CR at I-19-20. In the private label market, retailers may look for a certain USDA quality standard, which frequently is Hawaiian fancy grade, for their first label. PR at II-8; CR at I-19. In any final investigation, we intend to seek more comprehensive data concerning the effect of the market structure and quality (both actual, *i.e.*, USDA grade, and perceived quality differences) on pricing.

<sup>124</sup> To analyze the effect of subject imports on domestic prices, Commissioner Crawford considers a number of factors relating to the industry and the nature of the products. These factors include the degree of substitutability between subject imports and the domestic like product, the presence of fairly traded imports, and capacity utilization in the industry. In this case, she finds that the subject imports had no significant price effects on the domestic industry. Domestic pineapple and subject imports are reasonably good substitutes, particularly in the private label tiers of the domestic market. Therefore, purchasers likely would have bought more domestic pineapple had the subject imports' prices been higher. However, attempts by the industry to increase its prices would have been met and "beaten back" by competition from nonsubject imports. In spite of excess capacity, it would not have been

(continued...)

#### D. Impact on the Domestic Industry

We note that Petitioner's numerous lost sales and lost revenue allegations were largely confirmed.<sup>126</sup> As discussed above, we find that there is a reasonable indication of price depression and/or suppression, which may have aggravated the adverse effects of the increase in cost of goods sold on the domestic industry.<sup>127</sup> In addition, we conclude that subject imports had an adverse impact on the volume of canned pineapple fruit sold by the domestic industry. We note the poor financial performance, particularly the losses in operating income, and decrease in net sales, experienced by the domestic industry.<sup>128</sup>

#### CONCLUSION

In light of the significant volume of canned pineapple fruit from Thailand, which increased overall during the period of investigation, as well as the adverse price effects and the adverse impact on the domestic industry's financial condition, we find that there is a reasonable indication of material injury to the domestic industry producing canned pineapple fruit by reason of allegedly LTFV imports of canned pineapple fruit from Thailand.

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<sup>124</sup> (...continued)

able to supply all of the displaced subject imports. However, it is unlikely that there would have been a net reduction in supply and a resulting increase in prices in this case due to the availability of nonsubject imports as an alternative source of supply. Therefore, Commissioner Crawford finds that subject imports had no significant price effects on the domestic industry.

<sup>125</sup> Chairman Watson finds that the little useable pricing data the Commission was able to gather in this preliminary investigation more clearly show price suppression than they show price depression. He intends to closely examine the additional pricing data that the Commission will gather in any final investigation to readdress the subject of price suppression and depression.

<sup>126</sup> PR at II-23; CR at I-60-63.

<sup>127</sup> As indicated in note 125, above, Chairman Watson finds a reasonable indication of price suppression. In any event, he relies primarily on the evidence of the adverse impact of the volume of imports on the domestic industry for his preliminary affirmative determination in this investigation.

<sup>128</sup> In her analysis of material injury, Commissioner Crawford determines whether the price, sales and revenue effects of the dumping, either separately or together, demonstrate that the domestic industry would have been materially better off if the allegedly LTFV imports had been priced fairly. If the imports from Thailand had not been dumped, it is likely that they would have been priced out of the U.S. market. Because the domestic product and the allegedly LTFV imports appear to be good substitutes, particularly in the private label and regional tiers of the U.S. market, purchasers would have reduced their purchases of the subject imports, and demand for the domestic product would have increased significantly. In a market characterized by significant excess production capacity and competition between the domestic product and fairly traded imports, the domestic industry would not have been able to increase its prices significantly.

However, the domestic industry would have been able to increase significantly the quantity of its production and sales, and thus its revenues, if the allegedly LTFV imports had been fairly priced. Therefore, the domestic industry would have been materially better off if the subject imports had been priced fairly. Accordingly, Commissioner Crawford concludes that there is a reasonable indication of material injury to the domestic industry by reason of the allegedly LTFV imports of canned pineapple fruit from Thailand.

**PART II**  
**INFORMATION OBTAINED IN THE INVESTIGATION**



## INTRODUCTION

On June 8, 1994, petitions were filed with the U.S. International Trade Commission (the Commission) and the U.S. Department of Commerce (Commerce) by counsel on behalf of Maui Pineapple Company, Ltd. (Maui), Kahului, HI, and the International Longshoremen's and Warehousemen's Union. The petition alleges that an industry in the United States is materially injured, and threatened with material injury, by reason of imports from Thailand of canned pineapple fruit,<sup>1</sup> provided for in subheading 2008.20.00 Harmonized Tariff Schedule of the United States (HTS), that are allegedly being sold in the United States at less than fair value (LTFV).

Accordingly, effective June 8, 1994, the Commission instituted investigation No. 731-TA-706 (Preliminary) under section 733(a) of the Tariff Act of 1930 (the Act) (19 U.S.C. § 1671(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of the alleged LTFV imports of canned pineapple fruit into the United States.

Notice of the institution of this investigation and of a conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of June 16, 1994 (59 F.R. 30951). Commerce published its notice of initiation in the *Federal Register* of July 5, 1994 (59 F.R. 34408).<sup>2</sup> The conference was held on June 29, 1994,<sup>3</sup> and the Commission's vote in this investigation was held on July 20, 1994. The statute directs that the Commission make its determination in this investigation within 45 days after receipt of the petition, or by July 25, 1994.

A summary of the data collected in this investigation is presented in appendix C.

## THE PRODUCT

### Description

Canned pineapple fruit is the shelf-stable food sealed in airtight cans prepared from mature fresh, or previously canned, pineapple from which the peel and core have been removed. The principal styles sold in the U.S. market include slices, spears, tidbits, chunks, and crushed. In addition, canned pineapple fruit is packed either in pineapple juice or with added sweeteners, the latter often referred to as heavy syrup. There are four possible grade standards (7 CFR 52.1719) for pineapples sold in the United States: U.S. Grade A (fancy), U.S. Grade B (choice), U.S. Grade C (standard), and Substandard. The grading criteria include color, uniformity of size and shape, defects, character, flavor and odor, and tartness. Canned pineapple fruit is typically sold in 20 oz., 15 to 15.5 oz., and 8 oz. cans at the retail level and one gallon (number 10) cans at the food service level.

The cultivated, commercial pineapple (*Ananas comosus*) is a member of the Bromeliaceae family, members of which are native to tropical and subtropical South America with one exception that is native to the west coast of Africa.<sup>4</sup> The collective pineapple fruit is actually a composite fruit composed of from 100 to 200 individual berry-like fruitlets. Each "eye" of the pineapple is a separate fruitlet, having been derived from an individual flower and surrounding parts, and fused on a central core that is a continuation of the plant stem.<sup>5</sup> The average mature pineapple measures about 20.5 centimeters (cm) long and 14.5 cm in mid-diameter, and weighs about 2.2 kilograms.

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<sup>1</sup> For purposes of this investigation, canned pineapple fruit is defined as pineapple prepared into various product forms, including rings, pieces, chunks, tidbits, and crushed pineapple, that is packed and cooked in metal cans with either pineapple juice or sugar (heavy) syrup added.

<sup>2</sup> Copies of the Commission's and Commerce's notices are presented in app. A.

<sup>3</sup> A list of participants at the conference is presented in app. B.

<sup>4</sup> United Fresh Fruit and Vegetable Association, *Fresh Fruit & Vegetable Facts & Pointers-Pineapples*, Feb. 1970, p. 1.

<sup>5</sup> J.L. Collins, *The Pineapple*, Interscience Publishers Inc. (New York: 1960), p. 55.

## **Production Process**

Commercial pineapples are grown from either crowns, gathered at harvest from the top of the fruit, or slips, gathered after harvest from the stem below the fruit. Pineapple plants require approximately 18 to 22 months (depending on location and planting material) to produce the first fruit, often referred to as the plant crop. About a year later, the plant will produce a second crop, called the first ratoon. If the field is in good condition, a third crop, called the second ratoon, may be produced. After harvest, the field is "knocked down," where the remaining vegetative material is either cleared or plowed under the surface, and prepared for a new crop to be replanted. The flowering of the pineapple plant may be "forced" or regulated, which will cause the plant to produce mature fruit suitable for harvesting in approximately 6 or 7 months, by using an ethylating gas or agent. This allows the grower to plan for continuous harvesting throughout the year, thus eliminating the seasonality element inherent in raw fruit production.<sup>6</sup>

The domestic industry employs a harvesting method which uses approximately 14 people to hand-harvest simultaneously several rows of pineapples while walking behind a boom that conveys the picked pineapples into the hold of a large truck.<sup>7</sup> The crowns of the pineapples are removed at this stage for use in future plantings. Because pineapples in a field do not all ripen at the same time, several rounds of harvesting are made through each field. Once harvested, the fruit is transported to the processing plant as soon as possible.

Upon leaving the receiving area at the processing plant, each pineapple is washed and graded for size to determine to which group of packing lines the fruit will be sent.<sup>8</sup> The pineapple is then sent through a machine to remove the shell, cut off the ends of the pineapple, and remove the fibrous core before sending the various parts in separate ways for processing for food use or non-food byproducts. Next, the fruit is cut into slices, chunks, tidbits, or crushed pieces, or is crushed into juice, depending on the processing lines to which the fruit was sent. After being cut, the fruit is packed into cans with either sugar syrup or pineapple juice saved from the coring and slicing process being added based upon a specific formula. The cans are then sealed and cooked at 211 degrees Fahrenheit for 11 minutes in a pasteurization process which imparts the three-to-four-year shelf life of canned pineapple fruit. The cans are then cooled and put into inventory to await labelling when an order is placed.

## **Uses**

Canned pineapple fruit is commonly consumed by itself either as a dessert or a side-dish. It is also used as an ingredient in fruit salads, fruit cocktail, and other types of salads. In addition, canned pineapple fruit is used as a garnish for various drinks, meats, and baked entrees, or it can be used in the preparation of breads, cakes, and various other desserts.

## **Substitute Products**

Other canned fruit products compete to a degree with canned pineapple fruit in terms of price, perceived nutritional value, and taste; however, no other product acts as a direct substitute. Canned pineapple fruit's unique taste, texture, and coloration do not allow for direct replacement by another canned fruit product. Fresh pineapple can be substituted for canned pineapple fruit for certain uses; nonetheless, fresh pineapples are highly perishable and are perceived by many consumers to be difficult to prepare relative to canned pineapple fruit. In addition, the enzyme

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<sup>6</sup> Conference transcript, pp. 13-14.

<sup>7</sup> Conference transcript, pp. 75-76.

<sup>8</sup> Conference transcript, pp. 14-15.

bromelain, which breaks down proteins in a manner similar to what happens in digestion, and which is contained in fresh pineapple,<sup>9</sup> restricts the uses of fresh pineapple relative to canned pineapple fruit.<sup>10</sup>

### U.S. Tariff Treatment

U.S. imports of canned pineapple fruit are classified under subheading 2008.20.00 (statistical reporting numbers 2008.20.0010<sup>11</sup> and 2008.20.0090<sup>12</sup>) of the HTS of the United States. The most-favored-nation (MFN) (col. 1-general) rate of duty, applicable to imports of canned pineapple fruit from Thailand and all other MFN countries, is 0.55¢ per kilogram. The *ad valorem* equivalent of this specific rate of duty is 0.8 percent for imports of canned pineapple fruit from Thailand during 1993. Imports of canned pineapple fruit from Thailand are not eligible for duty-free entry under any preference program.

### THE NATURE AND EXTENT OF ALLEGED SALES AT LTFV

On the basis of comparisons of the United States price (USP) with the foreign market value (FMV), the petitioner estimated the LTFV margin to be 138.48 percent *ad valorem*. Petitioner based USP on the average unit values from the official trade statistics of the U.S. Department of Commerce. FMV was calculated using Thai home market price quotes, i.e., market selling prices from canners to wholesalers and supermarkets. Adjustments for freight expenses were made to both FMV and USP.

### THE U.S. MARKET

#### Apparent U.S. Consumption

Data on apparent consumption of canned pineapple fruit are presented in table 1. Total U.S. consumption, by quantity, increased by \*\*\* percent from 1991 to 1993, and continued to rise, by \*\*\* percent, between the interim periods. In terms of value, total reported U.S. consumption increased \*\*\* percent from 1991 to 1992, but decreased \*\*\* percent from 1992 to 1993, reflecting a decline of \*\*\* percent during 1991-93. Because quantities remained fairly constant between 1992 and 1993, the decline in value during this period reflects a decrease in industry-wide unit values of canned pineapple fruit from \$\*\*\* per case in 1992 to \$\*\*\* per case in 1993 (one case equals 30 pounds of fruit net weight, exclusive of packaging). Between the interim periods, the value of apparent consumption declined by another \*\*\* percent.

Petitioner and importers generally agree that consumption of canned pineapple fruit has remained relatively constant during the period for which data were collected and that there have been no principal factors affecting changes in demand. In response to the question in the Commission's questionnaire concerning demand for canned pineapple fruit, only one of 21 responding importers reported that demand had increased since 1991. One importer cited to an A.C. Nielsen study that maintained that sales of canned pineapple fruit were relatively flat during 1993. Two importers noted that their sales have increased but primarily as a result of active promotion and not because of any significant changes in the market. One importer reported that customers' preferences for healthier juice-packed pineapple have resulted in fewer sales of canned pineapple packed in heavy syrup, but that sales of canned pineapple fruit as a whole have remained fairly constant.

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<sup>9</sup> The pasteurization process eliminates bromelain from canned pineapple fruit.

<sup>10</sup> Bromelain will prevent gelatin desserts made with fresh pineapple fruit from setting. In addition, cottage cheese, sour cream, and other dairy products will be adversely affected if they are mixed with fresh pineapple more than a few moments before serving.

<sup>11</sup> Pineapples, otherwise prepared and preserved, containing cane and/or beet sugar.

<sup>12</sup> Pineapples, otherwise prepared and preserved, not containing cane and/or beet sugar.

Table 1

Canned pineapple fruit: U.S. shipments of domestic product, U.S. imports, by sources, and apparent U.S. consumption, 1991-93, Jan.-Mar. 1993, and Jan.-Mar. 1994

\* \* \* \* \*

## U.S. Producers

### Maui

Maui Pineapple Company, Ltd., a wholly owned subsidiary of Maui Land and Pineapple Company, Inc.,<sup>13</sup> accounted for virtually all U.S. production of canned pineapple fruit during 1993. Maui's pineapple operations are fully integrated, consisting of two company-operated plantations on Maui, a cannery in Kahului, a can plant, and several warehouse facilities. About 72 percent of the fruit processed during 1993 was cultivated on company-operated plantations, with the remainder being purchased from independent growers, a substantial portion of which was from Wailuku Agribusiness Company, Inc.<sup>14</sup> Maui, which produces a full line of canned pineapple products, including all can sizes and product forms, is the largest supplier of private label canned pineapple products in the United States. Maui sells canned pineapple fruit principally to grocery chains, wholesale grocers, food processors, and wholesalers serving both retail and food service outlets. In addition to canned pineapple fruit, Maui produces juice, juice concentrates, and packaged fresh chilled pineapple<sup>15</sup> at its cannery in Kahului. Maui also sells fresh pineapples to the U.S. mainland under its Jet Fresh fruit program.<sup>16</sup>

### Dole

Dole Packaged Foods Company (Dole), a division of Dole Food Company Inc.,<sup>17</sup> produced a full line of canned pineapple fruit in Honolulu, HI until 1991. \*\*\*.<sup>18</sup> Dole currently sources canned pineapple fruit from its operations in the Philippines and Thailand. As a result of Dole's exit from Hawaii, Dole built a second cannery in Thailand. \*\*\*. Since 1972, Dole had owned and operated a cannery (capacity of \*\*\* cases per year), can plant, and juice concentrate plant in Chumphon, Thailand. The second cannery, with a capacity of \*\*\* cases per year, began operation in Hua Hin, Thailand at the beginning of 1993. During 1993, Dole sourced about \*\*\* percent of its canned pineapple fruit from Thailand, with the remainder supplied from its operations in the Philippines. Dole's fresh fruit division still grows pineapples on plantations in Hawaii for its fresh pineapple markets in North America and Europe.

<sup>13</sup> In addition to its pineapple operations, Maui Land and Pineapple Company, Inc. operates Kapalua Land Company, Ltd., which is a developer of a resort community in West Maui.

<sup>14</sup> During 1993, Wailuku Agribusiness announced a 3-year phase-out of its operations, reportedly resulting from reduced demand and the low fresh fruit price.

<sup>15</sup> Maui sells its packaged fresh chilled pineapples only to restaurants, hotels, and supermarkets located on the island of Maui (conference transcript, p. 75).

<sup>16</sup> Maui's sales of fresh pineapple are \*\*\* percent of its total pineapple sales.

<sup>17</sup> Dole Food Company, Inc. is engaged in three principal businesses: food production and distribution, real estate development, and resorts. The company's food operations are conducted through its food group ("Dole"), which consist of four primary operating groups of wholly owned or controlled subsidiaries or divisions: Dole Fresh Fruit, Dole Fresh Vegetables, Dole Packaged Foods, and Dole Dried Fruit and Nuts. The Company's real estate operations are conducted under the "Castle & Cooke" name, which is responsible for properties in Hawaii, California, and Arizona. The company's resort operations are conducted through Lanai Resort Partners.

<sup>18</sup> Staff conversation with \*\*\*.



## **Puerto Rico Land Authority**

Accounting for \*\*\* percent of U.S. production of canned pineapple fruit during 1993, Puerto Rico Land Authority (PRLA), of San Truce, PR, produces canned pineapple and juice products under the "Lotus" brand name. \*\*\*.

### **U.S. Importers**

Questionnaires were sent to 47 firms named in the petition and in the Customs Net Import File as importing canned pineapple fruit from Thailand. Of the 47 firms, 29 responded to the Commission's request for information, accounting for approximately 75 percent of U.S. imports from Thailand during 1993. \*\*\*. Other large importers supply their independent labels with canned pineapple fruit from Thailand. \*\*\*. Several importers are food wholesalers that import canned pineapple fruit for the food service channel (e.g. restaurant chains and hospitals). Another importer, \*\*\*, imports canned pineapple fruit from Thailand for use in its production of canned fruit cocktail.

### **Channels of Distribution**

In the U.S. market, sales of canned pineapple fruit are made primarily through three channels of distribution: retail grocery, food service, and industrial. The majority of canned pineapple fruit is sold in the retail grocery channel. As indicated in table 2, \*\*\* percent of canned pineapple fruit produced in the United States and 54.8 percent of the subject product from Thailand are sold to retail grocery stores. Sales in the retail channel can be made either directly to the grocery store chains or through retail wholesalers or club or warehouse stores. Canned pineapple fruit is sold in 20 oz. (by far the most popular), 15.25 oz., and 8 oz. cans in four product forms: slices, chunks, tidbits, and crushed, each of which is available packed in pineapple juice or heavy syrup. All of these forms are priced equally for equivalent size cans in the retail sector.<sup>19</sup>

Canned pineapple fruit is sold in the retail channel via a three-tier market structure. The first tier is composed of the national brands, Dole and Del Monte. Dole and Del Monte are priced higher because of their brand recognition, large advertising budgets, and perceived higher quality. Among the national brands, Dole is the more significant player, with an estimated 43-percent share of the U.S. canned pineapple fruit market. Del Monte's share is estimated to be about 17 percent.<sup>20</sup> Dole is the only national brand to source product from Thailand. As indicated in table 2, Dole's U.S. shipments of national brand canned pineapple produced in Thailand \*\*\*. Between the interim periods, Dole's U.S. shipments in this market \*\*\*.

The second tier is composed of the private labels, which are typically the store brands of grocery retailers (e.g., Townhouse, Giant, America's Choice). This tier consists of two categories: the first private label (by far the larger category) and second private label. The purpose of the first private label is to offer a value alternative to the national brands, provide the retailer with greater profit margins, and offer a quality equal to the national brands. To remain competitive in this market, private labels must remain 10 to 15 percent below the national brands in price.<sup>21</sup> Maui is the largest supplier of first private labels in the United States. In fact, in a survey of 50 top grocery store chains, Maui supplied 75.6 percent of private label sales during 1993, while 19.7 percent and 4.7 percent of the private labels were sourced from Thailand and the Philippines, respectively. Thirty-four of the 50 grocery chains sourced their private labels from Maui.<sup>22</sup> Second private labels are also store brands, but are considered to be lower-quality "price warriors," are always priced below first private labels, and exist purely on price.<sup>23</sup>

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<sup>19</sup> Conference transcript, pp. 27-28.

<sup>20</sup> Conference transcript, p. 29.

<sup>21</sup> Conference transcript, p. 31.

<sup>22</sup> Petitioner's postconference brief, app. 4.

<sup>23</sup> Conference transcript, p. 30.

Table 2

Canned pineapple fruit: U.S. shipments of U.S. producers and U.S. shipments of U.S. importers of Thai product, by types, 1991-93, Jan.-Mar. 1993, and Jan.-Mar. 1994

\* \* \* \* \*

The third tier is composed of regional brands (e.g., Geisha, Libby, Three Diamond, Empress, Nature's Farm). These brands pay slotting fees to retail chains to get their products positioned on grocery shelves for a time period of usually between six months and one year. Regional brands are responsible for their own promotion and if they do not sell well, retail chains replace them with other brands. The slotting deals are usually dependent on which brand will offer the retail chain the best fee. These brands are sometimes referred to as "musical chair" brands because their brands and suppliers change so frequently. The third tier must maintain a price position below that of the private labels to remain competitive and are predominantly Thai in origin.<sup>24</sup> Maui's U.S. shipments in the private and regional label retail channel \*\*\* percent between 1991 and 1993 and \*\*\* between the interim periods (table 2). U.S. shipments of imports from Thailand in this category increased irregularly, by 8.8 percent, during 1991-93, but declined by 11.0 percent between the interim periods.

Because of the pricing structure, petitioner argues that pricing changes in one tier greatly affect pricing in the other tiers. Because imports from Thailand are prominent in both the first and third tiers, petitioner notes that vertical price competition has adversely impacted its private label market. For example, if Dole lowers its national brand price and Maui does not, Maui loses its private label price advantage and buyers at the distribution level as well as the retail grocery shoppers will switch to the national brand.<sup>25</sup> In addition to the vertical competition, petitioner notes that it is subject to horizontal competition from imports from Thailand, i.e., competition for private label contracts. Maui notes that this competition has led, in some cases, to the loss of its exclusive private labels, but more commonly it has forced Maui to reduce prices to an injurious level in order to maintain its current private labels.

Respondents argue that there is no evidence that imports from Thailand have caused material injury to Maui in any segment of the retail canned pineapple fruit market. Pointing to Maui's dominance in the private label sector, respondents argue that grocery chains overwhelmingly prefer the Hawaiian fancy grade product for their first label. Because Maui is the only producer of Hawaiian product, respondents argue that Maui's sales are largely insulated from competition from Thailand.<sup>26</sup>

In terms of competition from national brands, respondents argue that the majority of sales by the national brands are not subject imports. They note that \*\*\* percent of Dole's products and none of Del Monte's products are sourced from Thailand. In terms of the third tier, respondents note that Maui does not market its products under any brand in this tier and that it has even refused to sell its product to buyers in this tier. Noting that imports from Indonesia have had significant growth in recent years, respondents also argue that the competitive price pressure in the third tier is largely from nonsubject countries.<sup>27</sup>

The food service channel is composed of large institutional users such as hospitals, restaurant chains, and government purchasers. These customers typically buy in bulk, and the standard package for sale is the gallon can (106-108 oz.), which is commonly called "number 10." As in retail, canned pineapple is sold in all product forms and packed both in pineapple juice and heavy syrup. In food service, Maui tries to charge more for crushed and discount less for rings; however, customers reportedly often pressure Maui to sell all "number 10" cans at the same price.<sup>28</sup> Maui argues that factors such as brand name and quality are less important in the food service channel

<sup>24</sup> Conference transcript, p. 30.

<sup>25</sup> Conference transcript, p. 31.

<sup>26</sup> Respondents' postconference brief, p. 11.

<sup>27</sup> Respondents' postconference brief, pp. 24-29.

<sup>28</sup> Conference transcript, p. 28.

because the ultimate end user never sees the container or brand he is consuming, thus causing this channel to be very price sensitive. Because the food service channel is more price competitive than the retail channel, petitioner argues that in this channel, Maui is particularly vulnerable to import competition from Thailand.<sup>29</sup> Respondents argue that Maui was able to obtain a slight price increase for its food service product during the last year and that confirms that the food service channel is not subject to material injury from imports from Thailand.<sup>30</sup> Maui's U.S. shipments in the food service channel \*\*\* percent between 1991 and 1993 and \*\*\* percent between the interim periods (table 2). U.S. shipments of imports from Thailand in this category increased irregularly, by 35.2 percent, during 1991-93, but declined by 6.8 percent between the interim periods.

The industrial channel is primarily composed of processors, which make use of canned pineapple fruit in other finished products such as baked goods, ice cream, yogurts, and fruit cocktail. The primary industrial use of canned pineapple fruit is fruit cocktail, which according to FDA standards must have between 6 percent and 16 percent pineapple by weight. As in food service, canned pineapple fruit is sold in all forms in one gallon number 10 cans. As indicated in table 2, Maui's shipments to the industrial channel \*\*\* percent during 1991-93 but \*\*\* between the interim periods. U.S. shipments of imports from Thailand declined by 11.7 percent during 1991-93, and continued to decline, by 76.8 percent, between the interim periods. Of the four importers that imported canned pineapple from Thailand for industrial purposes, \*\*\* are the largest. \*\*\*.

### **CONSIDERATION OF ALLEGED MATERIAL INJURY TO AN INDUSTRY IN THE UNITED STATES**

The following information concerning U.S. capacity, production, shipments, and inventories is based on the questionnaire responses of Maui and Dole. Maui accounted for virtually all U.S. production of canned pineapple fruit during 1992-93. Dole, which accounted for about \*\*\* percent of U.S. production in 1991, did not provide the Commission with usable employment and financial information.

#### **U.S. Capacity, Production, and Capacity Utilization**

As indicated in table 3, U.S. average-of-period capacity to produce canned pineapple fruit declined from 1991 to 1992, \*\*\*. Maui's average-of-period capacity remained constant at \*\*\* during 1991-93. \*\*\*.

Maui's full production capability reported for canned pineapple fruit is based on operating \*\*\*. The cannery operates most of the year; however, over 50 percent of production volume occurs during the summer months, the peak growing season.<sup>31</sup>

U.S. production decreased \*\*\* percent during 1991-93, but increased \*\*\* percent between January-March 1993 and January-March 1994. \*\*\*. Maui's production of canned pineapple fruit increased in 1992 largely as a result of favorable climactic conditions on the island and an excellent pineapple harvest.<sup>32 33</sup> Because Maui's production of canned pineapple fruit during 1992 reportedly outpaced demand, Maui reduced its production by 20 percent during 1993 to avoid increasing inventories.<sup>34</sup>

Average-of-period capacity utilization decreased from \*\*\* percent in 1991 to \*\*\* percent in 1993, but rose from \*\*\* percent during January-March 1993 to \*\*\* percent during January-March 1994.

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<sup>29</sup> Conference transcript, p. 36.

<sup>30</sup> Respondents' postconference brief, p. 31.

<sup>31</sup> Conference transcript, p. 59.

<sup>32</sup> Conference transcript, p. 45.

<sup>33</sup> Maui's 1993 Annual Report notes that "the Company ended 1992 with a record production year."

<sup>34</sup> Conference transcript, p. 45.

Table 3

Canned pineapple fruit: U.S. capacity, production, and capacity utilization, 1991-93, Jan.-Mar. 1993, and Jan.-Mar. 1994

\* \* \* \* \*

### U.S. Producers' Shipments

U.S. domestic shipments of canned pineapple fruit by quantity declined \*\*\* percent from 1991 to 1993, and continued to decrease, by \*\*\* percent, between the interim periods (table 4). In terms of value, U.S. shipments decreased by \*\*\* percent from 1991 to 1993, and by \*\*\* percent between January-March 1993 and January-March 1994. \*\*\*. Exports accounted for \*\*\* percent of Maui's U.S. shipments during 1993; its primary export markets were \*\*\*.

Table 4

Canned pineapple fruit: Shipments by U.S. producers, by types, 1991-93, Jan.-Mar. 1993, and Jan.-Mar. 1994

\* \* \* \* \*

### U.S. Producers' Inventories

End-of-period inventories of canned pineapple fruit are presented in table 5. These inventories increased \*\*\* percent from 1991 to 1992 before returning to approximately 1991 levels during 1993. Because of rising inventories in 1992, Maui argues that it was forced to let about 20,000 tons of pineapple rot during 1993 because the prices for canned pineapple fruit did not justify the incremental costs of harvesting, processing, and carrying the product in inventory.<sup>35</sup> Between January-March 1993 and January-March 1994, inventories declined slightly, by \*\*\* percent. \*\*\*.

Depending on the season, Maui inventories \*\*\* of its product in warehouses in Maui, with the remainder of product stored in 27 warehouses across the country. Inventory is drawn from the Maui warehouses once orders are received from the private label customers. Maui then labels the cans and ships them either directly to the customers or to one of the 27 warehouses, where the product is drawn as the customers need it.<sup>36</sup> \*\*\*.<sup>37</sup>

Table 5

Canned pineapple fruit: End-of-period inventories of U.S. producers, 1991-93, Jan.-Mar. 1993, and Jan.-Mar. 1994

\* \* \* \* \*

### Employment, Wages, and Productivity

Maui's employment and productivity data are presented in table 6. The number of production and related workers (PRWs) producing canned pineapple fruit increased irregularly by \*\*\* percent from 1991 to 1993, but fell by \*\*\* percent between the interim periods. Maui reportedly increased employment in 1992 to accommodate anticipated increases in sales which did not materialize. Between January 1, 1993, and March 31, 1994, Maui reported some elimination of positions, early retirements, cancellation of labor supply agreements, salary reductions, and cutbacks in health and welfare benefits in an attempt to deal with a reduction in demand for canned pineapple

<sup>35</sup> Conference transcript, p. 48.

<sup>36</sup> Conference transcript, p. 15.

<sup>37</sup> Staff conversation with Renata Muller, Division Sales Manager, Maui, June 17, 1994.

Table 6

Average number of total employees and PRWs in U.S. establishments wherein canned pineapple fruit is produced, hours worked, wages and total compensation paid to such employees, and hourly wages, productivity, and unit production costs, by products, 1991-93, Jan.-Mar. 1993, and Jan.-Mar. 1994

\* \* \* \* \*

fruit. All of Maui's PRWs are represented by the International Longshoremen's and Warehousemen's Union, the co-petitioner in this investigation.

The number of hours worked by PRWs producing canned pineapple fruit increased \*\*\* percent between 1991 and 1992, but fell \*\*\* percent from 1992 to 1993, accounting for a \*\*\*-percent decline during 1991-93. Reflecting the reduction in employment, the number of hours worked continued to decline, by \*\*\* percent, between the interim periods. Total compensation paid to PRWs by Maui increased during 1992 but declined to slightly above 1991 levels in 1993. Compared to January-March 1993, total compensation paid to PRWs declined \*\*\* percent during January-March 1994. Hourly total compensation paid to Maui's PRWs increased irregularly from \$\*\*\* in 1991 to \$\*\*\* in 1993, and continued to rise from \$\*\*\* during January-March 1993 to \$\*\*\* during January-March 1994. Productivity of PRWs decreased by \*\*\* cases per hour from 1991 to 1993, but doubled between the interim periods. \*\*\*.

### Financial Experience of Maui

Financial information was provided by the predominant U.S. producer<sup>38</sup> on its canned pineapple fruit operations in addition to its overall establishment operations. These data, representing nearly 100 percent of 1993 production of canned pineapple fruit, are presented in this section.

### Overall Establishment Operations

Income-and-loss data on Maui's overall establishment operations are presented in table 7. In addition to the products under investigation, the U.S. producer indicated in its questionnaire response that it produces juice, concentrate, and fresh fruit. The facilities included in the overall establishment operations are \*\*\* the company's operations on the island of Maui, Kahului Cannery, Honolua Plantation, and Haliimaile Plantation, and the sales office in Concord, CA. Maui's canned pineapple fruit net sales were \*\*\* percent of overall establishment net sales in 1993.

Table 7

Income-and-loss experience of Maui on the overall operations of its establishments wherein canned pineapple fruit is produced, fiscal years 1991-93, Jan.-Mar. 1993, and Jan.-Mar. 1994

\* \* \* \* \*

### Operations on Canned Pineapple Fruit

Income-and-loss data for Maui's operations on canned pineapple fruit are presented in table 8. \*\*\*.<sup>39</sup>

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<sup>38</sup> Maui Pineapple Company, Ltd. Maui's fiscal close is Dec. 31.

<sup>39</sup> The cost of production and value added as a percent of cost of production for Maui's canned pineapple fruit operations are presented in app. D.

Table 8

Income-and-loss experience of Maui on its operations producing canned pineapple fruit, fiscal years 1991-93, Jan.-Mar. 1993, and Jan.-Mar. 1994

\* \* \* \* \*

The 1993 Annual Report indicates that shipping and selling costs, which include ocean, rail, and truck freight, along with warehousing and brokerage costs, were up from 1992 by 12 percent. This was the result of lower recovery of shipping costs from customers and higher warehousing and other holding costs because of high inventory levels. Also, ocean freight rates increased by about 3 percent. According to the Annual Report, aggressive measures were undertaken to reduce labor costs through job eliminations, job consolidations, early retirements, reduction of overtime, and salary reductions for some managers. Additional steps were taken to reduce costs by working with vendors, suppliers, and other business associates.<sup>40</sup> Nonetheless, Maui's questionnaire response indicated that the canned pineapple fruit cost of goods sold increased by \$\*\*\* and selling, general, and administrative costs increased by \$\*\*\* while revenues were decreasing by \$\*\*\* from 1991 to 1993.

The respondents believe Maui's problems are related to the high cost of doing business in Hawaii, and that is the reason that other pineapple canning operations have ceased or have moved to the Far East.<sup>41</sup>

According to Maui's 1993 Annual Report, the loss in 1993 was caused by a severe drop in revenue due to lower pricing and lower case volume, which were caused by a worldwide oversupply of canned pineapple. The Annual Report also indicated that the Federal Government's decision to purchase fewer pineapple products for its school lunch program reduced their case sales.<sup>42</sup> Maui's income-and-loss on a per-case basis is presented in table 9.

Table 9

Income-and-loss experience of Maui on a per-case basis on its operations producing canned pineapple fruit, fiscal years 1991-93, Jan.-Mar. 1993, and Jan.-Mar. 1994

\* \* \* \* \*

### Investment in Productive Facilities

The value of property, plant, and equipment and total assets for Maui are presented in table 10.

Table 10

Value of assets and return on assets by Maui on its operations producing canned pineapple fruit, as of the end of fiscal years 1991-93, Mar. 31, 1993, and Mar. 31, 1994

\* \* \* \* \*

### Capital Expenditures

The capital expenditures reported by Maui are presented in table 11. \*\*\*.

<sup>40</sup> Maui Land and Pineapple Company, Inc., Annual Report 1993, p. 4.

<sup>41</sup> Conference transcript, p. 123.

<sup>42</sup> Maui Land and Pineapple Company, Inc., Annual Report 1993, p. 4.

Table 11

Capital expenditures by Maui on its canned pineapple fruit operations, fiscal years 1991-93, Jan.-Mar. 1993, and Jan.-Mar. 1994

\* \* \* \* \*

### Research and Development Expenses

Maui's research and development expenditures are reported in table 12.

Table 12

Research and development expenses of Maui on its canned pineapple fruit operations, fiscal years 1991-93, Jan.-Mar. 1993, and Jan.-Mar. 1994

\* \* \* \* \*

### Capital and Investment

The Commission requested the U.S. producers to describe any actual or potential negative effects of the subject imports on the firm's growth, investment, ability to raise capital, and existing development and production efforts. Maui's responses are shown in appendix E.

### CONSIDERATION OF THE QUESTION OF THREAT OF MATERIAL INJURY TO AN INDUSTRY IN THE UNITED STATES

Section 771(7)(F)(i) of the Act (19 U.S.C. § 1677(7)(F)(i)) provides that--

In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of the merchandise, the Commission shall consider, among other relevant economic factors<sup>43</sup>--

(I) If a subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the subsidy is an export subsidy inconsistent with the Agreement),

(II) any increase in production capacity or existing unused capacity in the exporting country likely to result in a significant increase in imports of the merchandise to the United States,

(III) any rapid increase in United States market penetration and the likelihood that the penetration will increase to an injurious level,

(IV) the probability that imports of the merchandise will enter the United States at prices that will have a depressing or suppressing effect on domestic prices of the merchandise,

(V) any substantial increase in inventories of the merchandise in the United States,

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<sup>43</sup> Section 771(7)(F)(ii) of the Act (19 U.S.C. § 1677(7)(F)(ii)) provides that "Any determination by the Commission under this title that an industry in the United States is threatened with material injury shall be made on the basis of evidence that the threat of material injury is real and that actual injury is imminent. Such a determination may not be made on the basis of mere conjecture or supposition."

(VI) the presence of underutilized capacity for producing the merchandise in the exporting country,

(VII) any other demonstrable adverse trends that indicate the probability that the importation (or sale for importation) of the merchandise (whether or not it is actually being imported at the time) will be the cause of actual injury,

(VIII) the potential for product-shifting if production facilities owned or controlled by the foreign manufacturers, which can be used to produce products subject to investigation(s) under section 701 or 731 or to final orders under section 706 or 736, are also used to produce the merchandise under investigation,

(IX) in any investigation under this title which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 705(b)(1) or 735(b)(1) with respect to either the raw agricultural product or the processed agricultural product (but not both), and

(X) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the like product.<sup>44</sup>

The available information on the volume, U.S. market penetration, and pricing of imports of the subject merchandise (items (III) and (IV) above) is presented in the section entitled "Consideration of the Causal Relationship Between Imports of the Subject Merchandise and the Alleged Material Injury." Available information on U.S. inventories of the subject products (item (V)); foreign producers' operations, including the potential for "product-shifting" (items (II), (VI), and (VIII)); any other threat indicators, if applicable (item (VII) above); and any dumping in third-country markets, follows. Other threat indicators have not been alleged or are otherwise not applicable.

### **U.S. Importers' Inventories**

End-of-period inventories of U.S. importers of canned pineapple fruit from Thailand are presented in table 13. Inventories of Thai canned pineapple fruit, which were significant relative to imports, increased 52.6 percent from 1991 to 1993 and continued to rise, by 5.0 percent, between the interim periods.

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<sup>44</sup> Section 771(7)(F)(iii) of the Act (19 U.S.C. § 1677(7)(F)(iii)) further provides that, in antidumping investigations, ". . . the Commission shall consider whether dumping in the markets of foreign countries (as evidenced by dumping findings or antidumping remedies in other GATT member markets against the same class or kind of merchandise manufactured or exported by the same party as under investigation) suggests a threat of material injury to the domestic industry."



Table 13

Canned pineapple fruit from Thailand: End-of-period inventories of U.S. importers, 1991-93, Jan.-Mar. 1993, and Jan.-Mar. 1994

| Item   | 1991  | 1992  | 1993  | Jan.-Mar.-- |       |
|--|-------|-------|-------|-------------|-------|
|  |       |       |       | 1993        | 1994  |
| Quantity ( <i>1,000 cases</i> ) . . . . .                          | 1,463 | 1,942 | 2,232 | 2,397       | 2,518 |
| Ratio to imports ( <i>percent</i> ) . . . . .                      | 20.3  | 21.1  | 26.0  | 24.1        | 29.6  |
| Ratio to U.S. shipments<br>of imports ( <i>percent</i> ) . . . . . | 19.2  | 22.5  | 27.0  | 30.9        | 35.0  |

Note.--Ratios are calculated using data of firms supplying both numerator and denominator information. Part-year inventory ratios are annualized.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

### U.S. Importers' Current Orders

Reported orders for Thai canned pineapple fruit that U.S. importers have placed for delivery after March 31, 1994, totaled 1.9 million cases. Orders were placed by 14 U.S. importers of Thai product that provided import data in response to the Commission's questionnaire. Deliveries on these orders are scheduled through the end of 1994. Four of the responding importers reported no scheduled imports of canned pineapple fruit from Thailand after March 31, 1994.

### Ability of Foreign Producers to Generate Exports and the Availability of Export Markets Other Than the United States

Thailand is the world's largest producer and exporter of canned pineapple fruit. According to industry sources, factors that have contributed to Thailand's prominence in this industry are the low cost of domestic fresh pineapples, the good quality of Thailand's canned pineapple products, a low degree of governmental intervention, relatively low labor costs, and the devaluation of the Thai currency in the late 1980s.<sup>45</sup>

Of the 20 to 22 pineapple canneries located in Thailand, 13 provided the Commission with complete responses regarding their capacity, production, and shipment data. These 13 canneries accounted for over 75 percent of Thai exports to the United States during 1993. As indicated in table 14, reported capacity increased by 19.9 percent from 1991 to 1993, but declined by 11.4 percent between the interim periods. The increase in capacity during 1991-93 is partly attributable to the construction of Dole's second cannery in Hua Hin during 1993. \*\*\* also reported the completion of a waste water treatment system, which resulted in additional capacity of \*\*\* cases per year. Capacity is projected to decline below 1993 levels in 1994 and 1995, partly as a result of several producers shifting some production of canned pineapple fruit to other canned tropical fruit and juice products.

Production increased by 20.5 percent from 1991 to 1993 but fell by 33.6 percent between the interim periods. End-of-period inventories also increased by 97.4 percent, during 1991-93, but declined slightly, by 4.2 percent, between the interim periods. The increasing inventories reflect what appears to be an oversupply of canned pineapple fruit during 1993. Respondents note that due to favorable harvesting conditions, there was a surplus of fresh pineapples in Thailand during 1993. Since most canners purchase fresh pineapples on the open market, this surplus resulted in rapidly declining prices for fresh pineapples. Consequently, the Thai canners purchased higher volumes of

<sup>45</sup> Memo from the Foreign Agricultural Service, June 16, 1994.

Table 14

Canned pineapple fruit: Thailand's capacity, production, inventories, capacity utilization, and shipments, 1991-93, Jan.-Mar. 1993, Jan.-Mar. 1994, and projected 1994-95

| Item  | 1991   | 1992   | 1993   | Jan.-Mar.-- |        | Projected-- |        |
|---|--------|--------|--------|-------------|--------|-------------|--------|
|   |        |        |        | 1993        | 1994   | 1994        | 1995   |
| Quantity (1,000 cases)                        |        |        |        |             |        |             |        |
| Capacity . . . . .                            | 33,847 | 34,785 | 40,598 | 11,435      | 10,130 | 37,983      | 38,113 |
| Production . . . . .                          | 26,403 | 29,270 | 31,804 | 10,184      | 6,759  | 27,993      | 29,543 |
| End-of-period inventories . . . . .           | 3,634  | 3,560  | 7,174  | 6,689       | 6,406  | 5,423       | 4,853  |
| Shipments:                                    |        |        |        |             |        |             |        |
| Home market . . . . .                         | 127    | 240    | 248    | 90          | 61     | 247         | 247    |
| Exports to--                                  |        |        |        |             |        |             |        |
| The United States . . . . .                   | 9,654  | 11,130 | 9,743  | 2,757       | 2,711  | 8,874       | 8,644  |
| All other markets . . . . .                   | 14,933 | 17,975 | 18,198 | 4,207       | 4,242  | 19,479      | 21,119 |
| Total exports . . . . .                       | 24,587 | 29,105 | 27,941 | 6,964       | 6,953  | 28,353      | 29,763 |
| Total shipments . . . . .                     | 24,714 | 29,345 | 28,189 | 7,054       | 7,014  | 28,600      | 30,010 |
| Ratios and shares (percent)                   |        |        |        |             |        |             |        |
| Capacity utilization . . . . .                | 78.0   | 84.1   | 78.3   | 89.1        | 66.7   | 73.7        | 77.5   |
| Inventories to production . . . . .           | 13.8   | 12.2   | 22.6   | 16.4        | 23.7   | 19.4        | 16.4   |
| Inventories to total ship-<br>ments . . . . . | 14.7   | 12.1   | 25.4   | 23.7        | 22.8   | 19.0        | 16.2   |
| Share of total quantity of<br>shipments:      |        |        |        |             |        |             |        |
| Home market . . . . .                         | .5     | .8     | .9     | 1.3         | .9     | .9          | .8     |
| Exports to--                                  |        |        |        |             |        |             |        |
| The United States . . . . .                   | 39.1   | 37.9   | 34.6   | 39.1        | 38.7   | 31.0        | 28.8   |
| All other markets . . . . .                   | 60.4   | 61.3   | 64.6   | 59.6        | 60.5   | 68.1        | 70.4   |

Note.--Capacity utilization and inventory ratios are calculated from data of firms providing both numerator and denominator information. Part-year inventory ratios are annualized.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

fresh pineapple during the first half of 1993, but once aware of a surplus emerging in the canned pineapple fruit market, reportedly cut back purchases of fresh pineapple and also reduced production in late 1993 and early 1994. Respondents also note that a drought in late 1993 and decisions by a number of Thai farmers to abandon pineapple farming have resulted in a significant decline in the supply of fresh pineapple.<sup>46</sup>

The dramatic price declines of fresh pineapple during 1993 persuaded the Thai Government to implement a price stabilization program which, in effect, subsidized farmers when the price of fresh pineapple fell below a certain point.<sup>47</sup> The Government had no special direct or indirect price support programs dealing specifically with canned pineapple fruit during the period for which data were collected.

With shipments to the home market accounting for less than one percent of total shipments, Thai canners mostly process pineapple for export, with the United States, Germany, the Netherlands, and Japan as the primary markets. Petitioner argues that high tariffs in Europe and Japan place severe limits on the amount of exports Thailand can ship to these major markets and that as a result, Thai canners can easily divert sales from these markets to the relatively unrestricted U.S. market.<sup>48</sup> Respondents note that the tariffs in Europe have been in place for at least 10 years and, consequently, there have been no recent market, tariff, or other changes with respect to Europe that have prompted Thai canners to divert exports to the United States.<sup>49</sup> Exports to the United States increased during 1992 but returned to about 1991 levels during 1993. They remained fairly constant between the interim periods, and are projected to decline slightly in 1994 and 1995.

## **CONSIDERATION OF THE CAUSAL RELATIONSHIP BETWEEN IMPORTS OF THE SUBJECT MERCHANDISE AND THE ALLEGED MATERIAL INJURY**

### **U.S. Imports**

U.S. imports of canned pineapple fruit are presented in table 15. The Commission sent importers' questionnaires to 47 firms believed to be importing canned pineapple from Thailand. Responses with usable data were received from 29 U.S. importers, which accounted for about 75 percent of the quantity of imports from Thailand in 1993 as reported in the official U.S. import statistics. Since the HTS subheadings cover all the subject merchandise,<sup>50</sup> data in this section regarding the quantity and value of U.S. imports of canned pineapple are based on official U.S. import statistics.

Imports of canned pineapple fruit from Thailand increased by 41.4 percent during 1991-93, but declined by 4.9 percent between January-March 1993 and January-March 1994. In terms of value, such imports increased by 45.9 percent from 1991 to 1992 but fell by 11.5 percent from 1992 to 1993, accounting for an increase of 29.1 percent during 1991-93. The decline in the value of imports from Thailand during 1993 reflects the decline in unit values from \$10.71 per case in 1992 to \$9.59 per case in 1993. Between the interim periods, the value of imports from Thailand continued to decline, by 20.5 percent.

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<sup>46</sup> Respondents' postconference brief, part II.

<sup>47</sup> In late 1992, fresh pineapple prices began to fall sharply, from almost 3.00 baht/kg in November to 1.30-1.50 baht/kg in February 1993. The Ministry of Commerce allocated 109 million baht (\$4.2 million) for the purpose of stabilizing prices paid to farmers. The price stabilization program was in effect from Feb. 23, 1993 through May 31, 1993. At that time, the Government subsidized farmers by paying an additional 0.15 baht/kg for every kilogram of fresh pineapple sold to any cannery, provided the price at the cannery was no more than 1.50 baht/kg. The amount of fresh pineapple subsidized by the Government was not permitted to exceed 727,404 tons.

<sup>48</sup> Petitioner's postconference brief, p. 17.

<sup>49</sup> Respondents' postconference brief, part II.

<sup>50</sup> Some product not subject to the Commission's investigation, i.e., pineapple packaged in aseptic crush or drums, is classified under these HTS subheadings. These products are estimated to account for less than 2 percent of imports in these subheadings.

Table 15

Canned pineapple fruit: U.S. imports, by sources, 1991-93, Jan.-Mar. 1993, and Jan.-Mar. 1994

| Item                                     | 1991    | 1992    | 1993    | Jan.-Mar.--<br>1993 | 1994   |
|--|---------|---------|---------|---------------------|--------|
| <i>Quantity (1,000 cases)</i>            |         |         |         |                     |        |
| Thailand . . . . .                       | 8,938   | 12,792  | 12,641  | 3,488               | 3,318  |
| Other sources . . . . .                  | 12,157  | 12,265  | 12,509  | 2,908               | 3,565  |
| Total . . . . .                          | 21,095  | 25,057  | 25,150  | 6,396               | 6,883  |
| <i>Value (1,000 dollars)</i>             |         |         |         |                     |        |
| Thailand . . . . .                       | 93,894  | 137,035 | 121,210 | 36,050              | 28,659 |
| Other sources . . . . .                  | 125,664 | 126,913 | 124,372 | 30,829              | 35,397 |
| Total . . . . .                          | 219,558 | 263,947 | 245,582 | 66,879              | 64,056 |
| <i>Unit value (per case)</i>             |         |         |         |                     |        |
| Thailand . . . . .                       | \$10.51 | \$10.71 | \$9.59  | \$10.34             | \$8.64 |
| Other sources . . . . .                  | 10.34   | 10.35   | 9.94    | 10.60               | 9.93   |
| Average . . . . .                        | 10.41   | 10.53   | 9.76    | 10.46               | 9.31   |
| <i>Share of total quantity (percent)</i> |         |         |         |                     |        |
| Thailand . . . . .                       | 42.4    | 51.1    | 50.3    | 54.5                | 48.2   |
| Other sources . . . . .                  | 57.6    | 48.9    | 49.7    | 45.5                | 51.8   |
| Average . . . . .                        | 100.0   | 100.0   | 100.0   | 100.0               | 100.0  |
| <i>Share of total value (percent)</i>    |         |         |         |                     |        |
| Thailand . . . . .                       | 42.8    | 51.9    | 49.4    | 53.9                | 44.7   |
| Other sources . . . . .                  | 57.2    | 48.1    | 50.6    | 46.1                | 55.3   |
| Average . . . . .                        | 100.0   | 100.0   | 100.0   | 100.0               | 100.0  |

Note.--Because of rounding, figures may not add to the totals shown; unit values are calculated from unrounded figures.

Source: Compiled from official statistics of the U.S. Department of Commerce.

## Market Penetration by the Subject Imports

Market shares based on the U.S. producers' shipments and U.S. imports are presented in table 16. Over the 3-year period, the U.S. producers' share of the quantity of total apparent consumption decreased from \*\*\* percent to \*\*\* percent. Between the interim periods, the U.S. producers' share continued to fall, from \*\*\* percent during January-March 1993 to \*\*\* percent during January-March 1994. Thailand supplied \*\*\* percent of the quantity of U.S. consumption in 1991, \*\*\* percent in 1992, and \*\*\* percent in 1993. Thailand's market share declined between the interim periods, decreasing \*\*\* percentage points between interim 1993 and interim 1994.

Table 16

Canned pineapple fruit: Apparent U.S. consumption and market shares, 1991-93, Jan.-Mar. 1993, and Jan.-Mar. 1994

\* \* \* \* \*

### Prices

#### Marketing Practices

Prices vary by can size, specifically the 20 oz., 15.25 oz., and 8-8.25 oz. sizes sold at the retail grocery level, and number 10 cans sold to food service customers. Generally, for each of the three sizes of cans that are available at the retail level, the different forms of canned pineapple fruit (slices, chunks, tidbits, and crushed) and pineapple packed in its own juice and in heavy syrup are priced the same. In the food service market, suppliers may charge a premium for crushed and rings.<sup>51</sup>

Prices also vary by the tier in which the canned pineapple is sold.<sup>52</sup> The retail market consists of three tiers, the national brands, private labels, and regional brands. The highest priced are the national brands, Del Monte and Dole; \*\*\* percent of Dole's product is imported from Thailand. At the next level are the private labels. There are two levels of private labels, the higher-priced first private labels, which are dominated by Maui, and the lower-priced second private labels, which are supplied by Maui and imports. The lowest-priced third tier consists of the regional brands which are supplied solely by imports. According to Maui, it must maintain a price 10 to 15 percent lower than the national brands and the regional brands must be priced lower than Maui's product. Maui argues that it has had to lower prices because of competition from both the higher-priced national brands and the lower-priced regional brands.<sup>53</sup> Additionally, Maui argues that it faces competition from Thailand within the first private label segment of the market.<sup>54</sup> According to respondents, most buyers require fancy Hawaiian product for their first private label and, therefore, Maui is shielded from competition from imported product from Thailand.<sup>55</sup>

Similar pricing tiers exist within the food service market. Food service distributors may sell as many as five different labels priced at different points based on product quality. As in the retail market, the top tier is supplied by national brands. Maui sells product in the second and third pricing tiers. Maui argues that the food service market is even more price competitive than the retail market because the final consumers do not see the brand name or container of canned pineapple fruit and because quality is less important since the pineapple is often mixed with other ingredients.<sup>56</sup>

Maui publishes price lists for retail sales and food service sales. About 40 percent of importers responding to the questionnaire, including Dole, publish price lists. These price lists

<sup>51</sup> Conference transcript, p. 28. However, Maui often sells all forms at the same price because of pressure from its customers.

<sup>52</sup> The different market tiers are discussed in the "Channels of Distribution" section of this report.

<sup>53</sup> Conference transcript, p. 31.

<sup>54</sup> Conference transcript, p. 33.

<sup>55</sup> Respondents' postconference brief, p. 12.

<sup>56</sup> Conference transcript, p. 36.

usually serve as a starting point from which a variety of discounts are offered. They also serve as a guide to base shelf pricing at the retail level and base pricing to food service end users.

Maui offers a number of different discounts from list price. Standard discounts include a cash discount of 2 percent for payment in 10 days, net 11 days. Other standard discounts include a label allowance, corporate allowance, sales and marketing allowance, swell allowance<sup>57</sup>, and direct shipping allowance. Additionally, Maui offers special promotional/merchandising allowances including a truckload allowance to encourage purchases of larger quantities, an "extraordinary merchandising allowance," and a "Hawaiian merchandise fund." About half of the responding importers also reported using similar types of discounts including a cash discount, corporate allowance, label allowance, advertising allowance, and volume incentives. Dole typically offers the following discounts: \*\*\*.

Maui reported that published promotions are run four to five times per year. The biggest promotional period is in the fourth quarter, during the Thanksgiving and Christmas holidays. Other promotional periods include fall, Easter, and summer.

### Transportation Costs

Maui typically quotes its prices f.o.b. West Coast warehouse. Inland freight ranges from about \*\*\* percent of delivered price in the West to about \*\*\* percent of delivered price in the East. \*\*\*.

About one-third of importers quote prices mainly on an f.o.b. basis, about one-third (including Dole) quote prices on a delivered basis, and about one-third quote prices both on an f.o.b. and a delivered basis. Importers report inland transportation costs ranging from 5 to 10 percent of the delivered price, and most arrange transportation to the customers.

### Product Comparisons

Canned pineapple fruit is differentiated on the basis of labeling, grades, taste, appearance, and advertising. In general, these characteristics follow the different tiers, with imported product from Thailand sold under the Dole brand name being higher-priced and sold to meet a higher standard than the imported Thai product sold in the second and third tiers; the domestic product is marketed primarily in the second tier.

Most canned pineapple fruit is classified as one of three USDA grades: fancy, choice, or standard.<sup>58</sup> Dole's brand name product is \*\*\* percent fancy grade, while its sales of imported product for the private label market are about \*\*\* percent fancy grade and \*\*\* percent choice grade.<sup>59</sup> All other importers of the Thai product that completed the Commission's questionnaire reported sales of only choice and/or standard grade. About 80 percent of Maui's sales are of fancy grade product.<sup>60</sup> \*\*\*.

The first private label products that Maui sells generally require products of equal or better quality than the national brands. Retail buyers for the private labels generally hold cuttings in which various cans of pineapple from different suppliers are compared based on such factors as appearance and taste.

About two-thirds of responding importers reported that the U.S.-produced product and imported product from Thailand are not used interchangeably and that differences in quality between imports and domestic product are a significant factor in their sales of canned pineapple fruit. Specific differences mentioned include the higher acid content, brighter color, and different flavor of

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<sup>57</sup> The swell allowance is offered to retail customers and is intended to cover hidden damages and avoid the use of reclamation centers.

<sup>58</sup> These grades are based on an evaluation of five factors: color, uniformity of size and shape, defects, flavor and odor, and tartness. Canned pineapple fruit can be also graded as substandard. The grades are generally not labeled on the can.

<sup>59</sup> \*\*\*.

<sup>60</sup> Conference transcript, p. 87.

the Hawaiian product, and that the Hawaiian product is generally graded fancy and considered to be a premium product while the imported products from Thailand are generally graded lower.

\* \* \* \* \*

The products are also differentiated in terms of product labeling. Often, U.S.-produced product will be identified as "100 percent Hawaiian" on the top of the can or on the label. In addition, private labels may advertise the fancy designation on the can.

Advertising and marketing for the various products also differ. The national brands, including imports from Thailand under the Dole brand name, are the most advertised, and are often perceived by customers as being the highest quality. The first private label store brands, most of which consist of Hawaiian product, are heavily marketed by the stores in terms of displays and store advertisements, and are often displayed prominently on the shelf. The third tier or regional brands are characterized by little advertising, are constantly substituting for one another on the shelf, and often receive the least desirable shelf placement.

### **U.S. Producer and Importer Price Data**

The Commission requested U.S. producers and importers to provide quarterly price data between January 1991 and March 1994 for the following four products:

Product 1: Canned pineapple, 20 oz. size, in chunks, sliced, or crushed; in juice or heavy syrup.

Product 2: Canned pineapple, 15.5 oz. size, in chunks, sliced, or crushed; in juice or heavy syrup.

Product 3: Canned pineapple, 8-8.25 oz. size, in chunks, sliced, or crushed; in juice or heavy syrup.

Product 4: Canned pineapple, number 10 size, for food service market, choice grade tidbits in juice or heavy syrup.

The price data were requested on a net f.o.b. basis for each responding firm's largest sale in each quarter and its total quarterly sales to all retailers and food service customers. Firms were instructed to report separately for sales of national brands and private labels and for fancy grade and choice grade.

U.S. producer and importer prices are shown in tables 17-20 and figures 1-2.<sup>61</sup> Prices are shown separately for Dole brand products and other imports from Thailand (including Dole's private label sales). In the following discussion of pricing trends and comparisons, references to imports from Thailand refer to imports other than the Dole brand except as otherwise indicated.

Table 17

Product 1: Weighted-average net f.o.b. prices for sales to retailers reported by U.S. producers and importers, and margins of underselling (overselling), by quarters, Jan. 1991-Mar. 1994

\* \* \* \* \*

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<sup>61</sup> \*\*\*.

Table 18

Product 2: Weighted-average net f.o.b. prices for sales to retailers reported by U.S. producers and importers, and margins of underselling (overselling), by quarters, Jan. 1991-Mar. 1994

\* \* \* \* \*

Table 19

Product 3: Weighted-average net f.o.b. prices for sales to retailers reported by U.S. producers and importers, and margins of underselling (overselling), by quarters, Jan. 1991-Mar. 1994

\* \* \* \* \*

Table 20

Product 4: Weighted-average net f.o.b. prices for sales to food service customers reported by U.S. producers and importers, and margins of underselling (overselling), by quarters, Jan. 1991-Mar. 1994

\* \* \* \* \*

Figure 1

Products 1 and 2: Weighted-average net f.o.b. prices for sales to retailers reported by U.S. producers and importers, by quarters, Jan. 1991-Mar. 1994

\* \* \* \* \*

Figure 2

Products 3 and 4: Weighted-average net f.o.b. prices for sales to retailers (product 3) and food service customers (product 4) reported by U.S. producers and importers, by quarters, Jan. 1991-Mar. 1994

\* \* \* \* \*

### Price trends

Overall prices peaked during the end of 1991 and then declined slightly thereafter with some variation between the different products and between imports and U.S.-produced product.

Product 1, 20-oz. cans sold to retailers, was by far the most significant product in terms of sales volume. \*\*\*. Sales volumes for product 2, 15.5-oz. cans sold to retailers, were much smaller than those for product 1. \*\*\*. Reported sales volumes of product 3 were less than one-third of those of product 1. \*\*\*. Prices of product 4, choice grade number 10 tidbits sold to food service customers, \*\*\*.

### Price comparisons

In making price comparisons, the different price tiers should be taken into account. For products 1-3 which are sold into the retail market, only Maui and \*\*\* reported sales of fancy grade product. Other importers of the product from Thailand (\*\*\*) reported selling only choice grade product. \*\*\*.

\* \* \* \* \*



### Lost Sales and Lost Revenues

Maui reported \*\*\* instances of lost revenues and \*\*\* instances of lost sales involving \*\*\* customers. Alleged lost revenues totaled \$\*\*\* for \*\*\* cases. Maui allegedly lost sales of \*\*\* cases totaling \$\*\*\*. \*\*\*.<sup>62</sup>

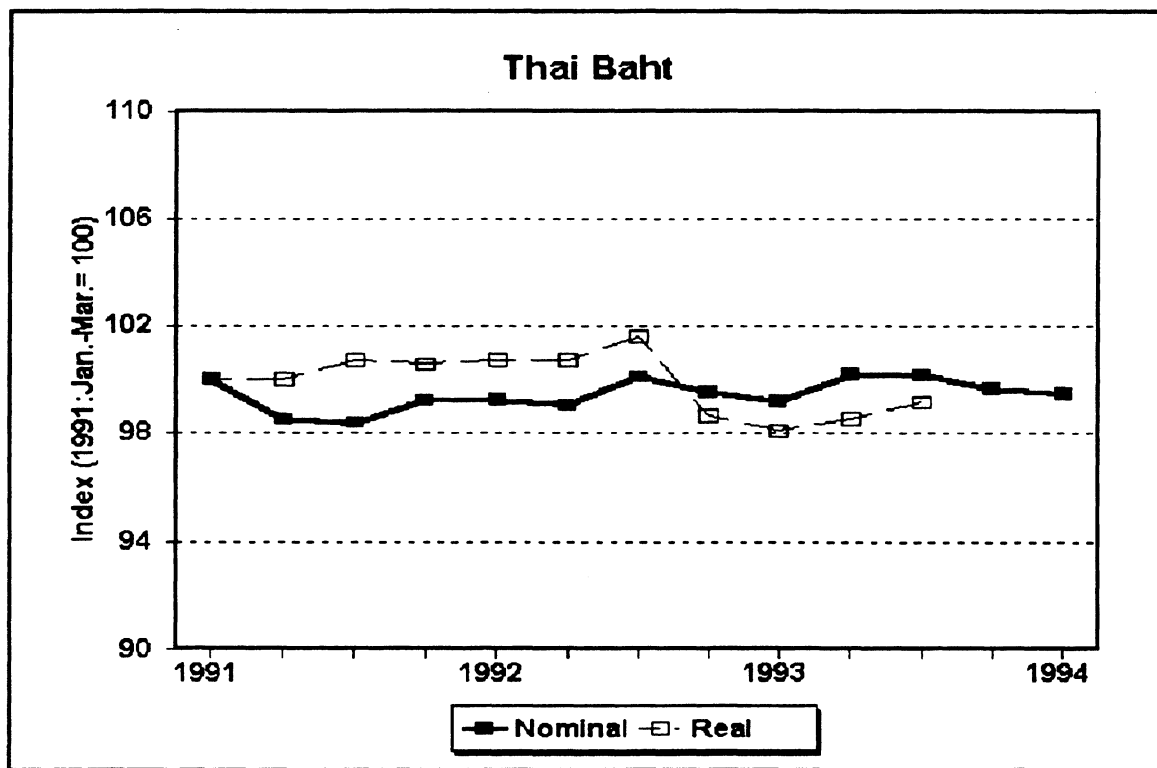
\* \* \* \* \*

### Exchange Rates

Quarterly exchange rates between the Thai baht and U.S. dollar reported by the International Monetary Fund for the period January 1991-March 1994 are shown in figure 3. The nominal value of the Thai baht and the real value of the Thai currency, when adjusted for movements in producer price indexes in the United States and Thailand, fluctuated within a narrow range, depreciating by less than one percent against the U.S. dollar.

Figure 3

Exchange rates: Indexes of the nominal and real exchange rates of the Thai baht, by quarters, Jan. 1991-Mar. 1994



Source: International Monetary Fund, International Financial Statistics, May 1994.

<sup>62</sup> Maui stated that its prices must be 10 to 15 percent below the national brand prices and therefore would have to lower its prices to this level to remain competitive. Conference transcript, p. 31.



**APPENDIX A**  
***FEDERAL REGISTER* NOTICES**



**INTERNATIONAL TRADE  
COMMISSION**

[Investigation No. 731-TA-706  
(Preliminary)]

**Canned Pineapple Fruit From Thailand;  
Import Investigations**

**AGENCY:** United States International  
Trade Commission.

**ACTION:** Institution and scheduling of a  
preliminary antidumping investigation.

**SUMMARY:** The Commission hereby gives notice of the institution of preliminary antidumping investigation No. 731-TA-706 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. section 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Thailand of canned pineapple fruit,<sup>1</sup> provided for in subheading 2008.20.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. The Commission must complete preliminary antidumping investigations in 45 days, or in this case by July 25, 1994.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

**EFFECTIVE DATE:** June 8, 1994.

**FOR FURTHER INFORMATION CONTACT:** Brad Hudgens (202-205-3189), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. Information can also be obtained by calling the Office of Investigations' remote bulletin board system for personal computers at 202-205-1895 (N,8,1).

<sup>1</sup> For purposes of this investigation, canned pineapple fruit is defined as pineapple, otherwise prepared or preserved, that is cored and sliced into one of several product forms, including rings, pieces, chunks, tidbits, and crushed, and is packed into metal cans; either pineapple juice or sugar (heavy) syrup is added.

**SUPPLEMENTARY INFORMATION:****Background**

This investigation is being instituted in response to a petition filed on June 8, 1994, by Maui Pineapple Company, Ltd.; Kahului, Hawaii.

**Participation in the Investigation and Public Service List**

Persons (other than petitioners) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven (7) days after publication of this notice in the *Federal Register*. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

**Limited Disclosure of Business Proprietary Information (BPI) Under An Administrative Protective Order (APO) and BPI Service List**

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this preliminary investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than seven (7) days after the publication of this notice in the *Federal Register*. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

**Conference**

The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on June 29, 1994, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Brad Hudgens (202-205-3189) not later than June 27, 1994, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

**Written Submissions**

As provided in sections 201.6 and 207.15 of the Commission's rules, any person may submit to the Commission on or before July 5, 1994, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties may file written testimony in connection with their presentation at the conference no later than three (3) days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

**Authority:** This investigation is being conducted under authority of title VII, the Tariff Act of 1930, as amended. This notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Issued: June 13, 1994.

Donna E. Koehnke,

Secretary.

[FR Doc. 94-14700 Filed 6-15-94; 8:45 am]

BILLING CODE 7020-02-P

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# Notices

**Federal Register**

**Vol. 59, No. 127**

**Tuesday, July 5, 1994**

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## **International Trade Administration**

**[A-549-813]**

### **Initiation of Antidumping Duty Investigation: Canned Pineapple Fruit From Thailand**

**AGENCY:** Import Administration,  
International Trade Administration,  
Department of Commerce.

**EFFECTIVE DATE:** July 5, 1994.

**FOR FURTHER INFORMATION CONTACT:**  
Stephen Alley or Lori Way, Office of  
Antidumping Investigations, Import  
Administration, International Trade  
Administration, U.S. Department of  
Commerce, 14th Street and Constitution  
Avenue, NW, Washington, DC 20230;  
telephone (202) 482-5288 and 482-  
0656, respectively.

**Initiation of Investigation*****The Petition***

On June 8, 1994, we received a petition filed in proper form from Maui Pineapple Company, Ltd. and the International Longshoremen's and Warehousemen's Union. Petitioners filed supplements to the petition on June 14 and 20, 1994. In accordance with 19 CFR 353.12, petitioners allege that imports of canned pineapple fruit from Thailand are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are materially injuring, or threaten material injury to, a U.S. industry.

Petitioners have stated that they have standing to file the petition because they represent interested parties as defined under section 771(9)(C) and (D) of the Act, and because the petition was filed on behalf of the U.S. industry producing the product subject to this investigation. If any interested party, as described under paragraphs (C), (D), (E) or (F) of section 771(9) of the Act, wishes to register support for, or opposition to, this petition, such party should file a written notification with the Assistant Secretary for Import Administration.

***Scope of Investigation***

The product covered by this investigation is canned pineapple fruit (CPF). For the purposes of this investigation, CPF is defined as pineapple processed and/or prepared into various product forms, including rings, pieces, chunks, tidbits, and crushed pineapple, that is packed and cooked in metal cans with either pineapple juice or sugar syrup added. CPF is currently classifiable under subheadings 2008.20.0010 and 2008.20.0090 of the *Harmonized Tariff Schedule of the United States* (HTSUS). HTSUS 2008.20.0010 covers CPF packed in a sugar-based syrup; HTSUS 2008.20.0090 covers CPF packed without added sugar (*i.e.*, juice-packed). Although these HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope is dispositive.

***United States Price and Foreign Market Value***

Petitioners based U.S. price (USP) on average unit values derived from U.S. Customs IM-146 import statistics. To calculate U.S. price, petitioners made deductions for foreign inland freight.

Petitioners used Thai home market delivered price quotes provided by a market researcher to calculate foreign

market value (FMV). According to petitioners, there is no difference in quality between the CPF sold in the Thai and U.S. markets. To calculate FMV, petitioners deducted an amount for home market inland freight expenses, and then converted the net price to dollars using contemporaneous exchange rates from the Federal Reserve.

The margin alleged by petitioners is 138.48 percent. If it becomes necessary at a later date to consider the petition as a source of best information available (BIA) in this investigation, we may review more thoroughly all of the bases for USP and FMV in determining BIA.

***Initiation of Investigation***

We have examined the petition on CPF from Thailand and have found that it meets the requirements of section 732(b) of the Act and 19 CFR 353.13(a). Therefore, we are initiating an antidumping duty investigation to determine whether imports of CPF from Thailand are being, or are likely to be, sold in the United States at less than fair value.

***International Trade Commission Notification***

Section 732(d) of the Act requires us to notify the International Trade Commission (ITC) of this action and we have done so.

***Preliminary Determination by the ITC***

The ITC will determine by July 25, 1994, pursuant to section 733(a)(1) of the Act, whether there is a reasonable indication that imports of CPF from Thailand are materially injuring, or threaten material injury to, a U.S. industry. Pursuant to section 733(a)(2) of the Act, a negative ITC determination will result in this investigation being terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 732(c)(2) of the Act and 19 CFR 353.13(b).

Dated: June 27, 1994.

Susan G. Esserman,  
Assistant Secretary for Import  
Administration.

[FR Doc. 94-16208 Filed 7-1-94; 8:45 am]

BILLING CODE 3010-08-P



**APPENDIX B**  
**LIST OF PARTICIPANTS IN THE CONFERENCE**



## CALENDAR OF THE PUBLIC CONFERENCE

Subject: CANNED PINEAPPLE FRUIT FROM THAILAND  
Inv. No. 731-TA-706 (Preliminary)

Time and Date: June 29, 1994 - 9:30 a.m.

Sessions were held in connection with the investigation in the Main Hearing Room of the United States International Trade Commission, 500 E Street, SW, Washington, DC.

### In Support of the Imposition of Antidumping Duties:

Georgetown Economic Services  
Washington, DC  
On behalf of

Maui Pineapple Company, Inc.  
Douglas R. Schenk, President  
Renata Muller, Division Sales Manager

Dr. Patrick J. Magrath, Managing Director, Georgetown Economic Services  
Michael T. Kerwin, Economic Consultant, Georgetown Economic Services

### In Opposition to the Imposition of Antidumping Duties:

Willkie Farr & Gallagher  
Washington, DC  
On behalf of

Thai Food Processors' Association

NTC Marketing, Inc.  
Michael J. Derosé Sr., Chairman

William H. Barringer, Esq.                     )  
Kenneth Pierce, Esq.                         )--OF COUNSEL  
Christopher S. Stokes, Esq.                 )

Harris & Ellsworth  
Washington, DC  
On behalf of

Association of Food Industries (AFI) Pineapple Group

Herbert E. Harris II, Esq.                     )  
Jeffrey S. Levin, Esq.                         )--OF COUNSEL  
   )



**APPENDIX C**  
**SUMMARY DATA**



Table C-1

Canned pineapple fruit: Summary data concerning the U.S. market, 1991-93, Jan.-Mar. 1993, and Jan.-Mar. 1994

\* \* \* \* \*

Table C-2

Canned pineapple fruit: Summary data concerning the U.S. market (with "producer" data for all firms except Dole), 1991-93, Jan.-Mar. 1993, and Jan.-Mar. 1994

\* \* \* \* \*





## **APPENDIX D**

### **MAUI'S COST OF PRODUCTION AND VALUE ADDED AS A PERCENT OF COST OF PRODUCTION**



Table D-1

Cost-of-production experience of Maui on its operations producing canned pineapple fruit, fiscal years 1991-93, Jan.-Mar. 1993, and Jan.-Mar. 1994

\* \* \* \* \*



## **APPENDIX E**

**COMMENTS RECEIVED FROM U.S. PRODUCERS ON THE IMPACT OF  
IMPORTS OF CANNED PINEAPPLE FRUIT FROM THAILAND  
ON THEIR GROWTH, INVESTMENT, ABILITY TO RAISE CAPITAL,  
AND/OR EXISTING DEVELOPMENT AND PRODUCTION EFFORTS**



Responses of Maui to the following questions:

1. Since January 1, 1991, has your firm experienced any actual negative effects on its growth, investment, ability to raise capital, or existing development and production efforts, including efforts to develop a derivative or more advanced version of the product, as a result of imports of canned pineapple fruit from Thailand?

\* \* \* \* \*

2. Does your firm anticipate any negative impact of imports of canned pineapple fruit from Thailand?

\* \* \* \* \*

3. Has the scale of capital investments undertaken been influenced by the presence of imports of canned pineapple fruit from Thailand?

\* \* \* \* \*

