THE UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of: CANNED PINEAPPLE FRUIT FROM THAILAND

) Investigation No.: 731-TA-706 (Second Review)

Thursday, January 18, 2007
Room No. 101
U.S. International Trade Commission
500 E Street, S.W.
Washington, D.C.

The hearing commenced, pursuant to notice, at 9:31 a.m. before the Commissioners of the United States International Trade Commission, the Honorable DANIEL R. PEARSON, Chairman, presiding.

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On behalf of The Domestic Industry:

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**IN-CAMERA SESSION:** 217-321

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CHAIRMAN PEARSON: Good morning. On behalf of the U.S. International Trade Commission, I welcome you to this hearing on Investigation No. 731-TA-706 (Second Review), involving Canned Pineapple Fruit From Thailand.

The purpose of this five-year review investigation is to determine whether the revocation of the antidumping duty order covering canned pineapple fruit from Thailand would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Before we begin, I would like to note that the Commission has granted in part a request from Respondents to hold a portion of this hearing in camera. We will begin with public presentations by Petitioners, followed by Commissioners' questions, and then the same for Respondents.

We then will have a 10 minute in camera session by Respondents, followed by a 10 minute in camera rebuttal presentation by Petitioners if so desired. Only signatories to the APO will be permitted in the hearing room during the in camera
sessions. Following the in camera presentations, we will resume with public rebuttal and closing remarks.

Notice of investigation for this hearing, lists of witnesses and transcript order forms are available at the public distribution table. I understand that parties are aware of the time allocations. Any questions regarding the time allocations should be directed to the Secretary.

As all written material will be entered into the record in full it need not be read to us at this time. Parties are reminded to give any prepared testimony to the Secretary. Do not place testimony directly on the public distribution table. All witnesses must be sworn in by the Secretary before presenting testimony.

Finally, if you will be presenting documents that contain information you wish classified as business confidential your requests should comply with Commission Rule 201.6.

Mr. Secretary, are there any preliminary matters?

MR. BISHOP: No, Mr. Chairman.

CHAIRMAN PEARSON: Very well. Let us proceed with opening remarks.

MR. BISHOP: Opening remarks on behalf of Heritage Reporting Corporation
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those in support of continuation of the order will be given by Paul C. Rosenthal, Kelley Drye Collier Shannon.

CHAIRMAN PEARSON: Welcome, Mr. Rosenthal.

You may proceed.

MR. ROSENTHAL: Thank you. Good morning, Mr. Chairman, members of the Commission. If ever a case called out for a field hearing in January when it's 40 degrees this is it, but I guess we were not able to predict the future when this hearing was set, but I'm delighted to be here before you today.

Of course, this is the second sunset review on canned pineapple fruit from Thailand, and the Commission has looked at the domestic industry before, but I'm sure you'll agree that it's a unique industry, unlike the industrial products that are often the subject of Commission scrutiny and unlike virtually any other agricultural product that you get to see as well.

The conditions in which pineapples are grown and their marketing, both canned and fresh, are highly unusual. So too is the importance of the canned pineapple industry to the Island of Maui and the State of Hawaii.

The domestic industry in this case,
comprised solely of the Maui Pineapple Company, is also unique. As you will hear today, the Maui Pineapple Company is part of a company that has an unusual vision of its place in the community and in the state. This is a company that understands and responds to its responsibilities as a good corporate citizen.

The Maui Pineapple Company is dedicated to preserving and enhancing the environment. The company is committed as well to its workers and the communities it serves. It's not just another company and is not just in another state. The Island of Maui and the State of Hawaii depend on the Maui Pineapple Company as the biggest employer in Maui and the biggest agricultural company in the state.

The Maui Pineapple Company is also one of the biggest industrial producers in the state. The success of Maui Pineapple Company is very important to the diversity of Hawaii's economy.

As I said, the Maui Pineapple Company has taken its responsibility to its workers and its community seriously, and the company represented before you is really much different than the one you saw in the previous sunset review. It's taken a different approach to its business and business
strategy in an effort to survive in a very, very
highly competitive environment.

The president of Maui Pineapple Company, Mr.
Brian Nishida, will testify this morning about the
company's business plan and the intensified efforts to
survive the competitive pressure that it faces.

He will explain the relationship between the
fresh and canned pineapple businesses and the
importance of maintaining a healthy processing
business for the entire enterprise to thrive. He will
also explain the injurious effect of imports on a
decaying but crucial canned pineapple business.

There are a few Respondents participating in
this review, and they are represented by counsel. It
is notable, however, that the Respondents who chose to
participate in this review represent just a small
fraction of the productive capacity of the Thai
pineapple industry.

Indeed, as both Grace Kim and I will discuss
in testimony later this morning, the failure by the
Thai producers to respond to the Commission's
questionnaires has left the Commission with an
incomplete picture of the Thai industry and its
capacity.

The failure of the Thai industry to provide
complete information has left the Commission with a
distorted record. The Commission must apply adverse
inferences if you were to do justice in this
proceeding.

The Respondents who appear before you have a
central argument that is rather curious. Respondents
point to the Thai companies that are no longer subject
to the dumping order and note that those companies
account for the vast majority of imports since the
antidumping order was revoked as to them. The
Respondents point to the low level of imports
accounted for by the companies that are still under
the restraints of the antidumping order.

Actually, the domestic industry doesn't
dispute those facts. Indeed, we embrace them. They
demonstrate what will happen if the antidumping order
is revoked as to the rest of the companies that are
subject to the order.

The behavior of the imports now subject to
the dumping order will mimic the behavior of the
imports that have been unshackled by the order. To
argue otherwise is to invite what I hope will be a
long and interesting afternoon of questioning for the
Respondents.

We hope and expect that when the Commission
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gathers all the evidence available you'll conclude
that revocation of the order will lead to the
continuation of material injury to this important
domestic industry.

Thank you.

MR. BISHOP: Opening remarks on behalf of
those in opposition to the continuation of the order
will be given by Arthur J. Lafave, III, Lafave
Associates.

CHAIRMAN PEARSON: Welcome, Mr. Lafave.

Please proceed.

MR. LAFAVE: Thank you. Good morning. My
name is Arthur Lafave, and I'm here today on behalf of
Thai Respondents.

There's been a dramatic change in
circumstances since the last time the Commission took
a look at the antidumping duty order on canned
pineapple fruit. In the intervening period, four Thai
canned pineapple producers have received partial
revocations to the dumping order: Dole, Kuiburi, Siam
Food Products and Tipco.

As the Thai Food Producers' Association data
supplied in our response to the notice of initiation
shows, these four exporters account for the lion's
share of exports of this product from Thailand in
recent years before and after the revocations.

The market for canned pineapple fruit in the United States is dominated by nonsubject imports from Thailand, imports from Indonesia and the Philippines and domestically produced product. The remaining Thai companies subject to the order either have never exported to the United States, have not exported to the United States in recent years or have exported only modest quantities of canned pineapple fruit.

There's no evidence in the record that subject import volume would increase substantially in the reasonably foreseeable time if the order was revoked. The remaining subject Thai producers are operating at high rates of capacity utilization. Several of them have never exported to the United States, and others have exported only modest amounts.

All of the companies have established markets in third countries, including Japan, Australia, Canada, the U.K., Scandinavia, the EU, Russia and several eastern European countries. In many cases, the customers in those markets are major retail supermarket chains. There's no reason to suppose that these markets would be abandoned to increase sales volumes to the United States.

Moreover, the canned pineapple fruit that is
sold in some markets such as the EU, eastern Europe and Russia is standard grade and would not be acceptable for sale in the United States. Fancy canned pineapple is sold in Japan at higher average unit prices than canned pineapple sold in the United States, acting as an additional disincentive to shift existing export patterns.

To the extent there would be any increase in subject import volume after revocation of the order, Maui's repositioning in the market has effectively insulated it from import competition. As disclosed in Maui Land of Pineapple's SEC filings, Maui has sharply increased its sales to the U.S. Government, including the U.S. Department of Agriculture school lunch programs since the last sunset review. Imports cannot supply this segment of the market.

The confidential portion of the record of this investigation shows that Maui has insulated itself from import competition in the retail and food service sectors in other ways as well.

The record shows that revocation of the antidumping duty order would have negligible effects on the domestic industry's sales volumes, production, pricing and financial performance. To the extent that there would be any increase in the volume of subject
imports, those imports would replace nonsubject imports from Thailand and imports from Indonesia.

For these reasons, the Commission should find that revocation of the antidumping duty order would not lead to continuation or recurrence of material injury by reason of subject imports from Thailand.

Thank you very much.

CHAIRMAN PEARSON: Now we're prepared to move to the first panel. Yes, Mr. Secretary?

MR. BISHOP: Would the first panel, those in support of the continuation of the antidumping duty order, please come forward and be seated?

Mr. Chairman, all witnesses have been sworn.

(Witnesses sworn.)

CHAIRMAN PEARSON: Welcome, Mr. Rosenthal.

Your panel.

MR. ROSENTHAL: Thank you very much.

CHAIRMAN PEARSON: Please proceed.

MR. ROSENTHAL: Good morning again. For the record, I'm Paul Rosenthal of the law firm of Kelley Drye Collier Shannon. I'm joined today by my colleagues David Smith and Grace Kim of the law firm, who will be able to answer questions, and Grace Kim will also testify in the in camera session on a

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particular topic.

Our lead witness this morning will be Mr. Brian Nishida, who is the president of Maui Pineapple Company. He'll be followed by myself and then by Pat Magrath, who will be testifying in the public session.

We also have with us Mr. Stacey Jio from Maui Pineapple Company, who is available to answer questions too.

With that, I'll turn it over to Mr. Nishida.

MR. NISHIDA: Chair Pearson, Commissioners, good morning. My name is Brian Nishida. I'm the president and chief executive officer of Maui Pineapple Company. I've been employed by Maui Pine since January of 2004, but I'd like to tell you a little bit about my background and really my commitment to the pineapple industry in Hawaii.

This begins with my grandfather, who cultivated the Hawaiian pineapple as an independent grower for the Libby Corporation in the early 1900s. The family legacy continued with my father, who was a true entrepreneur and an innovator. As an example, he created individually quick frozen or flash frozen pineapple, which really pushed the Hawaiian industry in a brand new direction.

The success of that innovative business led...
to the acquisition of our family business by Del Monte, which began my 18 year career with that company.

I was chosen to become the vice president and general manager of Del Monte's Hawaiian operations in 1994, and I am pleased that in my nearly nine year career with Del Monte, my nine year tenure as the leader of the Del Monte operation in Hawaii, we were able to revise our business strategy and achieve sustained profitability for over a decade.

I was saddened by Del Monte's announcement recently that they were going to close all of their pineapple operations in Hawaii at the end of 2006. I'm here today on behalf of Maui Pineapple Company to ensure that we do not meet the same fate.

Maui Pineapple Company is the largest grower of pineapple in the U.S. It is the largest agricultural employer in the State of Hawaii and holds a unique holistic position in our community on Maui. The core values of our company are embodied in the three Hawaiian language words we use to guide our actions.

These are malama'aina, which loosely translated means love of the land and represents environmental stewardship; ho'ohanohano, which means...
respect for the community and our employees; and, third, po'okela, striving for excellence. I mention these too emphasize the value and importance that Maui Pineapple Company brings to our community.

The primary focus of Maui Pineapple Company over the past three years has been to improve the long-term performance, long-term financial performance, through the design and execution of a new business strategy, which I will speak to in greater detail shortly.

As important to our mission has been the employment of a triple bottom line business philosophy where ecological and community impacts hold equal value. That means that Maui Pineapple Company is committed to operating profitable fresh and canned pineapple operations for the benefit of our shareholders and the enhancement of Maui's residents and the thousands of people employed directly and indirectly by Maui Pineapple Company in a holistic and sustainable manner.

More broadly, the critical value that agriculture brings is economic diversity, especially to an island and a state that is so dependent on tourism. Agriculture enhances the natural beauty of the Island of Maui, which is so critical to Hawaii's
Maui Pineapple Company is currently pursuing a unique business strategy characterized by differentiated product positioning, which is made possible because of vertical and horizontal integration of which pineapple processing is an essential component.

The fresh product sold under the brand name of Maui Gold is positioned as a premium offering. Achieving the outstanding product attributes of this product requires precision farming and a very high quality of standard obtained in large part by a high cull rate of fruit. This screening process is significantly more rigorous than the industry standard practice. In short, only the best of the best is packed as Maui Gold.

Now, the profitable utilization of our culled fruit is essential to the sustainability of this business model. Canned pineapple is the avenue by which Maui Pineapple Company achieves its functionality. In essence, the fresh and canned business lines are not discrete, but rather are mutually supportive. As such, each must be competitive in their respective markets and of course profitable.
It is my understanding that the Thai Respondents highlight Maui Pineapple Company's increased focus on fresh pineapple as if Maui Pine had abandoned its cannery operations, but nothing could be farther from the truth.

As the prehearing staff report states, in the 10 years the order has been in place per capita consumption of fresh pineapple has more than doubled while consumption of canned pineapple has remained flat. Maui's decision to increase its focus on diversification and the higher margin segment of not just fresh pineapple, but of premium fresh pineapple from Maui, makes good business sense.

Respondents have made the same argument about Maui Pine's commitment to canned pineapple in the first review, and Maui's response is as true today as it was then, and I quote, "The fresh business we have now demands the synergies of our cannery." In fact, during 2003 Maui sold its Costa Rican fresh operation in line with pursuing the integrated business model.

The ITC site visit this past fall demonstrated that only a portion of any pineapple crop will meet the rigorous standards of fresh market expectations for maturity, color, size and shape.
Commissioners and staff who toured Maui's facility saw firsthand the co-location of Maui Pine's new fresh packing operation immediately next to the current cannery, really a design efficiency.

This new, state-of-the-art fresh packing operation illustrates Maui's commitment to modernizing its pineapple business and represents an investment in excess of $17 million. Maui continues to make investments throughout the pineapple business and has spent nearly $14 million in the last three years to improve and modernize our field infrastructure and equipment for both the fresh and cannery ends of our business.

At the time of the ITC site visit, Maui had engaged Stellar Engineering for the conceptual design of a streamlined cannery. Unfortunately, in the current environment of uncertainty the estimated investment cannot be pursued. Instead, Maui has restructured operations to drive greater efficiencies while allowing for adequate production capacity should market conditions allow for expansion.

Although this new configuration yields approximately one-quarter of the former canning capacity, it is at greater efficiency and with manufacturing flexibility. However, it is only a
temporary fix.

The current 85-year-old cannery, which Commissioners Pearson and Lane visited with staff members, operates at such low capacity that it must be replaced with modernized pineapple processing equipment. Such a significant investment, however, requires a predictable economic environment.

The critical importance of a horizontally and vertically integrated business was validated recently by the unexpected and immediate closure of Del Monte's pineapple operations on the island of Oahu, Hawaii.

At the time of the ITC site visit, Del Monte had announced ceasing that operation at the end of 2008. On the Friday before Thanksgiving, November 17, 2006, Del Monte announced immediate closure of the Hawaii operations with the attendant loss of 551 jobs, nearly all full-time positions.

This closure likely will mean that many employees will lose their homes because they reside on company property. Further, the closing will result in the exposure of thousands of acres of prime agriculture land to negative environmental impacts such as uncontrolled runoff and weathering.

Now, Del Monte did not have an integrated

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processed fruit component, evidently making the
economics of trying to maintain a fresh only operation
unsustainable and thus forcing closure.

I must emphasize that Maui Pine is still in
transition with the full implementation of our
business strategy. The company went from an operating
loss in the four year preorder period from 1992
through 1995 to sustained profitability from 1996
through 1999 due in large part to the effects of the
antidumping order.

Maui Pineapple Company lost $50 million in
that preorder period and made $17 million in the four
year postorder period ending in 1999. Maui operated
at a break-even level in the years 2000 and 2001. In
2002, however, Maui began a significant downturn in
profitability, which has worsened in each of the
ensuing years.

Notably in 2005, the first full year after
Commerce revoked the order for three additional Thai
producers, it really was Maui's worst year financially
since before the order was imposed with Maui's
operating losses climbing as a result of lower prices
for canned pineapple. The additional pricing
pressures added by the three unrestrained Thai
producers in 2004 exacerbated Maui's declining

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condition.

In addition to the near record operating loss in 2005, Maui experienced declines in sales, production, capacity utilization and market share. These financial indicators have deteriorated even further in interim 2006, leaving Maui in its current vulnerable condition.

In the original investigation and again in the first sunset review, the Commission found that Maui's sales to the government, the so-called Buy American sales, did not insulate Maui from the effects of unfair Thai imports.

Government sales increased in the most recent review period, but the terms governing those sales have not changed. As the Commission has twice concluded, Maui's government sales, and I quote, "do not shield it from the effects of dumped CPF because the sales are generally made at market prices."

Although a growing portion of Maui's sales are to the U.S. Government, the prices still remain competitive and, as our financial data indicate, sales to the U.S. Government do not guarantee profitability.

In conclusion, Maui is in a financially precarious position that has worsened over the course of the review period. Understand that the Thai
Respondents argue that Maui's financial condition is not as bad as it appears because of certain nonrecurring charges, although Respondents concede that Maui is losing money even if the nonrecurring charges are removed.

Respondents imply that Maui's financial condition information is unreliable because it is not audited and includes what they call, and I quote, "subjective allocations."

My response is twofold. First, Maui's financial data is accurate. However, we wish the results were better. Maui's financial data were compiled with the understanding that its data would be verified with the Commission. Maui's financial data was based on the allocation methods explained and accepted in the first sunset review.

Second, Maui's parent company has company-wide audited financial statements, and the assumptions and allocations built into the cannery operation results are consistent with these company-wide audited financial statements.

In the first sunset review we demonstrated to ITC staff how the CPF data flowed from the overall Maui Pineapple Company financials to the amounts shown on the consolidated audited financial statements.

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While I wish I could say that the numbers overstate our precarious position, in fact they do not. The company is vulnerable to the continued injury from Thai subject imports.

I thank you for your consideration. Good morning.

MR. ROSENTHAL: Thank you, Brian.

This morning I want to address directly some of the Respondents' arguments. The first one has to do with the claim that because the revoked producers accounted for the "vast majority" of Thai exports of CPF to the United States in the most recent postorder period, the likely effects on the domestic industry upon revocation would be negligible, claim the Respondents.

In support of their claim they argue as well that the Thai companies that remain covered by the order only shipped "modest quantities" of subject CPF and that any adverse impact due to the import competition felt by Maui over the past five years has been caused by the large volumes of canned pineapple fruit shipped from nonsubject sources. You heard that from Mr. Lafave in his opening statement.

Those arguments, however, are flawed. Contrary to the Respondents' claims, revocation for
the three Thai producers in August of 2004 and the resulting trends in nonsubject Thai import volumes and prices actually provide the Commission with a clear picture of what will transpire in the CPF market if the order were revoked in its entirety.

First, it should be no surprise that the vast majority of Thai CPF exports to the U.S. were sourced from the four revoked companies during the most recent postorder period. These companies are not subject to the restraints of the order, and importers that buy from these companies don't face the same liabilities they would if they sourced from companies that are subject to the order.

The United States remains a very, very attractive market to Thai producers. Indeed, the staff report indicates that prices in the U.S. market are generally higher in relation to other third country markets, making the U.S. more attractive to subject producers.

Contrary to Respondents' arguments, the remaining producers covered by the order similarly would increase their exports to the United States upon revocation of the order just as the four revoked companies did not too long ago.

Second, the statement of administrative
action or SAA recognizes that the inability of subject
producers to maintain preorder volume indicates an
inability to sell into the United States without
dumping. Thus, it is no surprise that the subject
producers exported only "modest quantities" during the
postorder period. Indeed, that's exactly what one
would expect.

Those of you who have or have had teenaged
children may have heard the expression "no duh." I
hear that or used to hear it all the time. What is
the surprise that Thai producers who are subject to
the order don't export as much or can't as those who
are not subject to the order? That's exactly the way
the law is supposed to work. That is not a legal
term, for the record.

Third, substantial volumes of imports from
nonsubject sources, including those from nonsubject
Thai producers, make Maui Pineapple even more
vulnerable to continued injury from these subject
imports.

The SAA makes clear that although factors
other than subject imports may account for the injury
to the domestic industry, "They also may demonstrate
that an industry is facing difficulties from a variety
of sources and is vulnerable to dumped or subsidized
If the order is revoked, the combined effect of reentry into the market of subject merchandise and a growing volume of imports from nonsubject producers would surely devastate Maui's CPF business through declining prices and further shrinking market share.

Next I'd like to comment on the record data in this review, which I discussed briefly in my opening statement. As we see too often in sunset cases, the Commission is again faced here with a situation where few foreign producers have been willing to provide the Commission with the information required in the Commission's questionnaires, leaving the Commission to determine what information to rely upon and whether to use adverse inferences.

In the in camera session Ms. Kim will give you more details, but, to summarize, the Commission received questionnaire responses from just eight out of nearly 50 known subject producers and exporters. Only six out of the eight subject producers provided usable data.

The unresponsiveness of so many of the Thai producers significantly limits the Commission's ability to ascertain the total Thai production and capacity to produce CPF. As we know, in sunset review.
the foreign producers' information on capacity and
capacity utilization is crucial in making your
decision about what would happen if the order were to
be revoked.

This is absolutely crucial information to
have, so the failure by the Respondents, many of whom
are members of the Thai trade association that is
represented and participating in this hearing, the
failure for them to provide that information is
prejudicial, and we believe that it is important for
you to make an adverse inference here with respect to
those producers and the information involving capacity
and capacity utilization. As I said, we'll go into
this a little bit more in our in camera presentation.

In our prehearing brief we have tried to
fill in some of the missing data. Although we were
unable to obtain capacity or production data for all
the nonresponding subject producers, the data we did
obtain demonstrates that the remaining subject
producers have significant capacity to produce CPF.

With respect to the four revoked companies,
although they have accounted for a large share of Thai
CPF exports to the United States, they only accounted
for about 35 percent of Thai production, meaning that
the majority -- more than a simple majority; 65

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percent -- of Thai production is still subject to the order. I refer you to Exhibits 8 and 11 of our prehearing brief for that.

Based on the production data developed by Respondents in their substantive response at Exhibit 4 and by the Thai producer, Seiko, which was attached as Exhibit 11 to our prehearing brief, there is still a significant share of subject production unaccounted for in the Commission's database.

In the first sunset review, Respondents -- not the Commission staff, not the Petitioners; Respondents -- estimated total production in Thailand at 30 million cases, while capacity was at 60 million cases. By the way, their estimate came from a university in Thailand that published those figures in 1999. Yet in this review the very same Respondents reported total capacity of only 12 million cases, which is just 20 percent of what was reported five years earlier.

The prehearing report simply adopts the questionnaire information supplied by the Respondents understandably, but this figure severely understates the capacity and is a significant problem, especially when we know that since that earlier figure of 60 million case capacity and 30 million case production
is understated with the addition of new productive capacity in Thailand, and that information is publicly available.

For example, according to the foreign producers' websites, THAICO, which was established in 2004, has an annual capacity of 2.7 million cases while Vita Food has the ability to export five to six million cases. In addition, Del Monte recently established a new production facility that includes the production of CPF.

Moreover, C&A Products Company established a new plant in 2005 that's dedicated to the production of processed pineapple, including CPF. Notably, this company recently requested a new shipper review at the Commerce Department.

Thus, we urge the Commission to look at the entire record to determine total capacity and production of CPF by the subject producers and not just the data submitted by Respondents in their questionnaire responses.

We will submit for the record one more time -- it's referred to in our testimony and in the transcript of the first sunset review so I know it's on the record of this case, but we'll give you another copy of the excerpt from the Thai university report to

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make sure you have a direct source on that.

I'd like to discuss one or two other points this morning. That one point has to do with the existence of trade barriers and other third markets. We referred in our prehearing brief to the recent action by Australia to continue with an antidumping order against imports of canned pineapple from Thailand, and that Australian decision provides strong support for continuing the order in the instant review.

We've described in our prehearing brief and appended as exhibits detailed findings of the Australian Customs Service as to the problems that Thai producers and exporters would likely cause to the Australian pineapple industry if the order were revoked.

Notably, in assessing the relevance of Australia's trade action in this case, the Commission should focus on the findings in those official documents by Australian Customs. Those findings specifically are that the Australian industry has continued to lose sales and market share; that Thai imports have continued to undercut Australian prices.

By the way, you can see when you read the Australian Customs report many of the very same
arguments made by the Thai Respondents in this case were made in the Australian case and properly rejected there.

The agency concluded that the removal of the antidumping order would result in a decrease in the cost or pricing of CPF imports and would exert downward pressure on prices in Australia and that the reduction in prices would lead to further price undercutting, losses of sales volume and market share and/or price suppression, as well as reduced profits and profitability.

Again, I commend that Australian report for your review. The parallels between the situation in Australia and the U.S. are striking. There's every reason to believe that similar behavior by Thai producers and exporters that was found by Australia would occur also in the United States if the order was revoked.

Finally, as noted in the staff report, as well as in our prehearing brief, subject producers also face trade barriers in other third country markets. For example, Japan has refused to open its markets to Thai canned pineapple by enforcing a tariff rate quote against such imports.

Other countries such as China, Korea, Mexico

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and the EU have imposed high import tariffs, making those markets much less attractive compared to the United States. These trade barriers are significant, especially the TRQ limiting Thai exports to Japan, the other higher priced market besides the United States. Because of this, Thai subject producers will export even greater and more injurious volumes to the United States and at lower prices if the order is revoked.

Thank you for your attention this morning.

I'll turn the mic over to Pat Magrath.

MR. BISHOP: You have 29 minutes remaining.

MR. MAGRATH: Thank you very much.

Good morning, members of the Commission, Commission staff and ladies and gentlemen. My name is Patrick Magrath. I'm managing director of Georgetown Economic Services.

My testimony today will cover briefly the likely volume, price and impact on the canned pineapple industry in the United States to a revocation of the antidumping duties on Thai imports.

Since the U.S. industry is comprised of only Maui, we are utilizing the Commission's offer of an in-camera session to give some specific examples to the points we are making here on both Maui data and subject and nonsubject Thai import data.
In 2001, the Commission in its first sunset review unanimously recognized the vulnerability of Maui Pineapple, the lone U.S. producer, in a market opposed by an array of much larger foreign processors. This competition is so formidable that Maui has never attained even a quarter share of its own market. I'm referring here now to the public Chart 1.

Through much of this period, however, Maui has held its own as you can see in that chart and read in the staff report, and the orders helped Maui in the marketplace.

In the postorder period, Maui was able to successfully exploit its nonprice advantages of higher quality pineapple or perceived higher quality pineapple, made in the USA brand loyalty, the 100 percent Hawaiian logo that's stamped on the top of every Maui can and, most important, its strategic product placement in the first private label tier.

Now, as we emphasize in our brief, Maui has to contend not only with price competition from the national brand above it and the regional and second private label tiers below it in Tier 1, but with significant volumes of subject imports invading Maui's first private label tier.

This encroachment in Maui's own tier is new
to the conditions of competition in this case and has been so complete that one significant market participant stated that private label sourcing had switched from Hawaii to Thailand as of 2005.

Thus, Maui has seen an alarming decline in its already minority share of the U.S. market over the period of review. In fact, in the last three years Maui's market share declined dramatically as shown in Chart 1. As of the latest year-to-date period measure, as you can see from this chart, Maui is currently hanging onto only a very small share of the U.S. market. The exact number will be given in camera.

Although Respondents emphasize the much greater volumes of nonsubject imports that are currently in the market, they are wrong in this emphasis for two reasons. First, the staff report shows that the subject imports in the market are now targeting this first private label tier, Maui's price tier, as Table II-1 of the prehearing staff report would show.

Second, as we have emphasized in our brief, the formerly subject import sources whose orders were revoked at the end of 2002 and then the three of them in mid 2004 have responded by greatly increasing the
volume of their imports and becoming more aggressive in their pricing strategies.

In this hypercompetitive market, the other 50 or so Thai pineapple producers/exporters who are still subject to the order are likely to exhibit the same behavior upon revocation as those four.

As Mr. Rosenthal has just mentioned and as we will mention again in these testimonies, unfortunately because the vast majority of these approximately 50 Thai producers ignored the ITC's request for data, the Commission knows little or nothing about them, a theme on which we will expand in camera.

Fortunately, however, in determining the likely volume and effect of revocation one needs to look no further than the track record of those four producers whose orders have already been revoked. Imports from these canneries have surged in the most recent period following their revocations, as we will show in private session.

In addition to the above, there are several other factors that are likely to result in significant volume effects of imports from Thailand if the order is revoked. Ms. Kim will detail in camera that the record lacks information of well over half of Thai
capacity. The percentage Mr. Rosenthal just gave to you.

The Commission data based on foreign capacity, which is among the most probative evidence in a sunset review, is significantly understated therefore in the staff report.

Secondly, Thai capacity has expanded over the period of review as foreign producer questionnaires and company websites show. We have submitted this material in our brief.

Third, there are new CPF producers that have recently come on stream in Thailand; as Mr. Rosenthal mentioned, C&A Products and Del Monte, the latter of which will have easy access to the U.S. market thanks to its brand name.

Add to these factors the undisputed fact of the Thai industry's export orientation, virtually all of its production of canned pineapple, which is the world's largest, is exported and that several Thai producers have admitted they are looking forward to revocation to increase their U.S. shipments.

Looking back on all these facts then, the Commissioners should have overwhelming evidence that the volumes of Thai imports will increase significantly if the restraints of the orders are
removed.

As to the price effect if the orders are revoked, the staff report in this investigation is clear on the paramount role price plays in purchasing decisions as a first matter. The results of purchaser questionnaires here are consistent with those that we got in the original investigation and in the first review. In fact, purchasers found no real difference between domestic and subject canned pineapple except for the factor of lower price.

Consistent with the great majority of sales comparisons showing underselling in the original investigation, the comparisons in the present case show significant underselling margins from Thai subject imports selling into the first private label tier to retail grocery, as well as underselling in comparisons of Thai second label and Thai regional tier products.

The results in the food service channel are even more ominous with uniform underselling of Maui not only from second private label and regional brand Thai suppliers, but from the national brands as well.

The staff report has provided clear evidence of the likely effect of subject prices by its data tracking the average unit value of imports of those
four Thai canneries whose orders were revoked. The
tables at page IV-27 of the staff report show
nonsubject AUVs after revocation compared to that of
Thai CPF still subject to the order.

There are important differences here that we
wish to emphasize in the in camera session. We will
present another chart, for example, comparing subject
with nonsubject prices at that time. The likely price
effect of general revocation then will be further
decrees in Thai prices from the present levels,
levels at which they already undersell Maui by
significant margins.

Finally, as to the impact on Maui of the
removal of the order, you can see this with reference
to the revocations of mid 2004 as well. As with
Maui's market share, this watershed event and
aggressive reaction to it by those Thai producers
whose orders were revoked has resulted in an
accelerated decline in Maui's trade and financial
performance. This is in Chart 2 of the public charts
that we have distributed.

Satisfactory in some areas, declining
somewhat in others throughout the postorder period,
Maui's indicators have fallen off a cliff in 2004,
2005 and 2006 as the company has been rocked by the
huge increase in volume and the aggressive pricing of formerly subject imports.

Some of these trends are shown in that second chart, an index of market share, production, production related workers and net sales trends. Note especially the acceleration of these declining trends in 2004, 2005 and 2006. Perhaps most important, these deeply declining trends led to Maui operating losses, which aren't on that chart, but these operating losses ballooning over the review period and worsening each year.

In conclusion, the Commission should keep in mind that the significant dropoff in Maui's performance in these last three years was caused primarily by the huge increase in volume and aggressive pricing of four -- only four -- Thai processors formerly subject to the order.

Some 50 or so processors remain under order, processors which we must emphasize again have ignored ITC's request for information. The revocation of the restraints on these remaining Thai processors will likely result in Maui's termination of canned pineapple production and eventually, as was the case of other Hawaiian producers cited by Mr. Nishida, cessation of all pineapple-related operations in the
MR. ROSENTHAL: That concludes our direct testimony for the public session. We're happy to answer questions.

CHAIRMAN PEARSON: Okay. Thank you very much for those presentations.

We will begin the questioning in this public portion of the hearing by Vice Chairman Aranoff.

VICE CHAIRMAN ARANOFF: Thank you, Mr. Chairman, and thank you to everyone on this panel for being with us this morning and especially to those of you who traveled so far to come to nasty weather.

I want to start with a general question about Maui's marketing strategy for canned pineapple and then ask some more specific questions.

Mr. Nishida, you testified that going up market to the high end of the market with your fresh product has been a good strategy for your company. Why is that not a good strategy for your canned pineapple product where you have had less of a focus on fancy grade product?

MR. NISHIDA: You're absolutely correct. Our strategy in moving up market, if you will, with our Maui Gold product is the key to our success.
Fresh produce items have the ability to be differentiated by various product attributes and as well branding. I think everyone will agree that Maui holds a special place in many people's heart, and it makes the fruit taste a little bit better sometimes, all kidding aside.

In the case of canned pineapple, however, it's truly a commodity item, and in that market price is the overall driver. Maui is a very, very small player, and our positioning is such that we cannot -- we have not been allowed to increase pricing.

We have made the attempts over the years of emphasizing the Made in USA product and the Hawaii origin and many of the other attributes. However, the market simply dictates pricing restraints.

VICE CHAIRMAN ARANOFF: Are the pineapples that you would previously have used to pack fancy grade canned pineapple, are those the same pineapples that are of sufficient quality to sell in the fresh market?

Are the canned and the fresh competing for those same pineapples, or is there another reason why it doesn't make sense to pack as much fancy grade as it may once have done?

MR. NISHIDA: I hope I understand your
question. I'm not sure.

I think an important component in examining our current and go forward strategy, number one, is that we've invested heavily in a new variety, one which allows us to position for the premium fresh pineapple business.

That being said, an essential component is, as I described, a high cull rate. Essentially although we're growing tons of pineapple, the amount that we ultimately select as our Maui Gold product is a percentage, and the resulting remainder are still very good eating fruit, but for various quality standard reasons in the fresh market we then utilize for our cannery operations.

VICE CHAIRMAN ARANOFF: Okay.

MR. MAGRATH: Excuse me. The quality difference that Mr. Nishida is talking about though, I mean it could be, as he said, perfectly good quality pineapple, could be the fancy grade pineapple, but it might be a little bit differently shaped.

The crown may not be formed correctly. It may be off-color. You know, those kind of pineapples cannot be sold in the fresh market so they go to the canned operation.

MR. NISHIDA: A great example would be the
MALE VOICE: Yes, the crown.

MR. NISHIDA: The degree of tilt, if you will, of the crown. We would not put that into our Maui Gold product. The fruit is perfectly edible. That would go to our cannery.

VICE CHAIRMAN ARANOFF: Okay. I understand that point. What I'm still not understanding is my understanding is that your company used to can a fair bit of fancy grade product, and you've trended away from that toward the next grade down, choice.

I'm trying to understand whether that phenomenon is related to the way you're marketing your fresh product or whether there's another explanation.

MR. NISHIDA: The change is really not a matter of adjusting or making a grade choice, if you will. It's really a matter of what will the market allow us? What volume levels will the market allow us to produce?

It's not a function of a difference in production grading or quality of fruit that's driving the change in the marketplace. It's the market that's driving the situation.

VICE CHAIRMAN ARANOFF: So you're saying that there's less demand now for fancy grade product
in the United States than previously? That it's not a supply issue; it's a demand issue?

MR. NISHIDA: As consumption is flat in regard to canned pineapple is concerned and really the pricing situations -- again, because the market is establishing the price and essentially the profitability levels, that's driving our decision on not being able to produce more canned pineapple.

VICE CHAIRMAN ARANOFF: Okay.

MR. MAGRATH: The purchaser questionnaires will show that the only difference to purchasers, and this was true from the original case and it's even more so in this second review. No one will pay for this quality difference.

The only differentiating variable between Maui pineapple and the other pineapple in the market is the issue of price, so that would be the factor.

VICE CHAIRMAN ARANOFF: Okay. Going to this issue of product differentiation as a way to maintain a premium, in some other agricultural cases that we've seen recently we've seen companies explore strategies that involve several things that I wanted to ask you if you've looked into.

One is promoting a kind of a buy American promotion like we saw, for example, with Alaskan
salmon to persuade consumers that the American product is better.

We've seen people turn to greater organic production as a way to get a price premium. We've seen people look at different kinds of fancier or more convenient packaging or packaging that consumers somehow view as more upscale than a can.

Have you done marketing studies to look at those kind of options and rejected them as not likely to improve your pricing situation or your market share?

MR. NISHIDA: Those are great examples. I think Maui Pineapple's effort in promoting the made in the U.S. attribute is a strategy that has been deployed with limited I guess at best success.

Organic pineapple? Interesting that you would mention that. We currently have an endeavor underway, but that's really a research effort. Organic pineapple is not an easy crop to develop.

As well, both incorporating such an item and, if you can imagine, a packaging conversion change require significant investment both from an agronomic perspective, as well as a manufacturing perspective.

VICE CHAIRMAN ARANOFF: If you go into your grocery store, for example, you see plastic jars of...
fruit, and you see the little individual servings, which I know I put in my kids' school lunches. Why are those not viable options for your company? Is it a cost issue with respect to the packaging, or is it just too small a market to be worth investing in?

MR. NISHIDA: From our perspective it's the investment cost and the market development costs are unaffordable for us.

VICE CHAIRMAN ARANOFF: Okay. I appreciate all those answers. Since my light is yellow, I'll wait for the next round. Thank you, Mr. Chairman.

CHAIRMAN PEARSON: Commissioner Hillman?

COMMISSIONER HILLMAN: Thank you. I, too, would join my colleagues in welcoming you and thanking you for taking the time to be with us and for traveling all the way from beautiful Hawaii.

Let me follow up a little bit on this issue of trying to understand where you see yourself positioned in the canned pineapple segment of it. Our data tends to break down the market by sales to the retail sector, sales to the food service sector and sales to the industrial sector, and so I'm trying to understand from your business perspective where you
see yourself positioned in each of those segments.

Describe for me how you see yourself in the retail segment of the canned pineapple market.

MR. NISHIDA: Let me back up a little bit. Obviously the key to our strategy is the mutually supportive component of our processing business or canned pineapple business to our overall pineapple business.

That being the case, the key objective on our processing operations is to drive for stability. Towards that end, historically we have found that the food service business, for example, provides us a bit of a higher degree of reliability in that orders are placed well ahead of time, and you can develop customer relationships, things like that.

In contrast, in the grocery sector it's extremely, extremely price competitive, and really recent history has shown that we cannot garner the pricing that we need, that the retailers are not willing to pay, and as a result we've retracted. Really we've been forced to retract from that business. The margins have not supported us there.

COMMISSIONER HILLMAN: Okay. Help me understand this because obviously this is one of the big arguments that the Respondents are making, and
they've quoted a number of purchasers who have clearly said we can no longer get product from you. It's not available. You're not willing to do it. You're not canning what we want. You're not willing to sell to us.

Obviously I'm trying to make sure I understand from your perspective how we got to the point we are in terms of the level of your sales in the retail sector.

MR. NISHIDA: Certainly Maui Pineapple was a supplier to that channel for many years, but for many years the margins were in the red.

We have had to make the hard decision of first testing to see whether or not prices can be taken up and have not been successful in that regard so as a result the need to therefore make the hard decision of no longer supplying that marketplace.

I'll give you an example. As we all know, the cost of energy has gone up significantly. Commodity pricing on things like very fundamental raw materials for our business, steel, has gone up significantly.

We've attempted, as perhaps other commodities and products have been able to pass on fuel surcharges, for example. We've not been able to
succeed in that matter at all. As a result, we clearly came to the conclusion that there's a ceiling. Given the market conditions, there's a ceiling.

COMMISSIONER HILLMAN: Okay. When would you say you came to this conclusion that you're really not able to remain in the retail end of the canned business?

MR. NISHIDA: I would say the analysis and our conclusion was in 2003-2004.

COMMISSIONER HILLMAN: Okay. Now, from a cost perspective describe for me the differences in terms of trying to sell into the retail business versus into the food service business.

Obviously different sized cans, different numbers of labels, but help me understand from a producer standpoint what difference it makes whether you're selling retail versus selling food service.

MR. NISHIDA: I can speak in general terms. Certainly in the food service business, for example, the No. 10 can, the one gallon size can, is the predominant item.

From a production perspective, the throughput, focusing in on such an effective SKU from a production perspective makes it a lot easier, certainly easier in the case of distribution.
Generally the customers take full truckloads, the whole stocking cycle. It's much easier to work with the food service sector, who they themselves have, in my opinion, more sophisticated demand projections, mechanisms.

Retail is a very different game. It is not uncommon to have small lot sizes and so the warehousing costs, the distribution costs, the selling costs are significantly higher. Again, as well the pricing pressures of the multinationals and the rest of the tiering certainly creates higher competition levels as well.

COMMISSIONER HILLMAN: Okay. Now, I think I heard the testimony, and certainly I read it in the briefs, in your brief, that there is price effects across all of these various distribution mechanisms.

I can certainly understand price pressure within the retail sector. In other words, I can understand that the prices that the national brands are charging could have an effect on the primary label or the secondary private label product.

I'm having a little more trouble understanding the relationship between prices in the retail sector versus prices in the food service sector. Do the prices in one of those segments affect

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the prices in the other? If so, how?

MR. NISHIDA: May I take a moment to think

about this?

COMMISSIONER HILLMAN: Sure.

MR. NISHIDA: I want to make sure I

understand the question.

COMMISSIONER HILLMAN: Well, basically what

I'm asking is do the Syscos of the world in essence

know what is being charged or what is being paid to

the Safeways or the whatever?

MR. NISHIDA: Okay.

COMMISSIONER HILLMAN: Do prices in the food

service side have any relationship or effect on prices

in the retail side or vice versa?


Certainly I don't know what level of intelligence each

buyer or sector would have, but my supposition is no,

they're more discrete.

COMMISSIONER HILLMAN: They are more
discrete? Okay. All right. I appreciate that.

If I can then go to this issue? As I heard

your testimony in this effort to go to the Maui Gold

and marketing it as a real premium product, and I will

confess that when my friends from California come the

one thing I ask them to always bring me is a Maui Gold

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pineapple.

MR. NISHIDA: Great.

COMMISSIONER HILLMAN: They are not available here on the east coast.

I can understand that. I'm just trying to understand whether what you are doing is so fundamentally different from what others are doing.

In other words, is your portion of what you deem going into the fresh market, your percentage of product that goes fresh as opposed to goes canned, significantly different than other pineapple producers? If so, again how and what effect does that have on the relative prices of the fresh versus the canned?

MR. NISHIDA: I believe your question is do we do things differently in our crop utilization in regard to fresh.

COMMISSIONER HILLMAN: Correct.

MR. NISHIDA: We certainly do cull at a much higher rate than let's call it industry standards. The multinational --

COMMISSIONER HILLMAN: What would you say the industry standard is? That's what I'm trying to understand.

MR. NISHIDA: Okay. In relative terms, I'd
say we cull at perhaps 2X, two times a greater cull rate than the industry standard.

COMMISSIONER HILLMAN: Okay. So the industry standard, what percentage of their product would typically go fresh versus canned?

MR. NISHIDA: Well, there's an important distinction. The other producers of fresh pineapple, to my understanding none of them have canneries; certainly as it pertains to the U.S. market. As a result, the general business strategy calls for grabbing as much of the crop as possible for their fresh pack.

In our case, the ability to utilize that portion of the crop for our canning operations allows us from a model perspective to have a significantly higher cull rate.

I'm sorry. I'm probably not connecting.

COMMISSIONER HILLMAN: No. I understand that, but I'm struggling with you have a lot of canning capacity, and you have the Del Montes and the others that used to be in Hawaii and certainly others, as you say, that do not have a canning operation.

What I'm trying to understand is why then are you not canning what Del Monte couldn't put into the fresh market or what any of the other Central
I'm struggling with if everybody needs to can the stuff that can't go into the fresh market, why not more fully utilize your canning operations to can somebody else's product that can't go fresh?

MR. NISHIDA: Great question. I guess on one level the potential producer would simply be other pineapple producers in Hawaii, and we compete on the fresh market.

More importantly, and perhaps this is an aside, when Del Monte announced their closure of their operations, their immediate closure, I did make an offer directly to assist in salvaging their crop over the two-year period and to have it processed in our cannery, but unfortunately, you know, I made the offer on Friday afternoon. At break of dawn on Saturday they had their tractors and their plows out plowing the fields under.

COMMISSIONER HILLMAN: My red light is on. I may come back to this issue to try to understand.

MR. ROSENTHAL: I wish you would because there are a few more things to say on this topic. Most important is it's not a lack of pineapples for canning. They've got plenty of capacity and plenty of pineapples within Maui, Maui Pineapple's operations.
The problem is, and this goes back to your earlier question, what price can you get once you can those pineapples.

The reason why they've been squeezed out of the retail market is not because they don't have enough capacity to supply it. It's because the pricing they can get there when they're dealing with the low-priced Thai subject imports and the multinationals, they can't get the price to justify putting the pineapples in cans.

I wish you'd come back or someone will because this is a crucial question to address.

COMMISSIONER HILLMAN: I appreciate that.

Thank you very much.

CHAIRMAN PEARSON: Commissioner Koplan?

COMMISSIONER KOPLAN: Thank you. I'm sure it'll get covered.

Mr. Rosenthal, this is just for the posthearing. If I am seeing correctly, that tie you're wearing has pineapples on it I take it?

MR. ROSENTHAL: For the record, it does.

COMMISSIONER KOPLAN: It does. But they're all fresh, so for the posthearing maybe you could explain why you couldn't come up with a single can.

I'll let you handle that.
Mr. Nishida, let me start with you and with our staff report, the public version of it. "The number...", and I'm quoting from chapter 2. It states as follows: "The number of acres of pineapple planted for the fresh and canned markets decreased from 20,700 acres in 2000 to 13,000 acres in 2004, then increased to 14,000 in 2005." It cites a table in chapter 3.

It goes on to say, "Though some of the decrease in acreage led to decreased production for the fresh market from 122,000 short tons in 2000 to 104,000 short tons in 2004 and 106,000 short tons in 2005, most of the decline was in the processed portion of the crop."

Now, you referred to your business model several times I think in your direct testimony. On the one hand, as I see this, you have decreased overall pineapple acreage, which disproportionately affects the amount of fruit for processing CPF, but, on the other hand, you continue to invest in the canning operation.

You made mention today of this new facility, the $17.2 million facility that I believe you said should be fully operational this year. Just out of curiosity, do you expect the processing component to be fully operational this year?
MR. NISHIDA: That $17 million plant that we refer to is our fresh fruit packing operation.

COMMISSIONER KOPLAN: Yes.

MR. NISHIDA: Not to be confused with a canning operation. In fact, it is on line. Actually we commissioned it in midyear '06.

COMMISSIONER KOPLAN: When you said in the brief and made reference to the processing component, are you talking about fresh there?

MR. NISHIDA: The $17 million plant? I'm sorry.

COMMISSIONER KOPLAN: Yes. I think you described it was going to be coming on line, and you said in there that the processing component would be fully operational in 2007 you thought.

MR. NISHIDA: That plant refers to our fresh fruit operation.

COMMISSIONER KOPLAN: To fresh?

MR. NISHIDA: Yes.

COMMISSIONER KOPLAN: Okay. Could you do me a favor and submit the documentation for that business model for me for purposes of the posthearing, anything that you would have on that?

What I'm trying to balance for myself is the fact that this reduction in acreage cuts back on the

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amount that you would have for canning purposes, so
maybe you could provide that if you would.

MR. ROSENTHAL: There's not a single
document.

COMMISSIONER KOPLAN: I didn't think so.
MR. ROSENTHAL: But we will get you a fuller
explanation.

COMMISSIONER KOPLAN: That will be great.
Thank you. If there is accompanying documentation,
that's what I'm particularly interested in.

MR. ROSENTHAL: Certainly.
COMMISSIONER KOPLAN: Thanks.

Mr. Nishida, in your brief at page 16 it
stated, and I'm quoting, "The primacy of low price,
virtually to the exclusion of all other factors, is
the most salient of the conditions of competition in
the U.S. canned pineapple fruit market."
It appears to me that purchasers, by number
of responses, and I'm quoting here numbers, ranked
quality of product, 22 of them responded as to
quality, 24 responded as to availability, 24 responded
as to consistency, and 22 responded with respect to
reliability of supply. In each of those categories we
had more responses to that than the importance of
price. Only 13 responded that price was.
I'm wondering if you could reconcile for me the statement in the brief with the numbers of the responses that we got from purchasers? They seem to put these other categories in a more prominent place for them.

MR. NISHIDA: I think from a perspective of interpreting the criteria, certainly there is a level of minimum quality, which I'm sure the Respondents or I would imagine the Respondents are addressing the need for a certain minimum quality of product as opposed to a comparative level of quality.

COMMISSIONER KOPLAN: Maybe I can help maybe to clarify. Based on what I've just looked at and read to you, would you at least rank these other categories on an equal basis with price?

MR. NISHIDA: No. Price would be number one.

COMMISSIONER KOPLAN: You would still --

MR. NISHIDA: Absolutely. That's a diver.

COMMISSIONER KOPLAN: How do you account for the number of responses, though, that we're hearing from people with these other categories?

MR. NISHIDA: Again, I would imagine that the fundamentals -- from a procurement perspective, the fundamental benchmarks of minimum quality, of
minimum service level, are of course important, but assuming that the overall availability and minimum standards are met, which is the case I believe in the
marketplace, price is the driver.

COMMISSIONER KOPLAN: Thank you.

MR. MAGRATH: Commissioner Koplan?

COMMISSIONER KOPLAN: Mr. Rosenthal, for purposes of the posthearing could you just take a look at Tables II-6 and II-7 at chapter 2, page 20, of the confidential staff report and expand on the response to my question?

MR. ROSENTHAL: Sure.

MR. MAGRATH: Commissioner Koplan, you actually face this in most investigations. What Mr. Nishida said is the right answer.

What we're talking about and what is the critical point is what purchasing variable differentiates in this case Maui from the subject Thai suppliers?

Of course, to get into the game, to get your can on a grocery shelf, you have to meet minimum quality. You have to have the product available. If you look at the staff report, Maui and its Thai competition will be equally ranked in terms of the availability, the product consistency, the product
quality.

Everybody has to meet those standards to get into the game. Then it becomes what is the differentiating variable? What is the difference in the purchasing decision?

COMMISSIONER HILLMAN: Are you saying all things being equal, it comes down to price?

MR. MAGRATH: And all things equal it comes to price.

COMMISSIONER KOPLAN: Right.

MR. MAGRATH: That's in the staff report where they ask the purchasers. It's a very valuable table that's usually in the staff reports.

They ask purchasers to differentiate the Maui product from the Thai product in terms of superior, inferior or comparable. The only variable where the two differ is lowest price, in which Maui is ranked inferior.

COMMISSIONER KOPLAN: Okay. Thank you.

Let me come back to Mr. Nishida again. The staff report in chapter 2 states, "The farm prices received for pineapple fruit for the fresh market are much higher than farm prices for pineapple fruit for the processed market, 3.7 to 5.1 times as high since 1994 according to USDA figures. Even a large change
in the price of CPF would likely have little impact on
the share of pineapple allocated to fresh pineapple
sales."

The staff cites to USDA 2006 Fruit and Nut
Situation in Outlook Yearbook. How do you respond to
that?

MR. NISHIDA: I'm sorry. Could you rephrase
the question?

COMMISSIONER KOPLAN: Do you want me to read
it again?

MR. NISHIDA: Yes, please.

COMMISSIONER KOPLAN: Sure. "The farm
prices received for pineapple fruit for the fresh
market are much higher than farm prices for pineapple
fruit for the processed market, 3.7 to 5.1 times as
high since 1994 according to USDA figures."

It then goes on to state, "Even a large
change in the price of CPF would likely have little
impact on the share of pineapple allocated to fresh
pineapple sales." The staff is citing this USDA 2006
yearbook.

MR. NISHIDA: The perspective Maui Pineapple
takes is, you know, being a vertically integrated
company we look at total pineapple production. We
don't isolate fresh versus canned as far as a return
on farm value, if you will. It comes down to best
utilization of the crop.

Now, that being said, an adequate increase
in processing prices would allow us to take advantage
of the diversification that having increased canned
pineapple sales would bring us.

MR. ROSENTHAL: I'm not sure how cognizant
that USDA report is of the kind of different position
that Maui Pineapple is in versus there are folks who
grow just for the fresh market in Costa Rica and
elsewhere. The canneries in Thailand are growing
essentially for the canned market, and all their crop
is going into canning for export.

There's no shipments of fresh Thai pineapple
to the U.S., for example, and so it's hard to make a
comparison between those entities that are growing
pineapples exclusively for canning versus those
exclusively for fresh to the Maui situation where
you've got one crop, the best of the best go into the
fresh and the others go into the cannery operation.

COMMISSIONER KOPLAN: If you could take a
look at the report?

MR. ROSENTHAL: Yes.

COMMISSIONER KOPLAN: If you want to expand
on that in the posthearing, I'd appreciate it.
MR. ROSENTHAL: Certainly.

COMMISSIONER KOPLAN: Okay. Thank you.

Thank you, Mr. Chairman.

CHAIRMAN PEARSON: Commissioner Okun?

COMMISSIONER OKUN: Thank you, Mr. Chairman, and I join my colleagues in welcoming all of you here today, particularly those of you who have traveled to Hawaii to what now finally feels like winter in Washington. I appreciate your being here.

I'll start with an aside. Mr. Nishida, with regard to the organic question that Vice Chairman Aranoff raised, which I don't know if you saw this, but there was a Wall Street Journal article on Tuesday talking about when you should pay the money to buy organic and when you shouldn't. Pineapple was on the spend more money for organic.

I looked back on it. It was the most e-mailed and most viewed of all the Wall Street Journal articles for that day, so it may be worth looking at a little bit more.

MR. NISHIDA: Absolutely. We haven't given up.

COMMISSIONER OKUN: I want to return for a moment to some questions that Commissioner Hillman had with regard to price competition in the different
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 tiers and then in the different channels of
distribution. I was interested in your response.

One of the things the Commission found in
the first review was that we could see there was
competition within the tiers. There was effect from
prices in the different national and second private
label on where the domestic industry competed.

We didn't in the first review talk about
price effects from one channel, food service to
retail. You had a chance, Mr. Nishida, to respond to
that when Commissioner Hillman asked you about it.

I guess my question is in terms of price
effects in the food service sector if the orders were
lifted would you expect to see price effects because
the subject imports would move increasingly into the
food service sector?

Perhaps Mr. Magrath can help out. What
would we look at on this record to see the effect of
the imports on prices in the food service sector?

MR. NISHIDA: Yes, we would expect to see
that. Imports already do supply many or every one of
the major food service distributors. Maui's product
is positioned as top tier in any one of these major
food service providers.

Perhaps similarly to the grocery channel,
that tiering and really the ripple effect of lowering pricing or the dragging effect on pricing would be our expectation as well.

COMMISSIONER OKUN: Okay. I don't know.

Mr. Magrath, you might be able to respond to this. In Table II-1 of the staff report, you know, we have the U.S. shipments by market segments, tier and suppliers for 1994, 1999 and 2005. It include subject imports and Maui's imports.

Can you comment at all here or for posthearing? If we had the nonsubject imports plugged into this table, including what are now nonsubject imports from Thailand, what would we see? Do you have any idea of that, where they moved into?

MR. MAGRATH: Well, we will do this at the posthearing, but the general comment is that the Thai industry is the world's largest producer of pineapple and canned pineapple.

They have an immense capacity. Even their unused capacity, which Respondents have said, you know, they're practically at full capacity, that's not true. Their unused capacity, as small relative to them that it is, is much more than Maui produces each year.

I would expect it would be extremely likely
that they will move into food service. As a matter of fact, I think the table you referred to, although it's APO, the table you referred to, you may already be seeing that phenomenon of them moving both into food service and continuing to move more into the retail chain.

I'm sure it's nonsubject as well as subject. You have much more supply here from Thailand than you have buyers worldwide.

COMMISSIONER OKUN: Okay. I think the other thing that would be useful on that table for posthearing is I know or I understand when I asked this question to staff that we had asked for the information for '04 and '05 for shipments.

You had said, Mr. Nishida, in response to Commissioner Hillman that kind of this business decision by Maui to stop supplying purchasers in the retail segment occurred in '03 and '04.

Would it be possible to supply that information to us so that we can see that in this timeframe? You know, we can't really see what went on there, whether that coincides with what you've said.

MR. MAGRATH: I think once again, Mr. Rosenthal tried to correct this misstatement or this misimpression.
I mean, Maui didn't make it a conscious decision to stop servicing the retail chain. They retreated from the retail chain because of the volumes and prices of the imports, specifically the Thai subject imports.

Mr. Nishida would be happy to supply all these people tomorrow -- he has the capacity -- if the prices were such that they could make a reasonable profit. There wasn't any conscious decision like telling Kroger well, we're not going to ship you any pineapple.

COMMISSIONER OKUN: Okay. I'm not sure. You may be able to direct me here, Mr. Rosenthal. It may be better for the confidential portion of this hearing because there are in the financial section as well discussions of the business plan and what that might mean on different products being supplied or how Maui was looking at its business. It might be that all that needs to be done confidentially.

MR. ROSENTHAL: We will get you the documentation, but I just want to restate what Mr. Magrath said, and that is there were customers who said we'd like to buy from you, and Maui said we can't supply you.
The reason was not because we didn't have the capacity, but we couldn't supply you at the prices you're willing to pay. We've been beaten up enough, and we've decided to not lose as much money on each sale and try to find those customers who are willing to pay us the prices we need in order to make a profit.

COMMISSIONER OKUN: So is it your testimony that none of those customers that we see, the purchasers, it was for anything like one of the things I read this morning was the move out of fancy into choice?

There were no customers to which you were supplying fancy that you said we're no longer going to supply fancy anymore?

MR. NISHIDA: No. I mean, it's simply a matter of affordability for the customers.

COMMISSIONER OKUN: Okay. In terms again of these different channels, the food service versus the retail sector, if we look at the pricing data in chapter 5, and again sometimes pricing data in sunset reviews is more relevant than others, so you can also count on what you see or how you would have us evaluate it.

Just generally without getting into the Heritage Reporting Corporation (202) 628-4888
proprietary tables here, there's a difference in the pricing of the subject imports in food service versus in retail vis-à-vis the domestic product. If the order were lifted, would what we see here change? If so, why?

MR. ROSENTHAL: Mr. Nishida doesn't have access to --

COMMISSIONER OKUN: Right, but I assume he has a perception of price. No?

MR. ROSENTHAL: No. He does, but I'm just saying, without referring to that, I think he can maybe address this in camera.

COMMISSIONER OKUN: Okay. We'll do that in camera. Okay.

I guess I'm going to go back then to you, Mr. Rosenthal, which is set aside volume for a moment. You've got volume. I'm trying to figure out. You expect if the order were lifted that the volume from subject imports would come in equally in all sectors, more in the food service, more in retail or it doesn't matter for us to figure out there would be price effects?

MR. ROSENTHAL: I don't think it matters, but it is hard to know whether it's equal or not.

As Mr. Nishida testified a few minutes ago,
you see current competition in the marketplace by Thai
subject and nonsubject imports are certainly less than
the subject imports, given the recent increases by the
nonsubject Thais.

They've penetrated in areas where they
hadn't been just a few years ago. They're making much
more of an effort to get into the first tier private
label, which is the area that Maui had been
traditionally in and now has beat a retreat under
hostile fire not because they wanted to withdraw from
certain accounts there.

I think you'll see more competition there,
making it even harder for Maui to go back in and say
we have the product for you, but we need a better
price.

Then you will see, because there's only a
certain number of customers out there. You're going
to see intensified competition where Maui remains,
which is certainly in the food service sector.

Right now Maui has been trying to find the
customers willing to pay the price for what they've
been demonstrating as higher quality and some of the
attributes that Commissioner Aranoff was saying as
what you should be doing to market your product.

There's a limited number and a smaller

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number of customers willing to pay more for a product that is either actual or perceived higher in quality, so you'll see competition intensify in all sectors.

COMMISSIONER OKUN: Thank you.
CHAIRMAN PEARSON: Commissioner Lane?
COMMISSIONER LANE: Thank you.

Mr. Rosenthal, I want to compliment you on your tie, and I want you to notice that I tried to dress like a pineapple today by green and yellow, so I'm not going to be outdone. I have a number of questions that may be better for the confidential session, but I'm always reluctant to put off for that then finding that maybe I waited too late, so I'm going to try to ask some now and hopefully they'll be able to be answered.

They're mostly financial questions relating to the financial and the operational aspects that are both in the record and in the SEC 10-K for 2005. First I will note that on page 7 of your 10-K you reported that your agricultural operations employed 370 full-time employees and approximately 365 seasonal or intermittent employees.

Can you explain to me where those agricultural employees worked and how you determined which of those employees are production and/or
production related workers for the purpose of the number you reported in your questionnaire responses?

MR. JIO: My name is Stacey Jio. I work for Maui Pineapple Company.

COMMISSIONER LANE: I'm sorry. I can't hear you.

MR. JIO: My name is Stacey Jio, and I work for Maui Pineapple Company and on that part on the PRW, the production related record, what was done is it was allocated based on the percentage of CPF to the total canned pineapple.

COMMISSIONER LANE: I'm sorry. Allocated on the basis of what?

MR. JIO: The CPF production cost to the total production cost.

COMMISSIONER LANE: Can you give me that percentage?

MR. ROSENTHAL: We'll give you that in camera.

COMMISSIONER LANE: Okay. Can you provide comparable numbers for your employees involved in your agricultural operations as reported in your 10-K for 2000 through 2004?

MR. JIO: Yes.

COMMISSIONER LANE: Okay.
MR. JIO: In camera.

MR. ROSENTHAL: Now that we have the question we'll get the numbers and we'll present them to you in camera.

COMMISSIONER LANE: Okay. Thank you. I must admit that I'm having trouble reconciling some of the breakdown of your revenues and expenses that are described in your 10-K and what is reported in your questionnaire responses as revenues and expenses for the canned pineapple fruit segment of your agricultural division. Your 10-K on page 19 reported total agricultural revenue of $74.5 million.

You also reported that $3.1 million of that number represented CBSOA or bird money distributions, so that leaves $71.4 million, which I presume must represent sales of pineapple in one form or another. Is that correct?

MR. JIO: That is correct.

COMMISSIONER LANE: Okay. On page 20 of your 10-K you report that in 2005 revenues from fresh pineapple sales was approximately 34 percent of your net agricultural revenue. If I apply that 34 percent to the $71.4 million reported sales excluding bird distribution I get revenues from fresh pineapple sales of about $24 million. Is that correct, and does that
sound like a good number for fresh pineapple sales in 2005?

MR. JIO: I would have to look it up.

MR. ROSENTHAL: We'll have to look it up, and I hope we'll be able to get those answers for you in camera session.

COMMISSIONER LANE: Okay. Thank you.

MR. ROSENTHAL: If you have more questions along these lines it would be good because then Mr. Jio can actually do the research I hope in the ensuing hour and get the information for you in camera. It may be that he may not have all the documents right here with him and it may have to go into a post-hearing brief, but we'll do our best to answer it while we're present today.

COMMISSIONER LANE: Okay. Thank you. The next question is even more complicated, which goes to show you my confusion when I was trying to read these documents and make sense out of them. On page 7 of your 2005 10-K you discuss research and development expenses. In that report you state that research and development expenses were approximately $530,000 in 2005, $695,000 in 2004, and $800,000 in 2003.

In comparing these numbers to your questionnaire responses and the R&D data shown in the
staff report at Table 3-12 I notice that there is quite a difference between total agricultural division R&D and what you assigned or allocated to the canned pineapple fruit business. Is this an item of expense that you decided to directly assign to the various agricultural segments of your business rather than the allocating based on revenues as you described in your responses?

MR. JIO: It's just that they do in the consolidation is different than what I considered research and development. You have to take a lot of things.

MR. ROSENTHAL: We will get you this answer. It's a complicated question and a complicated answer, so probably best either for the in camera or the post-hearing brief.

COMMISSIONER LANE: Okay. Whichever you think would be more beneficial is fine with me.

MR. ROSENTHAL: Well, probably the best thing to do actually is to put this in writing so you can see the numbers in the 10-K and Mr. Jio can translate or explain the relationships between the questionnaire response and the 10-K. Some of them he can answer off the top of his head, others he has to go back and look at the calculations as to what
precisely was done there.

COMMISSIONER LANE: Okay. Here's a further clarification. Also, if I assume that your SG&A numbers include only the R&D separately reported in your questionnaire responses then would that mean that there might be other items of expense that are not allocated as you described in those responses?

MR. ROSENTHAL: He'd prefer to answer that in camera as well.

COMMISSIONER LANE: Okay. The next question is also about cost allocation or the direct assignment process. In your questionnaire responses you have a standard canned pineapple fruit cost of goods sold and a total canned pineapple including price standard cost. Now, I'm not sure that I understand that, and I'm not sure why you don't have a standard cost for the fresh pineapple segment also?

MR. JIO: We do have a standard cost for the fresh pineapple segment.

COMMISSIONER LANE: Can you describe that, please?

MR. ROSENTHAL: I'm not sure you asked for the standard cost for fresh pineapple, did you?

(No response.)

MR. ROSENTHAL: We do have that. I'm not
1 sure it's been asked for, but if it has been asked for
2 I'm not sure where.
3 COMMISSIONER LANE: Okay. I said I wasn't
4 sure why you don't have a standard cost for the fresh
5 pineapple segment and he said that he does.
6 MR. ROSENTHAL: He does. The answer is he
7 does have the standard cost, but is the question where
8 is it or what is it?
9 COMMISSIONER LANE: Yes. What is it?
10 MR. ROSENTHAL: I don't think we want to
11 talk about the costs in a public session.
12 COMMISSIONER LANE: Okay. Okay, fine. So
13 we'll get to that in the closed session.
14 MR. ROSENTHAL: Yes.
15 Do you have that with you?
16 (No response.)
17 MR. ROSENTHAL: He'll check to see if he has
18 that information with him, if not we'll put it in the
19 post-hearing brief.
20 COMMISSIONER LANE: Okay. Thank you.
21 Thank you, Mr. Chairman.
22 CHAIRMAN PEARSON: It's my turn. I just
23 want to start by saying that I learned a great deal in
24 my short visit to Maui about the pineapple business,
25 and I appreciate very much the efforts that were made

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to help me and the staff people understand it better. Having said that I still have some questions, so let me begin.

I'd like to go back to, take a different attack on what I think the Vice Chairman was asking initially. What determines whether an individual pineapple once it is processed is going to be graded as fancy, choice or standard?

MR. NISHIDA: The primary criteria between the grades would come down to color, defects, for example specks within the -- if you can imagine a pineapple with all the eyes, in some cases the root of the eye if you will protrudes rather deeply into the flesh, and so in the processing methodology some of those specks are left over. It's primarily color, defects and to a degree other items such as the piece integrity through the cutting process.

If it's not done well you may get more broken pieces, bruised pieces, less sharp corners if you will.

CHAIRMAN PEARSON: Does the maturity of the fruit also play a role?

MR. NISHIDA: It should not if the agriculture and the harvesting practices are up to snuff, so in general the maturity will not be as
critical. Again, you've got to do it right on the
farm to begin with.

CHAIRMAN PEARSON: All right. Okay. So am
I correct to understand then that any given pineapple
coming into the processing plant has the capability of
coming out of there being graded fancy, choice or
standard depending on how the processing operation
itself is conducted?

MR. NISHIDA: You're correct. As long as
the farming is done properly you should have an
ability to produce -- obviously, you'd want to produce
a top quality product.

CHAIRMAN PEARSON: Is there a trade off in
terms of yield coming out of the pineapple if you're
producing fancy as compared to choice or standard? Do
you get more pineapple if you process so that it comes
out standard?

MR. NISHIDA: I guess the best way of
describing that is the causes that would downgrade a
piece of fruit may impact your yield. For example if
you're not cutting the fruit properly you may get a
higher degree of juice loss if you will, but in
general if your manufacturing process is proper, you
know, a ton of fruit if you make the fancier choice
grades you should get roughly the same yields. You
CHAIRMAN PEARSON: Okay. Then is it more
time consuming to get the fancy grade? If you get the
same yield out of a pineapple processing it for fancy
versus choice, why not process them all as fancy?

MR. NISHIDA: Yes. You'd want to go for the
highest grade.

CHAIRMAN PEARSON: Okay, but on the record
if I understand it correctly we have an indication
that over time Maui has processed less as the fancy or
at least has marketed less as fancy and more as
choice.

MR. NISHIDA: I think an important component
would be understanding what the different market
channels are looking for. In the case of fancy
primarily the draw, the pull comes from the grocery
end, less so the distinction in the other channels.
Yes. I'm sorry. That's the obvious. I mean, because
we've not been able to really compete on the grocery
end the total bin allocation between choice and fancy
or where the product ultimately goes is driven by the
demand.

If we're not selling to the grocery side
we've got to put it someplace, and so therefore by
default it's choice product, but it's more driven to
our ability to sell the product.

CHAIRMAN PEARSON: Yes. Okay. So do you end up actually producing some product that could be graded fancy, but yet because it's going to the food service sector they just want to buy choice, and so choice--

MR. NISHIDA: Yes. You're correct. Choice is an acceptable standard. Right. Yes. We're selling fancy product as a choice product.

CHAIRMAN PEARSON: Selling fancy product as choice to move it into a market segment that wants the choice. Okay.

MR. NISHIDA: Because that's the only place we can go.

CHAIRMAN PEARSON: That makes more sense. Perhaps our data were a little bit confusing because the perception from what we have in front of us is that there has been somewhat of a downtrend in the quality of product coming out of the processing operation and that's what we've been trying to understand, what was going on to lead to that.

If I understand you correctly the quality coming out of the processing operation over time has been relatively constant and relatively high-end, but because you have been selling fancy pineapple, at
least some of it, into the food service market that wants the choice grade our data picked it up as choice.

MR. NISHIDA: That's correct.

CHAIRMAN PEARSON: Do I have that correct, Mr. Rosenthal?

MR. ROSENTHAL: That is correct. Yes. Mr. Nishida is nodding affirmatively, and the answer is yes.

CHAIRMAN PEARSON: Okay.

MR. MAGRATH: I don't even think it's a fair characterization to say it's the same over time. I mean, Maui as an input to its pineapple business has switched varieties and the new variety pineapple that they're now growing is we were told on the field trip and we could taste the results, that it was superior to the variety Maui was selling both in canned and as fresh in the first review.

CHAIRMAN PEARSON: Yes, but that's a taste issue, isn't it, rather than a grading issue that has to do with kind of the visuals of the fruit after processing, if I'm correct?

MR. ROSENTHAL: Yes.

CHAIRMAN PEARSON: Okay. It may be hard to capture in the processed product the value of the...
better tasting fruit that's gone into it. Are you
getting anyone to pay you for that better taste for
the processed product?

MR. NISHIDA: Hopefully that's on the
horizon, but right now, no.

CHAIRMAN PEARSON: Okay. Okay, good. Well,
I think I've exhausted that issue. To what extent was
the decision to shift the business models toward
greater reliance on the fresh market driven by subject
imports?

The reason for asking that is that it
appears to me entirely possible that it would have
been also driven by a desire just to get the highest
value out of the pineapple and that there was a chance
to capture greater value by marketing it as fresh
rather than as processed. Could you address that,
please?

MR. NISHIDA: I guess the perspective would
be causative. You know, given the highly competitive
nature of the canned pineapple market, primarily not
being able to get the pricing that we need in our
opinion because of the low end, the behavior by the
Thai subject imports restricting profit potential
thereby driving the need. Okay, we're going to be in
the pineapple business.
How do we then optimize the total farming and agricultural operation such that we can have essentially a blended sustainable position? By extension that meant getting into the fresh fruit business with the higher margins.

So if you can imagine we're essentially leveraging all of the infrastructure, much of the infrastructure that is in place, had been in place to produce canned pineapple and doing essential line extension or line enhancement of pineapple per se by getting into fresh fruit market.

CHAIRMAN PEARSON: Mr. Rosenthal?

MR. ROSENTHAL: Commissioner, I'm sure you know this, but if you look back at -- obviously this is making the best out of necessity because of the intense competition in the canned market, but Maui Pineapple's acreage has declined quite a bit. There's plenty of capability to continue to supply and actually grow back the canning business and go back into retail, expand further in all of their markets, so they could replant the thousands of acres that have been taken out of production.

They have right now their canning at 25 percent of their capacity. They could actually do a lot more canning and still maintain their strategy of
focusing more on the fresh market, too. So they're not only not incompatible, one is driven by the other, but you could still be much more highly successful in the canned business if pricing were better.

CHAIRMAN PEARSON: Right, but we'd be correct to understand that the price pressure on the canned product is one of perhaps several factors that has led to the evolution in the business model?

MR. ROSENTHAL: I would say it's the most important factor. It's actually one of two most important. The first is that and the second one is high return. I mean, you're comparing the low returns per can versus the high returns for fresh. If the returns were higher for canned you would still drive the model in that direction, but the choices wouldn't be quite as stark.

CHAIRMAN PEARSON: Okay. My apologies to my fellow Commissioners for asking for clarification when the red light was on.

Madam Vice Chairman?

VICE CHAIRMAN ARANOFF: Thank you, Mr. Chairman.

As a follow-up to what I was asking in my first round of questions I just want to ask you for the post-hearing to the extent that you have not
already put them on the record if you could please
submit any marketing studies that Maui has done either
on some of the product differentiation issues that I
raised earlier or with respect to the viability of the
various possible channels of distribution?

MR. ROSENTHAL: We'll do that. Some of
these decisions have not been the result of marketing
studies, they've been the result of trial and error
and we could maybe give you some narrative on that.

VICE CHAIRMAN ARANOFF: Be happy to have
that. That would be very helpful, particularly
following up on some of Mr. Nishida's remarks about
what they're trying with respect to organic. Thank
you.

I was interested in reading the materials
preparing for this hearing and some of the parallels
between this case and our ongoing investigation of
lemon juice, again a product where the biggest returns
are found for lemons in the fresh market and there's
been questionable profitability of the processed
product in that case, the lemon juice.

In that case one of the issues was whether
the lemon juice was ever really intended to be a
profitable product or it was just the least costly way
of disposing of lemons that couldn't be sold in the
fresh market. I'm interested, and we may have to come back to this in the in camera session, in the economics of disposing of pineapples that can't be sold in the fresh market.

Obviously Maui's model is unique globally in that other fresh market producers do something else other than can what they can't sell in the fresh market. What are the alternatives if one does not can pineapples that are not sold in the fresh market?

MR. NISHIDA: I guess one alternative, and I say this very carefully, is to see what Del Monte was forced to do on Oahu. So essentially the viability of the operation is jeopardized because you cannot, you do not have an alternative. The decision is simply leave it in the fields. So that's one.

VICE CHAIRMAN ARANOFF: When you leave them in the fields you just plow them under and then plant the next crop?

MR. ROSENTHAL: No. What Mr. Nishida means by leaving it in the fields, in a place like Hawaii it is not a good long-term strategy. You cannot sustain that over time is the point. So you leave them in the field that means that you abandon the field and you go to Thailand or you go to the Philippines. There are folks who produce for canning if you will, not for...
fresh, in Costa Rica and South America and their model is different.

I'll let Mr. Nishida expand this, but that model is you produce as much as you can, you don't do the culling that Maui Pineapple does, so you don't have the high-quality product, but you have higher yields, and you just put as much in the marketplace, and get as much as you can and lower returns.

You can do that if you low land costs, low labor costs and you're selling to a market that doesn't necessarily care a great deal about the quality of the product.

I'll let you expand on that, Brian.

MR. NISHIDA: Paul, that's all true as well. In having the strength of multi-national brand allows certain fresh fruit producers to lever the ability to sell into the market of their fresh fruit. The key difference is in mostly, in nearly every fresh fruit operation, fresh fruit business, fresh pineapple business, the strategy is to put as much of the crop into the fresh fruit box and sell it through that channel.

MR. SMITH: Commissioner Aranoff?

Excuse me, Brian.

We also included in our prehearing brief...
there was some evidence that the fresh pineapple
prices in Thailand had reached one baht per pineapple,
and so the Thai growers were plowing under the fields
rather than expending the energy and cost to harvest
that. Now, that's not a cost to the canners in
Thailand because they're not vertically integrated.
The grower takes the hit there, but that's
not a down side to the processors in Thailand
virtually because all fresh pineapple is virtually
canned in Thailand and ultimately exported, so that
happens quite a bit in Thailand when the prices come
down.

VICE CHAIRMAN ARANOFF: Right. Right. I
understand the marketing arguments that all of you are
making, but I'm actually asking sort of a technical or
physical question. If you grow a pineapple and you
don't harvest it or if you pick a pineapple that's no
good for the fresh market and you don't can it, what
happens to the pineapple?

MR. ROSENTHAL: Thank you. I was mishearing
your question. Thanks.

MR. NISHIDA: I think there are a few fresh
pineapple producers who sell their fruit, the culled
fruit issue over the nonfresh quality fruit, for juice
production. It's my understanding that is generally
at a loss lower than production costs, flooring costs. In fact in the case of some of the Latin American growers they simply do not use the fruit. It is disposed of. Those are the two primary uses.

VICE CHAIRMAN ARANOFF: Del Monte was operating a fresh only in Oahu. What were they doing with the fruit that they couldn't sell in the fresh market?

MR. NISHIDA: They had a pineapple juice concentrate operation, but unfortunately that apparently did not sustain or provide the adequate returns for the utilization of that culled fruit.

VICE CHAIRMAN ARANOFF: Are there environmental restrictions on what you can do with fruit that you don't find another use for? I know because I'm comparing it to the lemon juice case and in the lemon juice case you couldn't just leave them on the trees and you couldn't just sort of dump them in a landfill. They had to be specially composted because of their acidity and that was very expensive. It's obviously very cheaper if you can just let them fall on the ground and then plow them under when you plant the next crop.

MR. NISHIDA: To my knowledge there's no regulatory restriction. However, just from a good
farming practice perspective, you know, it's very important to have good field hygiene and certainly from our perspective that's not a desirable option simply to leave the fruit there.

VICE CHAIRMAN ARANOFF: So you're saying it's not healthy for the land over the long run to be plowing under unharvested pineapples?

MR. NISHIDA: Well, if I may I'll back up a little bit with a bit of pineapple 101. Pineapple is a long cycle crop and from one planting generally two, sometimes three harvests are made over between a four and five year period, and the first cropping occurs generally about 18 to 22 months after the planing.

The subsequent second crop occurs approximately a year later, and so in the case of harvesting fruit off of the initial crop it is not desirable to leave fruit back because you will impact your subsequent harvests given the plant health, the development of the subsequent plant. So, yes, you don't want to leave the fruit back there.

VICE CHAIRMAN ARANOFF: Okay. Okay. That's helpful. In addition to canning are you making other products with your culled pineapples?

MR. NISHIDA: Yes, we are. As a part of our processing operation we do produce a variety of
pineapple juice products, and we do a little bit of
frozen pineapple, but that's more of an accommodation
for one of our accounts.

VICE CHAIRMAN ARANOFF: Okay. When you
follow-up by showing me your sort of marketing
research and things you've tried if you could also
comment on the extent to which you've explored other
value added products that can be made with pineapple
either sort of oils, fragrances, perfumes, those sort
of things or other downstream edible products, that
would also be helpful.

MR. ROSENTHAL: We'll certainly do that.

VICE CHAIRMAN ARANOFF: Thank you very much.

Thank you, Mr. Chairman.

CHAIRMAN PEARSON: Commissioner Hillman?

COMMISSIONER HILLMAN: Thank you.

If I could I'd like to start where we left
off, which is again trying to help me understand why
it is that again you're unique in terms of being an
integrated producer, why not can all of the leftovers
from all of the other growers of fresh pineapple whose
pineapples are not suitable for the fresh market? Why
did that not become part of the way in which your
company or others that do canning operate?

MR. NISHIDA: Let me start with the
fundamentals, I mean, real basic stuff. Our operation is located on the island of Maui. The Del Monte's operation and Dole's operation are located on the island of Oahu, so just the fundamental number one, movement of product from island to island is problematic. I think as well we're competitors in the fresh pineapple business.

Certainly I'd love to be able to can their fruit, but it's certainly their decision and that opportunity has not provided itself. Am I answering your question?

COMMISSIONER HILLMAN: Well, I'm just curious. Why not then can the pineapples out of Costa Rica or other places? That's what I'm trying to understand is why you let that high a percentage of facility remain idle or significantly under utilize your canning capacity if there are pineapples out there to be canned, presumably if the alternative for these folks is to throw them away, which is what I'm hearing you say?

The option is you either can it or you waste it. Presumably you wouldn't pay very much for these pineapples since folks' alternative is to throw it out. I'm just trying to understand why it doesn't make sense to go ahead and can it?
MR. ROSENTHAL: Well, start with this proposition. Maui has plenty of pineapples to can itself. They've reduced their acreage not because they don't have canning capacity, which you recognized they have plenty of, the problem is selling the canned pineapple. They've got to get customers willing to buy the canned pineapple at a price that is profitable. It is not a question of having enough canned pineapple available to sell or pineapples to go into the cans.

They have an enormous capacity to produce pineapples and can pineapples for the market. The problem has been customers not wanting to buy. It just so happened when the Del Monte closure was announced Mr. Nishida mentioned he offered to buy up to 5,000 acres worth of the Del Monte pineapples that they were just going to abandon in the fields because they were there and it was a one time opportunity.

Del Monte decided not to take him up on that. It's not a question of supplying the market. They have plenty to supply and much more market share. You need to get all those purchasers who responded to your questionnaires to say I'll pay you a little bit more money to make this a profitable exercise.

COMMISSIONER HILLMAN: Okay. Then help me
understand on the flip side the Thais basically don't produce for the fresh side. That's what I'm trying to understand, why the economics of this work the way they do. Why in Thailand is there not the same concept that you've gone to, which is to sell into the higher priced fresh market as much product as is suitable for fresh, and to then can all the remainder? Why not do that?

MR. ROSENTHAL: They don't have a fresh market there. They are producing essentially for their canneries. They don't have a premium fresh market where people are going to pay more money for pineapple in Thailand if it's fresh, and they're not going to ship it here because what they're producing is pineapple designed if you will to go into their canneries, which are 100 percent export oriented, so they have a totally different model.

Produce as much pineapple as you can because it's going to go into the canned product. It doesn't have to be the high-quality, good looking product without the bent crowns because no one is going to see it in that form. They're not going to ship fresh pineapple all the way from Thailand to the U.S. It's not economically feasible especially when you're not producing the better looking, higher-quality product.
MR. MAGRATH: Commissioner, it's less expensive for Maui. As you know from the prehearing staff report Maui is in a very difficult financial position. Think of what we'd be asking them to do. It costs money to make canned pineapple. The cans are the most important thing.

It is less expensive for them to leave that capacity idle than it would be to purchase all the raw materials for the cans, put on the workers and have to pay them wages and salaries to produce the cans, and then the inventory carrying costs of carrying the cans in your warehouse. That would drive their costs through the roof.

What we have here is a demand constraint. They cannot sell the pineapple for a profitable price. It's not a supply constraint.

COMMISSIONER HILLMAN: All right. If I could then go to the issue of if you will the grades or the quality of the product. Again, from our data it appears that it used to be the case that Maui produced and canned a fair amount of so-called fancy product and that somebody out there at least seemed to think that it mattered the choice versus fancy. It mattered that they got a higher grade of product in their canned pineapple.
I'm trying to understand whether that has fundamentally changed or whether it is again simply a price issue. So I guess what I'm trying to say is is anybody out there selling fancy grade product in the United States market or has there been a change in demand between fancy, versus choice, versus standard?

MR. ROSENTHAL: Let me just start with this, and I'll let Mr. Nishida answer the last part of your question. You may have been out of the room when there was a partial answer to Chairman Pearson's question along these lines and that is that Maui Pineapple continues to produce comparable levels of the fancy grade as it always has.

The problem is that the customers for that have been in the retail market and they've been essentially squeezed out of the retail market, so they're still producing fancy grade product. What they're doing now is selling more of that product as choice because that's what the customers are asking for.

Now, as to the question are there still customers out there who specifically demand fancy and will pay for that? I think the answer is yes, there is a segment in the retail market that still will demand it. The question is whether they will pay for
that. I'll let Mr. Nishida take over from here.

MR. NISHIDA: Yes. The fancy grade product, the grocery or the retail sector called for a fancy grade product. As Paul had mentioned that channel is no longer available to us. Now, to your question do people want a fancy grade product? The answer is absolutely yes. By specifications the retailers do call for a fancy grade product. It's simply a matter of affordability on their part.

COMMISSIONER HILLMAN: Where do they get it?

MR. NISHIDA: Imports.

COMMISSIONER HILLMAN: Okay. Thailand? As I heard it Thailand isn't really producing that much fancy. Where are they getting their fancy product?

MR. NISHIDA: Again, across the board imports. It's our understanding that in the private label, the store brand if you will, that the Thais have been making end roads into that sector.

COMMISSIONER HILLMAN: Okay. Now, if I hear Respondents' argument they're saying that the volume of product that would come in from the subject Thai producers is constrained because to the extent that they're producing standard product it's being sold in Europe, where for reasons I've never understood the Europeans want standard, that to the extent that they
have fancy it's going to Japan and therefore the
limited amount that is in the choice area comes to the
U.S., but it's limited because all of their standard
doesn't come here, that nobody here will buy standard
and that there is demand in Europe for standard.

I just wanted to get your response to that.

MR. NISHIDA: My response would be that in
any operation you would want to optimize your value
yield, and so from a production standpoint, be it
farming or processing, it is incumbent on the producer
to strive on that end. So beg the question, why would
you limit your operation simply to a standard grade
product?

My supposition would be that they had
available product that could meet grade for the U.S.
market.

COMMISSIONER HILLMAN: Okay. Would you
agree with their characterization that the European
Union likes standard and that the U.S. will not
purchase standard? That the U.S. market demands at
least choice?

MR. ROSENTHAL: The answer is no, we don't
agree with their characterization. In fact the
European market does buy choice as well as the
standard and it is possible to divert some of that
European choice product to the U.S. That's point number one. Will the U.S. market accept more standard? That I don't know, but there's plenty of Thai capacity for choice going to Europe and other markets that could come to this market.

COMMISSIONER HILLMAN: Appreciate those answers. Thank you.

CHAIRMAN PEARSON: Commissioner Koplan?

COMMISSIONER KOPLAN: Thank you.

Thank you for your answers to our questions thus far.

Mr. Rosenthal, let me walk through something with you if I can. Our staff report informs us that sales of subject product to No. 10 cans to first private label brands oversold domestic CPF in all 27 quarters and the margins of overselling averaged minus 10.3. That's at Chapter 5, page 7. Now, you acknowledge this in a paragraph on page 36 of your brief and you describe it as an anomaly, okay?

This morning Mr. Nishida testified that what happens with pricing in Product 2 does not impact on Product 1 since he defined these as discreet markets. Given that what I'm wondering is how can I not conclude then that Maui's sales to USDA are not being impacted by Thai prices?
Let me say this if I could. I don't understand given his testimony earlier your statement at page 17 of your brief that there is intense price competition in the CPF retail and food service distribution chains and that this corroborates the primacy of price because what I'm looking at here is this overselling. I don't know how much of this you can get into in the public session, but I want to set the table for you because frankly I'm troubled by this.

MR. ROSENTHAL: Understandably. I'll start with repeating what we said in our brief and that overselling --

COMMISSIONER KOPLAN: Well, I know what's in the brief in the paragraph.

MR. ROSENTHAL: Well, and that number is an anomaly. There's something wrong with that. There's no possible way that can be correct.

COMMISSIONER KOPLAN: Let me say to you if you have some counter table that you want to prepare for purposes of the post-hearing dealing with what I'm looking at in the overselling table I'm happy to get that, but I can't just take what's in that paragraph and say that answers the question for me. You follow me?
MR. ROSENTHAL: Yes. The basic problem is you've got data from one other producer there who is driving this --

COMMISSIONER KOPLAN: I know what you wrote.

MR. ROSENTHAL: -- and so I would like you to go back to that producer and get the accurate information. That would be the way to solve that problem.

COMMISSIONER KOPLAN: But not the problem I'm raising with you right now?

MR. ROSENTHAL: Now, I want to go on to that other one. Put aside the bogus overselling information and go to the question of competition in that channel. Mr. Nishida did not say anything that contradicts what was in the brief.

What he said earlier was that there was intense competition in the retail segment, probably less visibility between the institutional market sales if you will and the retail sales, but still competition within the food service or institutional markets there because there is a tiering that goes on within the food service sector as well. That was his testimony.

So you will have Maui trying to be positioned at the upper tier within the food service sector.
market, but still facing competition from imports in food service as well. Now, that is something apart from the USDA sales, which we really haven't talked about at all today. I suspect we'll talk about that at some point, but there is no reference if you will in Mr. Nishida's testimony or any other at least this morning on USDA sales.

CommissioNER KOPLAN: No. I'm just trying to tie our list together for myself --

Mr. ROSENTHAL: At least the way you phrase your question or at least the assumptions there don't tie well. There is no contradiction is what I'm saying between: (1) our view that you've got inaccurate information for comparison purposes on that overselling chart; (2) that there is nevertheless very intense competition both in the retail segment and in the food service segment.

It is I would say incredible that there would be anybody selling at a higher price in either of those segments at this point based on our knowledge of the marketplace.

COMMISSIONER KOPLAN: Would you expand on this for me through a post-hearing?

MR. ROSENTHAL: Certainly.

COMMISSIONER KOPLAN: I'm just not there at
this point.

Mr. Magrath?

MR. MAGRATH: Well, I was going to add then
you've got the background factors of underselling
being consistently found in the original investigation
and in the first review, you've got underselling of
Maui from all other tiers including in product to the
No. 10 cans, the food service, including underselling
by the national brands in the food service channel and
you've got all these background factors of this being
recognized as a commodity product in which price is
the most important differentiating variable in
purchasing decisions and that the U.S. product and the
Thai product are interchangeable.

Those are responses from the vast majority
of purchasers. So all the background factors and all
the pricing information go one way.

COMMISSIONER KOPLAN: Let me just break here
for a second.

MR. MAGRATH: I'm sorry.

COMMISSIONER KOPLAN: I appreciate what
you're saying about the first review, but one of the
things that I have to do here is look and see what's
happened since -- and of course I participated in the
first review -- the first review. So I know what the

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basis for my findings then were, but I'm trying to see what's new and that's what I'm pursuing with you.

I'm not trying to cut you off, but you understand?

MR. MAGRATH: Yes, sir, I understand. What we were trying to do here is merely put this one series by one Respondent that shows this overselling, put that in the context of all these other factors both currently and from the other reviews just to illustrate that it is an anomaly in our opinion.

COMMISSIONER KOPLAN: Okay. Thank you. As I say I do look forward to getting more from you post-hearing on this.

MR. ROSENTHAL: You have a lot of questions, Commissioner Lane asked a lot of questions about the financials. I assume that at some point there will be a verification of the Maui data, but I would urge you to ask again, actually verify some of the submissions, particularly this submission you're referring to with respect to this other producer, and find out whether that data is correct.

COMMISSIONER KOPLAN: Well, staff is present to hear your request, and I see that Ms. Mazur is nodding in the affirmative.

MR. MAGRATH: Yes. Mr. Koplan, there are
other problems with this particular response. The staff knows what they are, and I'm sure the staff is further investigating this response.

COMMISSIONER KOPLAN: Thank you.

Thanks for all that, and I look forward to the post-hearing submission on this point.

Mr. Nishida, I'm curious. You put an article in your brief at Exhibit No. 9, page 2, which noted that Maui was considering stepping in to salvage Del Monte's existing crop and look into other uses for the more than 5,000 acres of pineapple that it farmed after that company's closure in I guess it was November 16 of last year.

I heard you testify about what happened unfortunately with Del Monte, but what I haven't heard is what's the current status of your stated willingness to do what you said you were considering? Have you stepped in?

MR. NISHIDA: No. Not at all.

COMMISSIONER KOPLAN: You haven't?

MR. NISHIDA: Yes. As I mentioned the very next morning Del Monte began to plow the fields under.

COMMISSIONER KOPLAN: Okay. So what will be done with that acreage?

MR. NISHIDA: I believe it's going to be
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kept out of agricultural use.

COMMISSIONER KOPLAN:  Won't be used for agricultural use?

MR. NISHIDA:  That's my understanding.

COMMISSIONER KOPLAN:  So what will it be used for?  Do you know?

MR. NISHIDA:  Ultimately I would suppose it will be developed.

COMMISSIONER KOPLAN:  Redevelopment?

MR. NISHIDA:  I'm not certain.

COMMISSIONER KOPLAN:  Mr. Rosenthal?

MR. ROSENTHAL:  I just said to him don't guess if you don't know, so the answer is he doesn't know.

COMMISSIONER KOPLAN:  I'll take an estimate.

MR. ROSENTHAL:  He really doesn't know what they're going to do with it at this point.

COMMISSIONER KOPLAN:  But not for agricultural use apparently from what he just said?

Okay.  Thank you.  I see my yellow light is on.

Mr. Chairman, I'll wait until my next round.

Thank you.

CHAIRMAN PEARSON:  Commissioner Okun.

COMMISSIONER OKUN:  Thank you.

Again, thank you for all the responses

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you've given thus far. Let me ask about the USDA sales and Buy America. As you know in the first review the Commission did not find those insulated the domestic industry from competition. The Respondents in this case point to a percentage change from the first review to this review in terms of what's being sold into the Buy America market, so I wanted to give you a chance to respond to that.

If you could in doing that, how we should evaluate it if you can just remind me again how when it says they're set by market prices or by referenced market prices can you remind me how that's done? Is there a benchmark out there, because I don't recall there being one for canned pineapple prices. So if you could reply to that, too, Mr. Nishida?

MR. NISHIDA: I'd be happy to provide you the detail of those dynamics in camera if that would be okay?

COMMISSIONER OKUN: Okay. That would be helpful. Is there anything for public session you'd like to say just in terms of the relative amount of yourselves going to Buy American that the Commission should look at in this review versus the last review?

MR. NISHIDA: Maybe we'll address it in camera.
COMMISSIONER OKUN: Okay. Fair enough.

We'll turn to that in the in camera. It would shorten
if it I wouldn't ask the question here.

Then maybe, Mr. Magrath, perhaps for you in
terms of the relevance of AUVs in this case, and
particularly for the nonsubject AUVs versus the
subject AUVs, what should we be aware of in evaluating
those?

MR. MAGRATH: Well, that this case sometimes
AUVs aren't a good proxy for price. In this case
because of the specific HTS categories we think they
are, and we think that the AUVs especially the pricing
table, I think it's on page 427 if I'm not mistaken of
the staff report, revealed very interesting facts
about the AUVs specifically of subject versus
nonsubject imports and once again I'm sorry,
Commissioner Okun, that we're going to talk about in
camera.

COMMISSIONER OKUN: Okay. All right, but I
was just curious on your general reference to AUVs in
terms of how useable they are here.

Then just a follow-up, Mr. Rosenthal, with
regard to how much of the subject imports would be
available to ship into this market and the question
about standard. Obviously we're going to ask the
Respondents about that to help us better understand that, but you had I think said in response that there's plenty of choice product available in Thailand.

What would you have us look at in making that determination or looking at that evidence?

MR. ROSENTHAL: Number one I'd look at overall capacity. As Mr. Nishida testified earlier if you employ normal regular agricultural standard to produce the pineapples in the first place and have reasonably good manufacturing practices in the cannery you will end up with a significant amount of choice product available. So unless you're messing up you'll have a fair amount available.

If you go back and you look at the actual capacity, which is not the 12 million cases that have been reported by the Respondents thus far, but closer to 60 million, you'll see that there's more than enough choice available from Thailand that could supplant or more than supplant the amount of choice supplied by Maui Pineapple.

COMMISSIONER OKUN: Okay. I will look at that. Then I was not able to locate this, but do you know during the original investigation whether the Thai industry was in fact supplying choice product or...
a lot of choice product?

MR. ROSENTHAL: To the U.S. market?

COMMISSIONER OKUN: To the U.S. market.

MR. MAGRATH: Yes, they were. That was their and remains their supply to the U.S. market. I would also like to add to this that Japan has this tariff rate quota. Japan is very particular and most of the pineapple that comes into Japan is fancy grade, higher than choice, and Japan has the tariff rate quota basically to restrain Thai exports.

So finally another factor is the TFPA company websites are replete with illustrations of programs they are engaging that enhance the quality of their product. So that is all evidence that they can produce plenty of both choice and fancy product.

MR. ROSENTHAL: One last fact is just take a look at the behavior of the four Thai companies who got revocation from the order. They were able to ramp up their imports into the U.S. quite dramatically in a relatively short period of time supplying choice product. They're not the only ones who can do that. As we said they represent 35 percent of the Thai productive capacity. There were 65 percent who were unaccounted for and able to supply choice.

COMMISSIONER OKUN: Okay. Mr. Smith, you
wanted to add something?

MR. SMITH: Yes. Commissioner Okun, I was going to mention that, you know, when the Commerce Department does its price comparisons the Thais have to come in and give a comparison market and often that is the European community. The Commerce Department has always been able to find sales of both grades or all the range of grades to make comparisons to both sales that are sold in the United States and sales that are sold in either the Netherlands or Germany.

So I don’t think the impression that we’re leaving that it’s all one type of one grade in each market is really clear. You may have the predominance of one grade, but you have sales of all grades in all markets.

COMMISSIONER OKUN: Okay. Appreciate all those responses. Then if I could just return to this issue of the decisions that were made in 2003 or 2004 as you would argue it that in fact you were driven out of the retail market at that point.

One thing that I’m trying to understand in evaluating that argument is what is your sense, Mr. Nishida, of what was going on there? Was it pressure coming from the imports that came out from that order, so nonsubject for purposes of our consideration here,
or was it subject imports that are still in the market? Do you have any sense of that or anything you could discuss?

MR. NISHIDA: Well, I think first just a point of clarification. The 2003/2004 period is when we made the decision to pursue our strategy, but certainly a lot of it was based on historical performance within the grocery channels. Secondly I can't comment as to the refinement of that analysis to subject or nonsubject supply.

It was really where is our position in the marketplace? What's our opportunity to get pricing? It was really on that level that we drew the conclusion that in spite of attempts to raise prices we would not be able to sustain our sales in that channel.

COMMISSIONER OKUN: Okay. I appreciate that.

Then maybe that brings me to I guess a legal question for you, Mr. Rosenthal, which is if I look at the data on the record during this review period in trying to evaluate what will happen if there's revocation and if I see that the indicators you talked about have gone down during the period, a period when the biggest portion -- well, a large portion of the
market is the nonsubjects that came out from under the order. I understand your argument on those trends should inform me for purposes of revocation. I understand that part.

What I'm struggling with more is how do I evaluate the impact of those subject imports if I see them dwarfed by nonsubject imports?

MR. ROSENTHAL: Well, as you know, Commissioner, what you're trying to do in a sunset review is a little different than that. What you're trying to do is project what will happen if the order is revoked. The impact of the subject imports who by definition are subject to restraint is going to be a lot different than if the order were revoked and they were unrestrained.

That's why we point to the four who have been revoked as the models if you will of the behavior that will take place if the order is revoked in total. What we're saying is things have gotten worse in the last few years with the current situation with the order in place because several companies have been revoked and there are other imports in the marketplace.

The company is in a vulnerable position, and so your analysis has to be are things going to get
worse? Will injury continue? Because I think it's fair to say the company is suffering injury now. Will injury continue or recur, but continue if the order is revoked?

COMMISSIONER OKUN: Okay. My yellow light's on, but let me just ask in the argument of is it suffering material injury now does it matter if I find that it's suffering material injury now by reason of nonsubject imports versus subject imports? Does that matter?

MR. ROSENTHAL: Well, I don't think you should be making that finding. That's not required under the sunset statute. What you're supposed to be doing is determining whether the industry is vulnerable and if injury would recur, continue, if the order is revoked.

COMMISSIONER OKUN: By reason of?

MR. ROSENTHAL: That is will the subject imports turning into nonsubject imports make the injury continue? In my view that will make matters worse, but that is not the statutory term. Assuming that injury is taking place right now with the order in place what will happen when it's revoked? I think that things can only get worse if you will when you unleash the vast majority of subject Thai productive
capacity on an already vulnerable industry.

COMMISSIONER OKUN: Thank you.
I know my red light's on, Mr. Chairman.
I'll try to keep the rest of my questions for the in
camera session.

CHAIRMAN PEARSON: Commissioner Lane?

COMMISSIONER LANE: Just to clarify what
prompted my questions regarding standard costs.
Yes, Mr. Rosenthal?

MR. ROSENTHAL: May I inquire about the
timing if any of a biological break or a lunch break?
We have some folks here who have not been able to
leave the table for a few hours. I didn't know what
the plans were.

CHAIRMAN PEARSON: Well, it is my intention
to take a lunch break when the questions of this panel
are concluded unless any Commissioner had a different
idea.

MR. ROSENTHAL: Would you then mind if we
existed as the questioning was going on leaving the
people here to answer questions as appropriate?

CHAIRMAN PEARSON: That would be fine.

MR. ROSENTHAL: Thank you.

CHAIRMAN PEARSON: We won't take offense.

Please continue, Commissioner Lane.
MR. ROSENTHAL: Sorry.

CHAIRMAN PEARSON: Please restart Commissioner Lane's clock.

COMMISSIONER LANE: Okay. Just to clarify what prompted my questions about standard cost I was basing my question on your questionnaire response to Question 3-4. In that response you did not mention a standard cost for total pineapple including fresh. Instead you refer only to a canned pineapple fruit standard cost and a total canned pineapple including juice standard cost.

I would have thought if you had a total pineapple including fresh standard cost you would have used that as the basis for your allocation or at least mentioned it in your questionnaire response.

MR. JIO: Okay. In the Questionnaire 3-3 I have there that we use a standard cost accounting system where the production costs are allocated to CPF canned juice, concentrated whole fruit, which is the fresh fruit. In 3-4 I'm just taking the standard cost associated with the canned pineapple, which includes pineapple juice and concentrate. I exclude the fresh portion when I do the allocation.

COMMISSIONER LANE: Okay. Thank you. Now, a final question on allocation and standard cost
process. Could you describe your standard cost system including what the standard costs are for canned pineapple fruit and total canned pineapple and how you developed those costs?

MR. ROSENTHAL: The answer is susceptible to the time limits. We'd be glad to get you that in a post-conference brief.

COMMISSIONER LANE: Okay. That's fine. Then the rest of that question is also please describe how often these standard costs are recalculated, and how that is done and finally explain how you determine what portion of your overall cost of goods sold including the growing costs should be assigned or allocated to the fresh fruit segment of your business.

MR. ROSENTHAL: We will do that as well.

COMMISSIONER LANE: Okay. One more question I have relating to this and it is probably best for post-hearing because I don't know that it can be done quickly enough for the in camera. In the data reported in Part 311(a) of your questionnaire, which is the financial data that is summarized on Table 3-10 of the staff report, can you provide a schedule that shows the total agricultural division financials for the same line items that you reported financials for the canned pineapple fruit business?

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That detail would simply be the total agricultural division numbers that correspond to the net sales, raw materials, direct labor, other factory costs, selling expenses, GNA expenses and the other income and expenses listed on Table 3-10.

MR. ROSENTHAL: You sure you don't want to do that now, Stacey?

(No response.)

MR. ROSENTHAL: No. Just kidding. We'll do that in the post-hearing brief.

COMMISSIONER LANE: And I would like that for the years 2000 through 2005.

MR. ROSENTHAL: Certainly.

COMMISSIONER LANE: Okay. Now, a more simple question. The staff report talks about the acreage dedicated to pineapple production, and I know some of these questions may have been asked, but the total number for dedicated for pineapple production is a lot different than the number that actually is growing pineapple, and so I just wondered what is the distinction between acres dedicated to pineapple production and acres actually producing pineapple?

MR. JIO: I have the total acres that we use for production of pineapple for the years 2000 to 2003 was 8,000. This includes acres in fallow, acres that
is in production and acres that are being harvested. In the year 2004 and 2005 it's 6,000 acres. I don't know, I mean, what is the total dedicated to production, but I know what we are using only. That's how I base the financials off.

COMMISSIONER LANE: I know what the numbers are, but I can't remember if they are BPI, but there is a substantial difference in the total dedicated acreage and the acreage actually planted with pineapple.

MR. JIO: Yes. I don't know that answer.

MR. ROSENTHAL: We'll get you that in the post-hearing brief.

COMMISSIONER LANE: Okay. Thank you. On page 2 of the 2005 10-K it states that the company sold 640 acres in 2005 and will reinvest $28.2 million net cash to strengthen its agricultural segment operations, its resort operations and increase community development. How much of that money went to the agricultural operations?

MR. ROSENTHAL: We will get you an answer in the post-hearing brief as well.

COMMISSIONER LANE: Okay. Can you show me where that is reflected in your financials?

MR. ROSENTHAL: Certainly.
COMMISSIONER LANE: Okay. Now, I would like to talk about the Buy America program. Do the federal regulations require school districts and perhaps other entities to buy domestic food products when using federal funds?

MR. NISHIDA: I'd be happy to get into greater detail in camera. However, to answer at a higher level the school programs are not required -- the product sold through the USDA must be of U.S. origin. The schools themselves or the users if you will are not necessarily required to only buy those products.

MR. ROSENTHAL: So if they want to buy from another food service distributor a non-U.S. product they are allowed to do that. It's only if they're buying through the USDA that they are buying a U.S. only product.

COMMISSIONER LANE: Okay. Is it true that even if the cost of domestic food products are higher than the cost of foreign products the Buy America requirement when using federal funds would still apply?

MR. ROSENTHAL: When using federal funds would still apply. That is correct. There's no exemption there, and Mr. Nishida will get into this in
the in camera session if you would like, as a practical matter and as the USDA has said the market information that they have makes it impossible for there to be too wide a gap between the market prices and the prices that USDA will pay to certainly Maui Pineapple. I assume it's true for other commodities as well.

COMMISSIONER LANE: Okay. How are the prices set for the United States government or federally funded agencies?

MR. ROSENTHAL: That's something I think Mr. Nishida would like to at least with respect to pineapple pricing discuss in the in camera session. I don't know if you want to say something more generally about that right now?

MR. NISHIDA: I think as a general statement the functionality of the USDA purchase is very much geared towards, well, their primary mission is really geared towards crop stabilization. As a result their purchasing practices do not reflect extraordinary from market pricing situations. Does that help?

COMMISSIONER LANE: Yes. Thank you. Thank you, Mr. Chairman.

CHAIRMAN PEARSON: Okay. I would like to learn a little bit more about the question of supply
availability of pineapple on Maui for processing because if I understood you correctly earlier, Mr. Magrath, I wrote down you saying something to the effect that Maui has the capacity to ship more canned pineapple tomorrow.

Now, that may have been somewhat rhetorical, but Mr. Rosenthal, I think you've also indicated that there's really no supply constraint in terms of what Maui Pineapple could do to run its cannery and to produce more to sell into the marketplace.

MR. MAGRATH: Well, if it's rhetorical it came from Mr. Rosenthal.

CHAIRMAN PEARSON: Okay. My question is is there actually pineapple available for processing on Maui without cannibalizing the fresh fruit business in the near term?

MR. NISHIDA: We have the capacity to produce more pineapple, but if the question is can I tomorrow or next month simply add another 10,000 tons of fruit to canning that would be not true because obviously from a cropping perspective we're trying to gear our supply to what we anticipate the market to be to make a profit.

That being said there's acreage available, very good pineapple growing lands, we have the seed
stock available to cultivate those lands, we have the
equipment and manpower available to bring that into
full production, our cannery operation has the
capacity to process the fruit, so in that regard if
the market would allow us to have a profitable
business we would certainly expand into that.

MR. MAGRATH: Mr. Chairman, you're quite
right. The supply of canned pineapple is dependent on
the raw material. Because it's a crop cycle that goes
from 18 to 22 months is characterized by inelastic
supply. Maui has some inventory, so it could ship
some more tomorrow, but if I said tomorrow I'm sorry.
I mischaracterized the nature of it.

MR. ROSENTHAL: If Dr. Magrath said tomorrow
I'm sorry, too. I may have said that and it is not
tomorrow. I guess Mr. Nishida made the point that the
acreage was there and it's been reduced. It can come
back over not too long a period of time and certainly
the cannery capacity is there.

CHAIRMAN PEARSON: Mr. Nishida, does Maui
own or control enough land suitable for pineapple
production that it would be at least theoretically
possible to produce the current level of fruit for the
fresh market plus enough to run the cannery at full
tilt? I'm giving you two or three years now to get
this in operation.

MR. NISHIDA: Yes. Yes, we do. Not only just land mass alone, but certainly as we are moving more and more to a type of cropping cycle where we're focused on, as I mentioned earlier, the two fruitings which generally give us more tons per acre versus previous practices of the third or the fourth harvest which have lower tons per acre, we certainly are in that position to be able to produce more.

CHAIRMAN PEARSON: Okay. Now, Mr. Rosenthal, as we consider the reasonably foreseeable future in this investigation, we'd pretty much have to assume that Maui is constrained in terms of its ability to expand pineapple output during that reasonably foreseeable future. How do we take that into our analysis? You can respond in the post-hearing too, if you want, but any thoughts now would be welcome.

MR. ROSENTHAL: Sure. Again, what we're looking for in a sunset review is what will happen if the order is revoked. If the order is revoked the reasonably foreseeable future focus I think ought to be on what the imports will do as opposed to whether Maui will be able to increase production over the 18 to 22 months. I'm pretty sure if you look at it that...
way you'll say increasing production is not one of the choices that Maui is likely to make because it's going to be deluged with more imports. So the reasonably foreseeable future for Maui if there's revocation is probably taking more land out of production and being able to ship fewer cans out of the cannery, not the other way around.

CHAIRMAN PEARSON: Mr. Nishida, a somewhat technical question. What would be the economics of transporting pineapple from Oahu to Maui for canning, assuming there was supply available on Oahu. Can one move it quickly enough in an economical way so that you could process it and it would still meet your standards in the plant?

MR. NISHIDA: Yes, that is possible. The transit time is probably six hours. So the impact of shelf life is minimal. It is practical to do that. The economics certainly come down to what do I end up buying the fruit for from the grower.

CHAIRMAN PEARSON: Thank you. My last question before we would get into the in camera session has to do with the allocation of raw material costs between the fresh market and the canned market and I know Commissioner Lane has touched on this to some degree.
What I want to understand is, is the raw material cost division between fresh and processed pineapple, is it based on the tonnage of pineapple going to each use? Or is it divided on some other basis?

MR. JIO: It's based on tonnage that's being used by processed or fresh.

CHAIRMAN PEARSON: For purposes of this investigation where we have a really interesting market in that the fresh and processed products are so closely intertwined on the agronomic, the agricultural end of the business, is there a rationale for thinking of dividing the raw material costs on some other basis? Perhaps relative to value of the end product instead of the costs on the farm?

The reason for asking this, you have to forgive me for having been a farmer at one time, Mr. Nishida. You have a business model that is focused primarily on the fresh and I think very appropriately so. Then the processing operation comes in and bats cleanup, so to speak, and makes sure all useable fruit is utilized well. Okay? But I assume that if we look at the value, most of the value has to be captured by the fresh fruit.

So if we allocate the raw material costs
based strictly on tonnage then we have a situation
where fruit that we know is going to be relatively low
value in terms of its end use is bearing a somewhat
disproportionate share of the agricultural costs.

Comments, please?

MR. ROSENTHAL: You actually hit on one of
the central issues that the Commerce Department
struggled with in doing the original dumping
calculations in this case and in subsequent
administrative reviews. In essence what the Commerce
Department does is take whatever, in this instance,
the Thai producers books and records as they are, and
go with that unless there's some reason to believe
that there's something wrong.

All the accounting references that we
resorted to during the dumping side of this said you
can do either one. You can do something based on
tonnage or net realizable value.

You'll see in the pineapple industry some
companies doing na NRV approach, some doing a tonnage
approach, and there's no one right way.

So what you're saying makes sense and some
companies do it that way and others don't. It's a
flip a coin type of approach.

CHAIRMAN PEARSON: For our purposes here as

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we try to understand the financials, would I be correct to understand that using the allocation based on tonnage of fruit going each way does have to some degree an effect of making the operating income numbers look a little worse in our data than might actually be the case in terms of viewing the operation as an integrated operation, both fresh and processed?

Sorry for the long question. Mr. Jio?

MR. JIO: Yes. let me retract on that. In the year 2000 to 2003 it was based on tons and that was primarily because fresh wasn't a major factor in our company revenue. Then in 2004 and 2005 it was based on the net sales of each. As we built the fresh we felt the fresh should be allocated more of that cost.

CHAIRMAN PEARSON: Let me make sure I understand.

You're saying toward the end of the period of review you did make an allocation that was weighted where the raw material costs were weighted more heavily to the higher value --

MR. JIO: That's correct.

CHAIRMAN PEARSON: Perhaps Staff, we can work on this over time and try to understand it a little better. It was an issue that was of deep
interest to me last night when I was finally getting
into the record far enough to understand it.
That concludes my time and I have no further
questions for the public session.
Madame Vice Chairman?
VICE CHAIRMAN ARANOFF: Thank you, Mr.
Chairman. One or two, hopefully for post-hearing.
First, in Exhibit 6 of your brief you
describe a number of Thai export promotion and
government plans. Given that this is not a
countervailing duty investigation and given that the
division of labor under the trade remedy law says this
agency is not the expert in deciding whether something
is an export subsidy or promotes exports, or whether a
program is actually even in use in a foreign country,
how should we be taking that information into
consideration in making our determination?
MR. ROSENTHAL: The reason it's relevant to
your analysis in a sunset review is that you're trying
to figure out what are the intentions, what are the
capabilities of the foreign producers if the order
were to be revoked.
The information on the export promotion
programs, the subsidies, the encouragement of
production and export in Thailand should tell you that
they are being encouraged by their government to
export, that there is indeed additional danger, if you
will, to the domestic industry if the order is
revoked. That's why it's relevant. Not for the truth
of the amounts of subsidy, just that they have the
government encouraging them to export.

So when you compare that to some of the
questionnaire responses or some of the arguments by
Respondent's counsel saying well, we don't have the
capability and we don't have the interest in exporting
more to the U.S., we regard that as very probative.

VICE CHAIRMAN ARANOFF: I appreciate that,
and I would just add a second layer to the question
which is given that the Thai government is in some
degree of disarray right now, to what extent can I
rely on what has happened in the past as a guide to
what the Thai government may be able to afford or be
interested in supporting going forward?

MR. ROSENTHAL: Obviously no one knows, but
unless you see a renouncing of these public
statements, I don't think you should assume that the
political turmoil otherwise will result in a reduction
in interest in promoting the Thai pineapple industry
which is one of their primary export industries.

Indeed to the contrary, if you want political
stability in your country you want to promote the producers there and be able to earn export dollars. I would expect there will be a continuation of these programs. I don't want to go further and say an enhancement, because I don't know that.

VICE CHAIRMAN ARANOFF: I appreciate those answers and I would certainly, if I don't remember to ask the question again, invite Respondents to answer those as well in their post-hearing brief.

Finally, I guess I would ask, and maybe we'll hear this in the in camera session this afternoon but I think this is mostly public. If we could get in your post-hearing just some more basic detail about who buys pineapple from USDA. We've sort of been assuming that the whole program goes into the school lunch program, but it was unclear to me whether there were other customers, for example military bases, federal prisons, that sort of thing, and whether there are differences in terms of how those different potential customers might purchase through USDA or what their other choices are.

MR. ROSENTHAL: If you don't mind, we'll do that in camera.

VICE CHAIRMAN ARANOFF: Okay.

Thank you, Mr. Chairman. I have no other
questions.

CHAIRMAN PEARSON: Commissioner Hillman?

COMMISSIONER HILLMAN: Thank you. Just a request for the post-hearing brief.

We've had a lot of discussion about this issue of Maui in essence exiting the retail market and I've heard a lot of the descriptions and statements that this was based on price. My request for the post-hearing is anything you can do to help document that. In other words, offers that you made to any of these retail folks, anything that would help us understand this issue given the statements that are in the Respondent's brief and are in some of our purchaser questionnaire responses in terms of whether there was in fact product on offer or not, and to help us understand this issue that price was the driver. I think any documentation would be helpful.

MR. ROSENTHAL: Certainly. Thank you.

COMMISSIONER HILLMAN: With that I have no further questions at this point.

Thank you, Mr. Chairman.

CHAIRMAN PEARSON: Commissioner Koplan?

COMMISSIONER KOPLAN: Thank you, Mr. Chairman. I have just one.

Mr. Rosenthal, when discussing the Thai

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industry at page one of your brief you state, "Lacking vertical integration, fresh pineapple is produced by local growers according to the vagaries of weather and fresh pineapple prices without regard to demand leading to regular shortages and surpluses. This boom and bust cycle is well documented in the original investigation and for a sunset review. Just this year Thai pineapple producers determined to let fresh pineapple rot in the fields rather than incur the cost to harvest due to over-supply and particularly low prices for fresh pineapple." And you have an Exhibit 1 which indicates some of the growers were in fact doing that.

My question is simply, when I look at the staff report, Chapter 5, it appears that Thai prices for CPFs generally appear to be higher in 2006 than in 2005. Tables 5-1 to 5-4 of the Staff Report.

I wonder how you'd respond to that.

MR. ROSENTHAL: There are two things that I think might be going on there to explain that. One is the lag between the time of the crop and the time of the pricing in the U.S.; second is the exchange rates. The dollar has weakened obviously, as compared to the Thai bat, and I think that may make a difference in the pricing that you're seeing from 2005 to 2006.
That's what I can speculate right now sitting at this table, and I'll certainly give it some more thought for the post-hearing brief.

COMMISSIONER KOPLAN: Would you do that for me? Thank you. I appreciate that.

With that, thank you all for your responses.

I have nothing further, Mr. Chairman.

CHAIRMAN PEARSON: Commissioner Okun?

Commissioner Lane?

COMMISSIONER LANE: Yes, thank you.

I'd like to go back to some questions relating to domestic like product and the domestic industry.

I noted that in your response you indicated that pineapple in plastic or glass containers is not a substitute for the like product which is fruit packed in metal cans.

As a consumer it seems to me that there has been an increase in the availability of fruit packed in glass and plastic containers. Has the use of glass and plastic increased in recent years?

And in answering that, could you provide any data regarding the volume of domestic sales of pineapple in glass and plastic jars over the last several years?
MR. ROSENTHAL: I think with respect to Maui Pineapple, I think you can be safe in assuming, and we'll get you the details, that there hasn't been an increase in shipments in that product form.

As far as the rest of the market goes we'll have to get you something in a post-hearing brief.

And the first part of your question had to do with like product. We still believe that they are not the same like product?

COMMISSIONER LANE: Yes.

MR. ROSENTHAL: The answer is yes, in large part because you don't see -- We can go through the like product analysis too, but the different factors that one looks at continue to -- The six factors that you look at in deciding whether the two products are like or should be in the same like product still have mixed directions, but in our view the majority of those factors point to keeping those separate rather than together. There are obviously similarities in production process up to a point and then there's a breakoff, but there's differences in pricing, there's differences in consumer perceptions of a product that comes in these different packages and the like and we can certainly detail those. But what's happened to the extent that there's been much that's happened in

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the marketplace on those has not led us to believe there should be a revisiting of the like product definition.

COMMISSIONER LANE: Okay.

Dr. Magrath in one of the answers to an earlier question you discussed the high input of cans for Maui, that that was a high cost factor. Do you know, do the Thai subject producers source their cans from the same place that Maui sources its cans?

MR. MAGRATH: I have no knowledge of where - - Perhaps Mr. Smith does, since he does the commerce side of these cases, where the Thais get their raw materials to make the cans.

MR. SMITH: Commissioner Lane, actually that came up a couple of years ago and it turned out that at least for Thai producers they were buying from the same supplier in Japan that Maui buys from. So theoretically then the cost of the cans or this part of the raw material costs would be the same for the Thai producers as it is for Maui? Theoretically.

MR. SMITH: Theoretically, yes. Given volume purchases and things, but theoretically you're correct, yes.

COMMISSIONER LANE: Thank you.

That's all the questions I have.
CHAIRMAN PEARSON: Any further questions from the dais?

Does Staff have questions for this panel?

MS. MAZUR: Mr. Chairman, Staff has no questions.

CHAIRMAN PEARSON: Mr. Lafave, do Respondents have any questions for this panel?

MR. LAFAVE: No we don't, Mr. Chairman.

CHAIRMAN PEARSON: Mr. Secretary, am I correct to understand that there may be an opportunity for inspecting and sampling products subject to this investigation?

MR. BISHOP: That is correct, Mr. Chairman.

CHAIRMAN PEARSON: In that case, let's take a full hour for lunch and reconvene at quarter to 2:00. Permit me to excuse this panel with great thanks for your answers to the questions, for your willingness to travel so far. It's been an extremely interesting morning.

This hearing is recessed.

(Whereupon, at 12:45 p.m. the hearing was recessed to reconvene at 1:45 p.m. this same day, Thursday, January 18, 2007.)
AFTERNOON SESSION

(1:55 p.m.)

CHAIRMAN PEARSON: Good afternoon. This hearing will now be reconvened. Many thanks to the domestic industry for the samples and for everyone's patience and a chance to learn a little bit more about the savory side of the industry.

Mr. Secretary, are we ready for the afternoon panel?

MR. BISHOP: Yes, Mr. Chairman.

The second panel, those in opposition to the continuation of the antidumping duty order have been seated. All witnesses have been sworn.

CHAIRMAN PEARSON: Very well. Please proceed, Mr. Lafave.

MR. LAFAVE: Thank you very much.

Once again for the record my name is Arthur Lafave and I'm here today on behalf of Thai Respondents.

With me today is Ghanyapad "Ginny" Tantipipatpong, President of Thai Pineapple Canning Industry Corporation; and Kojiro Shiraiwa, Director of Marketing, Ace of Diamonds brand, Chicken of the Sea International; and Andrew Parsons, Vice President of Precision Economics.
I'd like to turn the microphone over now to Ginny Tantipipatpong.

MS. TANTIPIPATPONG: Good afternoon, Chairman, Commissioners.

My name is Ghanyapad Tantipipatpong and I am the President of Thai Pineapple Canning Industry Corporation, Ltd., or TPC.

Founded in 1967, TPC was the first factory in Thailand to produce canned pineapple fruit. TPC factory is located in Gerikank Province in the south of Thailand. It's headquarters are located in Bangkok. I am also the current chair of the Thai Food Processor Association, Thai Food Processors Group.

I'm here today to discuss the likely effects of a revocation of the U.S. antidumping duty order on canned pineapple fruit from Thailand.

In my view the effects of revocation on the domestic industry would be minimal. As detailed in our response to the ITC's questionnaire, TPC plans to increase its production by about ten percent. If the order was revoked we would devote over half of this increase to the U.S. market, however we do not believe that these shipments would adversely affect Maui.

The total increase in TPC's shipment would, we believe, account for less than one percent of the...
total United States market. There are several reasons why I do not expect a large increase in sales volume to the United States if the order is revoked.

First, as Mr. Lafave has said, there is product differentiation in the products bound for the USA and the EU, Russia and Eastern Europe. The U.S. market demands choice, quality canned pineapple fruit while the EU, Russia and Eastern European customers will accept standard quality.

For this reason we could not ship the standard quality product normally sold to the EU, Russia and Eastern Europe to the United States, even if we wanted to.

Over the years more than 50 percent of our pineapple that TPC produces is standard quality due to the lack of farm labor to care for the plantations and harvesting of the fruit. This problem will continue as there is currently a tight labor supply situation in the farming sector that is not expected to improve in time.

Products bound for Japan, Scandinavia and the UK could in theory be redirected to the U.S. market. However, such a move would produce a lower profit margin for the company as Japanese, Scandinavian and UK customers are willing to pay a
1 higher price.

2 Another reason why TPC would not increase
3 its export to the United States if the order were
4 revoked by more than a modest amount is that TPC has
5 well established markets in Australia, Japan and
6 Europe that it has no intention of giving up. Most of
7 our customers are major retailers in each market such
8 as Lito in Germany and Tesco and Astar in UK.
9
10 We would like to see the U.S. antidumping
11 duty order revoked so that we can further diversify
12 our client base and supply our European retail clients
13 as they expand into the U.S. market. However, it
14 would not be a sensible marketing strategy to give up
15 our established customers in the other markets.
16
17 Furthermore, there has been significant
18 growth in world market demand for canned pineapple
19 fruit over the past five years. According to the data
20 compiled by the Thai Food Processors Association, in
21 volume terms, import demand in the United States has
22 grown by 15 percent; demand in Europe has grown by
23 12.4 percent; and demand in Russia has grown
24 explosively at 128 percent. These increases in demand
25 are the reason why TPC is expanding its production and
26 why there is high capacity utilization in Thailand.
27
28 It seems that these trends will continue.

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Now I would like to make some comments on the information presented in the Petitioners' prehearing brief. First, Petitioners have claimed that in 2004, the Thai government adopted a strategy to employ a centralized committee to oversee the processing and marketing of pineapple and a policy to extend soft loans to pineapple growers. While it is true that the Thaksin Cabinet has adopted this policy, it's met with substantial opposition from the Thai Food Processor Association. The policy was in fact never implemented.

Second, Petitioners have claimed that the Thai government has a slush fund to assist the Thai Food Processor Association to lobby foreign governments. As chair of the Pineapple Processors Group, I have never heard of such a program. Moreover, I'm certain that there has been no financial support for our legal defense in this proceeding.

Third, Petitioners have claimed that the government is providing financial assistance to pineapple processes on their sales to newly emerging markets. I have never heard of this program either.

Fourth, Petitioners have claimed that the Thai government provided marketing support to 5,000 pineapple farmers in Withurdi [ph] province in the

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north. It should be pointed out that Withurdi province produces many fresh pineapple for local consumption in Thailand.

Furthermore, according to the Thai government, total production in that province was 3,665 tons in 2005. It seems therefore that the figure mentioned in the newspaper article of 60,000 tons being produced in 2006 is quite inaccurate.

Petitioners have also made several claims regarding new production capacity in Thailand that are inaccurate. For example, Petitioners claim that Del Monte recently established a production facility in Thailand after entering a joint venture with Samroyan [ph]. However, to my knowledge no canning facility has ever been set up at Del Monte's Thai plant. This factory packs sweet corn vegetables and pineapple in triple pack paper boxes.

The Petitioners' brief claimed that Tipco acquired another factor whose production was not reported in the response. In fact it was TPC and not Tipco that acquired another factory. TPC has recently acquired Seiko, a company that had responded to the Commission's foreign producer questionnaire.

The Petitioners' brief claims that Japan has refused to open its market to Thai canned pineapple.

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This is also incorrect. As Thai Respondents' questionnaire responses show, the tariff rate quota in Japan is designed to ensure that all of the canned pineapple fruit production in Okinawa is sold by tying the right to purchase imported product to purchases of Okinawa product. That being said, product from Okinawa account only for about two percent of Japanese market.

Finally, Petitioners claim that the EU import duty on canned pineapple fruit is 25.6 percent ad valorem. However, that duty rate applying only to canned pineapple containing added liquid. This is not a product that we are shipping to EU. With the GSP benefit the import duty rate on Thai products sold to the EU ranges from 14.1 percent to 15.7 percent ad valorem.

It is clear that whatever the duty, the quantities sold to the EU by Thailand is and will continue to be quite substantial.

Thank you for your attention.

MR. SHIRAIWA: Hello, my name is Kojiro Shiraiwa. I'm the Director of Marketing for Ace of Diamonds and Three Diamonds brand canned pineapple fruits at Chicken of the Sea International. I have held that position since 2002 and before that I was
involved in sales of canned pineapple in Japan at
Mitsubishi Corporation, Tokyo.

All Chicken of the Sea sales of canned
pineapple fruits are choice quality, 20 ounce cans
sold to supermarket chains for resell to individual
customers. All these sales are to the stores in
northeastern, midwestern, and south central part of
the United States. We sell a very small quantity on
the west coast. We don't believe that we currently
compete with Maui canned pineapple because we don't
see Hawaiian canned pineapple in the retail stores to
which we sell.

Chicken of the Sea used to purchase canned
pineapple imported from TPC until the antidumping duty
became too high. After that we switched to non-
subject Thai and Indonesian sources. We have never
purchased canned pineapple from Maui. In the event
that the order is revoked we would resume our purchase
of canned pineapple from TPC, however we don't expect
our overall volume of sales to increase as a result of
this change.

I'd be happy to respond to any questions
that the Commission may have. Thank you.

MR. LAFAVE: Thank you.

Most of our economic presentation today must
rely on confidential information released to us under administrative protective order. We will reserve that for the in camera session to be held later.

During this part of the public hearing I would like to address a couple of issues raised by Petitioners' pre-hearing brief.

As they did in the first sunset review, the Petitioners have tried to portray the Thai pineapple industry as being subject to constant intervention and subsidies provided by the Thai government, however the facts do not support that interpretation or the conclusion that the government is currently providing any form of export subsidy on canned pineapple fruit.

For example, the Petitioners cite an article from The Nation, an English language daily in Bangkok, for the proposition that the Thai government is providing "marketing assistance" as support for 5,000 Thai farmers in Utradit province. However, the brief note on the subject in an article devoted to a variety of subjects does not indicate what form of assistance that might have taken, nor does it indicate any form of price support or direct aid.

Furthermore, Utradit province, as you just heard, normally produces pineapple fruit for fresh consumption, not canning.

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In addition, the total pineapple produced in that province is only a fraction of the figure mentioned in the article.

Next, Petitioners allege that the government created a fund to assist exporters in hiring lobbyists to fight trade actions by foreign governments. If such a fund exists, as you just heard, TFPA is unaware of it. There has been no government support for the legal fees incurred by Respondents for this sunset review.

Petitioners also allege that in 2004 the Thai government adopted a strategy to employ a centralized company to oversee the processing and marketing of pineapple coupled with soft loans to pineapple growers. In fact as you just heard, this plan was never implemented.

Next, Petitioners alleged that Thai exporters received financial support in connection with their exports to newly emerging markets citing a 2004 report of the Foreign Agricultural Service. As you've just heard, the chair of the Pineapple Processors Group at the Thai Food Processors Association has never heard of such measures.

It seems, moreover, that this program was terminated by December 2003 and it would have had no
affect on exports to the United States except perhaps
to act as a disincentive to export here.

Petitioners also allege that canned
pineapple producers may be receiving benefits from the
Thai Board of Investment or BOI in the form of income
tax holidays, however the Petitioners have not shown
that any of the Thai producers of canned pineapple
fruit are receiving benefits under this program.
Moreover, these benefits usually last only five to
seven years from the date a company starts operations.
Most of the Thai pineapple producers have been in
operation for more than 20 years.

The authoritative U.S. source on subsidy
programs maintained by the Thai government is the
United States Trade Representatives report on foreign
trade barriers. According to the 2005 report, and I
quote, "The Thai government terminated its packing
credit program in compliance with WTO commitments but
received an extension of its WTO exemption period for
the industrial estate authority of Thailand and the
Board of Investment until December 2005. Low interest
loans provided under the Export Market Diversification
Program for Exporters targeting new markets ended in
December 2003."

The 2006 USTR report on Thailand makes no
mention of BOI or industrial estate benefits. Thus all benefits considered to be subsidies provided by the BOI and the industrial state authority were terminated at or before the end of 2005.

The low interest loans on exports to newly emerging markets mentioned in Petitioners' brief have also been terminated. What is more, the Thai government is constrained from enacting any new export subsidies by its commitments to the disciplines imposed by the WTO agreement on subsidies and countervailing measures.

One of the most laughable claims made in Petitioners' case brief is the assertion that the Thai government has been lax in approving inefficient new production facilities for the production of canned pineapple fruit. The source for this particular allegation is an unsigned letter to the editor of The Nation newspaper. Hardly a credible source.

In short, Petitioners have pieced together a few bits of incorrect, unsubstantiated or outdated information from several newspaper reports and older government studies in an attempt to paint a picture of massive government intervention in the sector. That simply does not hold water. The Thai government is

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not providing massive subsidies to the sector and is constrained from providing export subsidies in the future as a result of its commitments to the WTO. Petitioners try repeatedly in their case brief to confuse the distinction between subject and non-subject imports. They argue that the trends for subject imports will mirror trends for the non-subject imports in terms of future import volumes and pricing if the order is revoked. This contention is simply absurd.

The subject imports represent a narrow sliver of the U.S. market that is controlled by non-subject imports from Thailand, imports from Indonesia and the Philippines, and products sold by the domestic industry. The non-subject Thai exporters are, according to the data in Petitioners' pre-hearing brief -- these are the non-subject Thai exporters -- the largest producers of canned pineapple fruit. And according to TFPA data, which you have in our response to the notice of initiation, they are the companies that have been by far the largest exporters to the United States over the last five years -- both before and after the individual revocations.

As Maui has reduced its production of canned pineapple fruit in order to pursue its strategy of

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producing and selling fresh pineapple fruit, it is
only natural that these exporters would with imports
from the Philippines and Indonesia, step in to fill
the void.

But that does not mean that the subject
imports would follow the same path if the order were
revoked. As I mentioned in my introduction, the
subject producers have either never exported to the
United States, have not exported recently, or have
exported only modest quantities. These producers are
operating at high levels of capacity utilization and
often cannot operate at higher levels due to
unavailability of fruit supply or shortages of the
necessary labor.

These producers have established third
country markets that they will not abandon and they
can only export choice grade pineapple to the United
States. A large portion of their total production is
standard and fancy grade canned pineapple that is not
suitable for sale here.

Accordingly, it is unlikely that there will
be a significant increase in import volumes in the
event the order is revoked as compared to a situation
in which the order remains in place.

As support for our contention that the
revocation of the antidumping order would have
negligible effects on the domestic industry, I would
direct the Commission to the results of the
application of the Commission designed compass model
to the facts of this case. While those results are
confidential, it is clear that the effects predicted
by the model are virtually inconsequential.

That concludes our public testimony. Thank
you.

CHAIRMAN PEARSON: Thank you very much.

We will begin questioning of the
Respondents' panel with Commissioner Hillman.

COMMISSIONER HILLMAN: Thank you very much
and I would like to welcome our afternoon panel and
thank those of you that have traveled a long way to be
with us for being here today.

I wondered if I could start on the issue
that you touched on in terms of what's happening in
terms of demand for canned pineapple. I noted, Ms.
Tantipipatpong, that you mentioned in your testimony I
believe it was an increase in U.S. consumption of
canned product of about 15 percent and EU consumption
up something like 12, and then 128 percent increase in
Russia.

Tell me how do you know that? Is that based
on what you're seeing in terms of orders for your
product? Or where do you think this increase, how do
you know about this increase in demand?

MS. TANTIPIPATPONG: Actually it's in our
response, that is the import statistics of the EU, 25
countries, U.S. and Russia.

COMMISSIONER HILLMAN: So you're basing that
not on what you see as a demand for your product or
orders coming into you, but as more just general
import or export statistics. Okay.

In terms of, you mentioned for example that
you could see increasing your production by ten
percent with 50 percent of that going to the U.S.
market. I take it that applies simply to TPC, that is
applying only to your company?

MS. TANTIPIPATPONG: That's correct.

COMMISSIONER HILLMAN: Obviously the
difficulty for the Commission is we're trying to look
at the situation for all of the Thai producers that
remain subject to the order. Do you have any sense of
whether other companies in Thailand would be similarly
able to increase their production levels as well?

MS. TANTIPIPATPONG: Actually I would like
to direct that to Mr. Lafave because he would have the
data from all the responses. I believe that in each

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of the foreign producer response we would indicate whether we would have increased production or whether we have any intention of selling to the U.S. market.

COMMISSIONER HILLMAN: Okay.

From your country's perspective, you mentioned a ten percent increase in production. That's due to what? To capacity that you're currently not using? Or would you be doing something to your company in order to be able to raise your production by ten percent?

MS. TANTIPIPATPONG: That is the capacity that we are not currently utilizing. There will be no additional investment.

COMMISSIONER HILLMAN: Help me understand why you're not currently using that capacity.

MS. TANTIPIPATPONG: What happened, over the past many years there has been some shortage of fruits in Thailand. Mainly the production volume is limited by the availability of fruit and the availability of labor. Last year TPC had a plan that we would like to expand or increase the production volume because we had demand from our customers in Europe. We were able to increase the volume because of the availability of fruit, but yet we have certain constraints on the availability of labor. But because the demand from
our customers in Europe, we feel that we will be able to have the market to take the volume should we increase it by ten percent.

COMMISSIONER HILLMAN: The issue of fancy versus choice versus standard product, I just want to make sure I understand it.

In your view the distinction comes solely from what happens to the pineapple after it's already been planted. In other words, it isn't the particular variety or the quality of the pineapple as planted, it's how it's cultivated over the first 18 months and then the next that determines whether it's standard, choice or fancy?

MS. TANTIPIPATPONG: It's actually depending, the fruits in Thailand, depending on the farmers, how they care for the plantation and also the time of the harvesting. But the grading what is standard, choice or fancy is actually depending on the maturity of fruit. We've seen that a lot of fruits have been delivered to the factory, they come in, they have very pale yellow to very dark yellow, and that's depending on the maturity. The darker color wouldn't go into the fancy and the choice. The paler color will go into the standard quality. But we all follow the USDA standard for canned pineapple which gives us...
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the standard of how we do the grading which is including the defects, the character -- the character means the percentage of core that is allowed, and the taste, the flavor.

COMMISSIONER HILLMAN: You heard I think some of the discussion this morning about this issue of the U.S. market wanting choice product, the European Union wanting standard, and the Japanese wanting fancy. I'm just trying to understand why do you think that's the case?

MS. TANTIPIPATPONG: For Japanese consumer, as we all know, they always like -- they buy with their eyes. They always like the good, nice color because they believe that that will be the best quality. With the disposable income, the cost of living in Japan, they can afford to pay higher price to buy the best quality available for any type of product, not just for pineapple.

In Europe they would like to buy anything but because of the limitation on availability of the choice quality, the European customer is willing to buy and accept a standard quality.

COMMISSIONER HILLMAN: And the U.S. side?

MS. TANTIPIPATPONG: On the U.S. side we're actually referring to the USDA standard. It's
actually specified that if we ship anything, we should
only sell, there is a standard for fancy and choice
quality. Anything below choice quality we have to
declare that it's standard, substandard on the label.

COMMISSIONER HILLMAN: Mr. Shiraiwa, more on
the sort of sales and marketing side of it, are most
consumers either here or in Japan or in Europe aware
of whether what they're buying is fancy, choice or
standard?

MR. SHIRAIWA: Consumers?

COMMISSIONER HILLMAN: Yes.

MR. SHIRAIWA: I do not think so.

COMMISSIONER HILLMAN: You do not.

MR. SHIRAIWA: But if they get different
quality they would probably notice. Especially in
Japan. Because we are so used to the fancy grade
product, which I think we just saw fancy grade
product, and if they start seeing such as choice or
even standard which has paler color, we will
definitely get some consumer complaints and then we
will probably end up recalling the product and so
forth.

COMMISSIONER HILLMAN: Tell me about the
relationship then between the grade of the product and
the brand name. I'm trying to understand on these
prices we've seen in our pricing data, a price relationship between the national brands here in the U.S. versus the private label first tier and the private label second tier regional.

Do you see a relationship between the brands and the prices versus the standard, choice or fancy grade?

MR. SHIRAIWA: I would say most of the product in the United States is choice grade. We do have basically the same grade level. Of course national brands such as Dole, they are mainly from Philippines, and the private brand may be coming from Indonesia and Thailand. Because of those different locations you might find a little bit different taste or texture, but on the overall, basically same quality. But I do see really, really cheap products such as you find product in like Dollar Stores and stuff, are sometimes standard grade, but usually they don't last long. I see them come and go all the time. I assume consumers would like to buy choice grade.

COMMISSIONER HILLMAN: Tell me about the price relationship. Is it always the case that the national brand, in your view, carries a price premium? And if the national brand is still choice product, why? If it's the same grade of product, why pay more
for a national brand as opposed to a first tier, tier one private label?

MR. SHIRAIWA: I believe that is purely on the brand marketing. I think Dole did a really good job of promoting their brands and enhancing their brand image with all these promotions and commercials versus like my brand, Three Diamonds, Ace of Diamonds, is almost equivalent to Dole quality, but yet because our brand is not so known in the market and we used to be between the national brand and the private label brand, people expect that we are economical product so therefore they won't pay for premium, but they will, you know.

COMMISSIONER HILLMAN: You said you've never purchased from Maui?

MR. SHIRAIWA: In United States, no.

COMMISSIONER HILLMAN: Ever tried to?

MR. SHIRAIWA: No.

COMMISSIONER HILLMAN: I appreciate those answers, thank you.

CHAIRMAN PEARSON: Commissioner Koplan?

COMMISSIONER KOPLAN: Thank you, Mr. Chairman.

If I could, let me start with you, Mr. Lafave. At page six of your brief you are commenting
on Maui's repositioning strategy and I quote, you say
"Part of this repositioning strategy has involved
increasing sales to the United States government,
mainly the U.S. Department of Agriculture, USDA. The
proportion of U.S. end user shipments accounted for by
U.S. government buy American sales increased from,"
and you've got a bracketed percentage there,
"increased in 2000 to 2005." And you've also got a
bracketed figure for 2005 there.

You say, "Under current law all fruit
commodities that the USDA purchases must be of 100
percent domestic origin."

I went back to the first reviews that I
participated in and I just want to read this brief
passage to you from that. It states as follows at
page nine of what I'm looking at. "The Commission
also found in the original determination that a number
of the domestic industry sales were to the U.S.
government and therefore subject to Buy America
requirements, but those sales were usually made at
market prices. As in the original determination, the
record in this review indicates that Maui's Buy
America sales to the U.S. government do not shield it
from the effects of dumped subject CPF because the
sales are generally made at market price."
That's what we found in our first review and it's also what we found in the original determination. So why would I be evaluating that differently now? What's changed?

MR. LAFAVE: I think to answer that question I'd have to refer to a proprietary questionnaire response.

COMMISSIONER KOPLAN: You can either do that in the post-hearing or --

MR. LAFAVE: But I'll note that I don't think that pricing data was requested for government sales, so I'm not sure that the record will really establish one way or the other the truth of that claim.

COMMISSIONER KOPLAN: Are you talking about in the current review, in the first review, or in the original determinations, or all three?

MR. LAFAVE: I can't really speak to the original investigation or the first review, but in the current review I don't believe that you have comparison pricing data to show how these prices compare to other prices.

COMMISSIONER KOPLAN: So what you're saying is that today these sales are not being made at market price?
MR. LAFAVE: Once again, I'd have to refer to information in the proprietary record to support my statement.

COMMISSIONER KOPLAN: Okay, I appreciate that. I can either take it in the next session or I can take it post-hearing, but I am curious on that. So if you can help me out on that later.

The domestic interested party states in its brief that, and I'm quoting, that "Pricing practices in the marketing of canned pineapple fruit also illustrate the primacy of price and allow for quick price adjustments in response to market conditions or response to competitors' price. These pricing practices demonstrate that market power lies not with sellers like Maui or individual producers, but with the large retail outlets such as," and that's BPI, "and food service distributors," and those identified are BPI as well.

How do you respond to that? I'm happy to hear from either Mr. Lafave or our industry witnesses.

MR. LAFAVE: Since I'm not an expert on that I'll turn that over to Mr. Shiraiwa.

MR. SHIRAIWA: I'm sorry, I don't think I understand the question.

COMMISSIONER KOPLAN: Do you want me to read Heritage Reporting Corporation (202) 628-4888
it again?

MR. SHIRAIWA: Can you restate it?

(Pause.)

MR. SHIRAIWA: I think yes, in certain extent that large retailer will be responsible for deciding the market price.

COMMISSIONER KOPLAN: You believe that. And what about food service distributors as well?

MR. SHIRAIWA: I cannot really speak for food service as I'm not involved in food service.

COMMISSIONER KOPLAN: But you do agree with respect to the large retail outlets.

MR. SHIRAIWA: Generally we get a lot of people exchange information and usually those will come out first.

COMMISSIONER KOPLAN: Thank you for that. Let me stay with the industry witnesses.

Maui lists in its brief several responses from subject Thai exporters that admit that upon revocation they would increase their shipments to the U.S. and in some cases significantly, and that's at pages 28 and 29 of their brief. The details of that are business proprietary information.

They also list a number of purchaser and importer responses on pages 32 and 33, many of which Heritage Reporting Corporation (202) 628-4888
indicate that if the order is revoked they would purchase more low priced Thai CPF. Without getting into the BPI, assuming that those statements have been made, why wouldn't that happen?

MR. LAFAVE: I think that the main reasons that we would give are the same ones that I've stated a couple of times. That is that these other companies, we've heard a number that there might be 50 companies out there. Most of those companies have never exported to the United States and seem to have no interest in exporting to the United States. In fact Ms. Tantipipatpong tried to interest a number of other producers in participating in this proceeding and had a very tough time coming up with the eight who did. But a number of those have never exported to the United States.

COMMISSIONER KOPLAN: Could you provide some detailed documentation on that for purposes of post-hearing?

MR. LAFAVE: We can provide a statement, but I don't know if there's anything more than that. It was done orally.

COMMISSIONER KOPLAN: So there's nothing you could expand on that. Thank you.
Let me stay with you if I could, Mr. Lafave. You claim in your brief, and I'm quoting, "The subject producers have established markets in Europe, Japan, Canada, Russia, Eastern Europe and Australia that they will not relinquish if the antidumping duty order is revoked."

That assumes that there aren't any price incentives to shift to U.S. purchasers. Tell me, how do U.S. prices for CPF currently compare to prices for the same products in those third country markets? Are you able to provide me with --

MR. LAFAVE: I think actually Ginny may be able to expand on this, but if the price to Europe is lower, it's also a standard grade product. It's also a lower quality product that's being sold there. And also a product that cannot be shifted to the United States markets because it's not a choice quality product.

Also Ginny testified that the markets that do take choice quality products, which she identified as the UK and Scandinavia, in fact the pricing there is higher than it is in the United States so there would not be an incentive to shift product from those markets to the United States either.

COMMISSIONER KOPLAN: Thank you.
I don't think I have anything further for this session.

CHAIRMAN PEARSON: Commissioner Okun?

COMMISSIONER OKUN: Thank you, and let me join my colleagues in welcoming you here this afternoon. We appreciate the long distances you've traveled to be here and your willingness to respond to our questions.

Let me turn back to this question of the different, whether the fact that mostly standard is going to the EU prevents shifting back to the United States market in the event the order was lifted. And maybe Ms. Tantipipatpong, maybe you could help me.

Is there anything further you can provide on the record to show that everything going into the EU is actually standard or what the breakdown is between standard, choice and fancy in the EU market? I don't think I recall seeing that in the brief. Mr. Lafave, you can correct me if it's wrong.

MS. TANTIPIPATPONG: I will be able to do it on behalf of TPC but it will be difficult to do it for all the industry.

What I can do possibly is to show maybe a few specifications from the customer to say in what quality grading they are willing to accept.
COMMISSIONER OKUN: And to the extent there might be, I don't know how readily available this is, but large customers in the EU who could provide anything on what they purchased, that might help as well in trying to understand that.

MS. TANTIPIPATPONG: I will submit that to Mr. Lafave for the post-hearing.

COMMISSIONER OKUN: Terrific.

I'm not sure if you mentioned this in your direct, but does your company ship to Australia? And what grade do you ship to Australia?

MS. TANTIPIPATPONG: We have both standards and choice quality.

COMMISSIONER OKUN: In the public session can you give me a percentage breakdown of what percent standard versus choice into that market?

MS. TANTIPIPATPONG: At this time the choice represents about 20 percent of our sales to Australia; 80 percent still in standard quality.

COMMISSIONER OKUN: Eighty percent of those sales to Australia are standard quality.

MS. TANTIPIPATPONG: Yes.

COMMISSIONER OKUN: In terms of, one of the arguments made by the domestic industry, and I'll put this first to you Mr. Lafave, although Mr. Shiraiwa,
you might be able to have first-hand knowledge of it. Which is on this record as opposed to the first review we actually see more direct competition in retail in the first private label than we did during the first review. That there's actually been product moved into there.

I wanted you to comment on that. Again, in the event the order is lifted whether that competition there would further increase, or whether you dispute domestic industry's argument that there is more competition on this record than we saw during the first review?

MR. LAFAVE: That came as a surprise to us as well, and we don't have an explanation for it.

COMMISSIONER OKUN: The surprise being the numbers themselves in that --

MR. LAFAVE: Yes.

COMMISSIONER OKUN: So meaning that you don't represent --

MR. LAFAVE: These characterizations were made by the importers, not by us. The foreign producers. We don't know whether the importers are putting a different interpretation on those terms this time than they put on them last time, or whether there has been a real change in the market, frankly.
COMMISSIONER OKUN: What about, and I think you started to respond to this, Mr. Shiraiwa, in regard to the food service sector. You don't sell to food service, was that your response?

MR. SHIRAIWA: That's correct.

COMMISSIONER OKUN: One of the, as you probably heard, one of the issues we discussed with the panel this morning is that to the extent during the first review we saw and commented on the fact that there was price competition within a tier, we didn't at that point comment on or make observations about whether one channel influenced another channel.

As I understand the domestic industry's argument, it's that if we look at the record evidence we see increased imports into the food service sector and therefore if the order is lifted we will see increased price competition.

You might not be the right person to comment on it, but my question is, is there anything about the imports that would limit them going into the food service sector, versus the retail sector?

MR. SHIRAIWA: There is a huge difference between retail and food service because retail is mainly 20 ounce can size versus retail is what we call 18 which is, I don't know how much but is probably

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around 108, which is a very different can size. So it's unlikely to see the shift between those two categories.

COMMISSIONER OKUN: Maybe it's best to you, Ms. Tantipipatpong, the Thai industry has the capability to make the larger size cans?

MS. TANTIPIPATPONG: Yes, we do. If I answer your earlier question, for the food service of course some customers may want to take lower quality, standard quality, and some customers want to take choice quality. Depending on who are the users. But today with the concern on the food safety, retailers of industrial uses or food service, like large restaurant chain, they have very detailed specifications on the product. At the end they do not want to compromise on the quality and get into the problem of the food safety issue.

So the concern of Petitioner when they mention about 60 million cases of production capacity in Thailand, I think it was exaggerating. We have to look into what is the fruit availability in Thailand, and also the labor availability. As of today with the economy growing in Thailand we experience a lot of labor shortage. We will not be able to increase the labor so easily.
The government is also controlling on the import of the foreign workers to work in Thailand. We all need to get licensed in the court in order to find enough workers to work in the factories or even for the farm.

So within that 60 million cases as claimed by the Petitioner, we would never achieve that level. We can look at what is the historical export volume from Thailand and you will see that we do not think we would ever get close to that number.

COMMISSIONER OKUN: On that, and I don't know if this goes to you Mr. Lafave or not, but one of the domestic industry's argument has been that if we look at those imports that came out from under order and the fact that they increased, the import numbers increased into the market, that those trends are indicative of what would happen to subject imports if the order were lifted.

I've heard your argument with regard to this particular point, shipping standard or shipping choice, that we're not shipping choice so we therefore couldn't ship to these markets.

Is there anything about those companies who came out from under the order that is different, that distinguishes why they behaved as they did when the Heritage Reporting Corporation
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order was lifted, vis-a-vis the rest of the subject imports that you can speak to.

MR. LAFAVE: First of all, I've tried to make this point a couple of times. They've been the largest exporters both before and after the revocations. By far the largest exporters from Thailand. So I'm not sure that there's actually been a significant increase as the numbers that the staff report shows indicates. The reason is that the staff chose, over our objections I might add, to treat as subject imports the imports from companies that are now non-subject producers. So you can't really see what their historical shipments have been as compared to their current shipments.

The only data we really have is the TFPA data which is incomplete as to Dole but which shows that those companies have always been the major companies in the market.

Another thing that's happened here, this morning the Petitioners tried to say they were beaten out of the market after the orders were revoked by this increased volume from Thailand. But then it was admitted that they developed this policy of repositioning themselves in the market starting in 2002. First he said 2003, then he said 2002.
COMMISSIONER OKUN: Hopefully we'll have a chance to go back on that, but before my time expires, for purposes of post-hearing if you could look at Table 4-7 in the staff report which are the subject imports and where they were shipped to, and 4-8 which includes non-subject and the markets they went into, and tell me how you would have me view that. Because if I look at it, it shows there's been a fair amount of market shifting going on among subject imports, and I guess I need more from you on why I wouldn't expect that to happen if the order were lifted given the price differentials.

With that, we may have time to go back to that. I appreciate that for post-hearing as well.

Thank you, Mr. Chairman.

CHAIRMAN PEARSON: Commissioner Lane?

COMMISSIONER LANE: Thank you.

Mr. Lafave, my first question is for you. It has been strongly suggested by the domestic industry that the Commission should take an adverse inference against the Thai producers that did not respond to the questionnaires. Is there any reason that I should not assume that the companies that did not respond have both the capacity and the intent to re-enter the U.S. market in large volumes.

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and at low prices?

MR. LAFAVE: Commissioner, all I can tell you is to repeat what I told Commissioner Koplan which is that we tried very hard to get these companies to participate. Many of them have never exported to the United States. Others have exported only a small amount. And I took their decision not to participate as an indication of lack of interest in the U.S. market.

COMMISSIONER LANE: Thank you.

In your opinion, have there been any changes since the last review that would warrant the Commission revisiting the definition of like product? And in answering, could you address whether to your knowledge there is any domestic production of pineapple in plastic or glass jars or any significant amounts of Thai or other imports in plastic or glass jars.

MR. LAFAVE: I believe there are imports in plastic and glass jars, but Mr. Shiraiwa can speak to that more directly. I believe that, but those of course are non-subject merchandise.

In response to your first question, no, we have not requested the Commission to revisit its like product definition.
MR. SHIRAIWA: Your question was whether the jars and cups took part of the --

COMMISSIONER LANE: Glass jars or plastic.

MR. SHIRAIWA: What's the effect of those to the canned pineapple imports.

Yes, I believe many of the plastic cups you see on the shelves are mostly imported right now.

COMMISSIONER LANE: Have there been any changes since the last review that would warrant the Commission revisiting the definition of domestic industry?

MR. LAFAVE: No, I don't believe so.

COMMISSIONER LANE: In the original investment, in the first five year review the volatility of Thai CPF supply was a factor in the Commission's determination. Has the Thai industry decreased the volatility of supply? And is there a movement toward greater integration between producers and farmers?

MS. TANTIPIPATPONG: The association has tried to discuss among our members, and I have to explain that our members are not every producer in Thailand but the major producers including the four non-subject producers. There has been some effort in order to do contract farming so that the growers for
each of the factories will understand the demand and
try to tie between the producer and the growers, they
will try to eliminate the fluctuation in the supply.

But we have a problem about doing the
irrigation, so therefore sometimes we still rely on
the weather. Especially with the pattern of el Nino
that we saw in 1998, and you see that even in the
document from the Petitioner, saying that the market
share in 1998 has jumped up. But that's because the
supply, because of the weather pattern, the adverse
weather phenomena that has affected supply from
Thailand.

In fact we expect that in the year 2007 this
year we may experience another el Nino.

COMMISSIONER LANE: Thank you.

In the original investigation, CPF from
Thailand was considered by purchasers to be of a lower
quality than domestic CPF. More currently, Exhibit 1
of the domestic interested parties' brief includes a
Thai news article that suggests that the 2006 Thai
pineapple harvest tasted a bit sour.

Are there problems with uniformity or
quality of the Thai product? What steps, if any, has
the Thai industry taken to improve the quality of its
CPF?
MS. TANTIPIPATPONG: To improve the quality, we have to improve the seeding which is the fruit itself. If the fruit that comes into the factory does not have a good quality, the processing in the factory will be another step in order to select and do the uniform grading in the processing. But in this case we would have even more standard quality because only the good quality pineapple, the pieces of the slicing will be put together as choice.

In fact for Thailand to increase more choice quality it would have to come from the plantation. If we have good quality fruit then we have possibly higher choice quality. But that still is coming back to the fundamental of the lack of the labor in Thailand that will prevent us from getting good quality fruit.

MR. LAFAVE: I would just add to that, I think this goes back to a question that Commissioner Okun raised. I think the concept of second private label was of a lower quality product. That's the way it has been defined. And first private label being a higher quality product.

The importers this time apparently interpreted that question differently than they did last time. That's why I say there may not be anything
that's really changed, but there may be. I just don't know.

COMMISSIONER LANE: Thank you.

Could you please comment on your views of the role of China in the canned pineapple fruit market including its affect on market price?

MR. SHIRAIWA: I have started seeing more and more Chinese pineapple products in my retail section. Generally their quality is very low and they tend to stay around on like Dollar Stores, on these segments. They haven't really come up to the regular retail stores probably because of the quality difference.

I have opened their cans several times. They are definitely in the standard grade level, although they might call it choice.

COMMISSIONER LANE: That's all the questions I have.

CHAIRMAN PEARSON: I'm curious about the cyclical production pattern that we apparently see in Thai pineapple production as illustrated in Figure 2-1 of the staff report on page 2-7.

Can anyone explain to me what causes that cycle? Is it weather? Is the production cycle up and down over perhaps four or five years from peak to

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peak? It could be weather, it could be biological
factors, it could be economics. I'm just not sure
what it might be.

MS. TANTIPIPATPONG: In general, as I
explained earlier, that is true. The weather pattern
would affect the harvest volume of Thailand. We
experienced a very serious shortage back in 1998.
After that we, then we had slightly increase from the
year 2000, but then we experience a little bit of
shortage again.

In the year 1998 when we have the drop in
the export volume, that is due to, in the production
volume, that is due to the el Nino that affected Asia
at that time. Subsequent to that, then after the el
Nino it's followed by la Nina which is then another
wet year. So that's when the production volume has
increased, from the year 1999 to about 2000.

The weather pattern of this el Nino is
likely to repeat itself every four to five years, so
we see another dip in the year 2002 and that's why we
are expecting another round of reduction in 2007.

CHAIRMAN PEARSON: So it would be correct to
understand that the el Nino pattern is having an
influence on the weather in Thailand that is reflected
directly in what we see for production of pineapple in
Thank you. It wasn't clear to me exactly what was leading to that.

Mr. Shiraiwa, are certain companies or countries seen as price leaders in the U.S. market?

MR. SHIRAIWA: Certain countries?

CHAIRMAN PEARSON: I think I understood you to say that you will purchase pineapple from several different countries to bring to the United States, so tell me a little more about the dynamics of the competition in the U.S. market, where the product is coming from and why.

MR. SHIRAIWA: First of all I don't think there's any particular country that affects one or the other. It depends on each country's condition, whether they have a good crop, bad crop. In Thailand they might have El Nino while the other places might have less effect on that. So the market just continuously fluctuates.

For myself I constantly look for good price products in all of the areas including Indonesia and Thailand and I have looked into Kenya one time. So that's how we constantly look for the price. At the same time I do focus on the quality of the product and also the reliability of the supplier. Even if I get

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the best price I don't want to get in trouble with our customers because that will definitely end our business with our customers.

CHAIRMAN PEARSON: Do you see relative stability in the demand base in the United States in terms of the purchasers and their requirements from year to year? Do you have long term relationships supplying certain firms in the United States?

MR. SHIRAIWA: Yes, and they have been pretty stable. As for retail, we see actually a little decline on the canned pineapple ads. I've seen more and more cups and plastic jars taking over the shelves.

As you know the supermarket has limited space to sell the product and if these jars and cups come into these places, obviously someone is going to lose their volume.

CHAIRMAN PEARSON: So the requirements of the retail customers have been changing in recent years as there has been some development of a preference for plastic packaging or packaging other than steel cans?

MR. SHIRAIWA: They are different. Well for canned pineapple I would say the requirements are the same. They haven't changed. But they are looking
into more value added products, organic products, those kind of, they are constantly looking for more profitable items, so that is probably going to affect in the future.

CHAIRMAN PEARSON: And it would be correct to understand that your firm will procure pineapple that's packaged in plastic cups if that's what the customer wants?

MR. SHIRAIWA: Yes, and we currently are purchasing cup fruits from China right now. Not necessarily pineapple, but we are also looking into launching a new innovative item on pineapple to get that kind of business.

CHAIRMAN PEARSON: So from year to year your shift in sourcing, emphasizing first one country and then another, that will be primarily in response to the supply conditions in those countries. Supply and price conditions.

MR. SHIRAIWA: Yes. I wouldn't switch everything, switch them back and forth, but I have a good partner basically that we work with, a couple of suppliers, and it depends on -- sorry price. The share goes back and forth. But my overall volume wouldn't change because of that.

CHAIRMAN PEARSON: Is it correct that you do
not view Maui Pineapple as being a competitor in this segment of the marketplace that you're serving? Are you serving exclusively the retail sector?

MR. SHIRAIWA: Yes, retail sector only. The reason I said I don't compete with them is because I do constantly hear about my pricing to customers. They always compare my pricing is a little high compared to who and who. Nobody speaks that, well compares with Maui's price against our price, so I don't hear their name. When I go to store I don't see them any more.

MR. LAFAVE: I think we heard this morning that they'd exited that segment of the market so it's not surprising that he doesn't consider himself to be in competition at this moment.

CHAIRMAN PEARSON: Okay.

So it's a market in which it's difficult to characterize either a company or a country as being a price leader to take the price up or down from one year to the next.

MR. SHIRAIWA: It's a little complicated on the retail side. On the brand side, there's definitely, the brand leader Dole is definitely number one and there is a trend that U.S. retail is going through what they call the vendor elimination, is that
they want a reduced number of brands that carry on their stores. Usually they go to one national brand and one private brand, and usually the one national brand is Dole.

So that is really tough part. Maui is having difficulty, I am having difficulty selling canned pineapple as well because of this very competitive issue we have right now.

Private segment is again, the retail stores try to differentiate themselves from the other retailers by having high quality yet they want to have economical price compared to national brand. So price is important, but at the same time they do ask that we need to provide them, basically match the quality of national brands because they don't want to lose their consumers by selling the cheap product.

CHAIRMAN PEARSON: And the major retail customers that you work with, do any of them say I'll accept pineapple from any location except not country X because I had a bad experience?

Are the major purchasers willing to take pineapple from any location? Or do they have some restrictions?

MR. SHIRAIWA: Most of them will take basically any origin, except I had one case that the
customer refused to take a product from Kenya and that was when they had terrorist attacks and stuff so they were concerned about security.

CHAIRMAN PEARSON: My light's about to change. Thank you very much.

Madame Vice Chairman?

VICE CHAIRMAN ARANOFF: Thank you, Mr. Chairman. And I'd like to join my colleagues in welcoming this panel here this afternoon and thanking you for traveling so that you could spend this time with us.

Ms. Tantipipatpong, I want to clarify one thing I thought I heard you say to one of my colleagues. You were being asked about restrictions on shipping standard grade to the United States market. And I thought I heard you say that the reason people wouldn't buy it in the U.S. was because under USDA regulations anything less than choice grade had to be labeled as sub-standard? Was that what you said or did I mishear you?

MS. TANTIPIPATPONG: Let me clarify.

Actually what USDA has mentioned about the labeling is that if it's below the choice it should be declared on the label. But it's true that in the market today you may see some standard quality but the
consumer may not understand the quality so much. But
at the end, reflect to whether they like the product
they buy or they don't like it, then of course it
would affect their next purchase.

Basically what we see in the U.S. market
today is the choice quality. Compared to what we
would ship to the EU.

VICE CHAIRMAN ARANOFF: I know that Mr.
Shiraiwa said that sometimes you might see a standard
quality product, for example in a Dollar Store,
somewhere at the low end of the market. If I went to
the Dollar Store and I picked up a can that was
standard quality, would it say FDA Standard Quality,
or would it say pursuant to U.S. law we must inform
you that this product is -- What would it say?

MS. TANTIPIPATPONG: Actually it doesn't say
anything at all. We just say the canned pineapple
sliced or chunks or crushed in juice or in syrup.

VICE CHAIRMAN ARANOFF: So you're not
actually required to put the fancy, standard or choice
on the label. Okay. Thank you for that
clarification.

Mr. Lafave indicated earlier in answering
questions about the number of subject producers in
Thailand, he said there may be 50 producers out there
are Petitioners claim. As the head of the Producers Association, and I understand that it's a voluntary membership organization, do you know how many producers of this product there are in Thailand?

MS. TANTIPIPATPONG: The number may not be very accurate. In fact a lot of factories producing many different types of fruits using the same facility, and maybe because of that, the Petitioner may be adding up all the numbers of producers of canned fruits. But the members of the Thai Food Processors Association who are producing canned pineapple fruit for export is about, if I remember correctly, but if I can just submit that just for the post-hearing, but around 25.

VICE CHAIRMAN ARANOFF: Okay, I appreciate that answer.

During your testimony, Mr. Lafave, I actually wrote this phrase down but you were making the point that the subject Thai producers were never the largest exporters to the U.S., either before the orders went into effect or since. You used the phrase they either never shipped to the U.S., not recently, or in modest quantities.

MR. LAFAVE: I believe I said that before and after the revocation they were not the major
VICE CHAIRMAN ARANOFF: What I wanted to ask you is there have been a number of recent sunset cases in which arguments have been made to the Commission along those lines, and also the arguments about having established customers in third country markets. In each of those cases what we have asked the parties making those arguments to do is to provide us with information on a company by company basis. For each company that you represent, rather than making the generalized statement that characterizes all subject Thai production, especially considering that you don't represent all subject Thai production. If you could provide us for each of the companies that you represent what their volume has been to the U.S. before and after. I'd prefer to look back even before the orders were in place, if that's possible, and with respect to -- Well, let me ask you that first. Is that something you think you can do?

MR. LAFAVE: No, I don't think we can get data before 2000. I've tried. People don't retain documents that long.

VICE CHAIRMAN ARANOFF: Not from the questionnaires --

MR. LAFAVE: In their questionnaire
responses, I don't believe we have the questionnaires from the original investigation on the record of this case, and I don't have access to them.

From their questionnaires you can see what they've been exporting since 2000 and you will certainly see that the other Respondents are shipping product to those other markets that I mentioned.

VICE CHAIRMAN ARANOFF: I understand that. Obviously one of the arguments that you made is that they wouldn't have an incentive to divert those shipments. We have some pricing information on the record which is relevant to that argument, but a lot of times we also look at things like the existence of long term contracts or absent contracts, long term customer relationships where individual companies can demonstrate that they've been selling around a certain volume to particular third country market customers over a period of years which is stronger evidence than the generalized statement that one has third country market customers.

So if there is anything that any of the individual companies can submit that would bolster the claims about the depth and extent of their relationships with their third country market customers, that would be very helpful.
MR. LAFAVE: We'll see what we can come up with. It's a little bit late in the day to try to put that together, but we'll see if we can come up with something by the post-hearing brief.

I will just say that from my own experience of looking at how TPC has organized its affairs, it typically sells through one or two customers in each market and has done so for years.

VICE CHAIRMAN ARANOFF: Okay. I appreciate that, and any further detail that you can add.

How do transportation costs to the U.S. market for Thai canned pineapple compare with transportation costs to other major markets such as the European Union or Japan or Russia?

MS. TANTIPIPATPONG: The freight rate from Bangkok to EU at the moment is around 1,300 to 1,500 U.S. dollars per container. The freight to Japan is less than that because of the distance. Of course the freight to the U.S. is even more expensive because it's further away from Thailand, especially if we have to ship to the east coast.

VICE CHAIRMAN ARANOFF: One last question.

Mr. Lafave, in your brief you argue that Maui is motivated by Byrd Amendment disbursements to work to keep this antidumping duty order in place. Of
course the benefits of the Byrd Amendment are set to expire later in 2007. In light of that, what weight should we give to that argument?

MR. LAFAYE: It's too bad that we're not meeting this time next year, then we'd know.

VICE CHAIRMAN ARANOFF: Okay.

I don't think I have any further questions but I wanted to thank everyone on the panel for your answers this afternoon.

Thank you, Mr. Chairman.

CHAIRMAN PEARSON: Commissioner Hillman?

COMMISSIONER HILLMAN: Thank you. A couple of issues that I wanted to make sure I understand, Mr. Shiraiwa.

I'm trying to understand the issue of how in the retail segment, again, just sort of how the contracts work for getting your supply. I'm trying to understand, we heard testimony this morning about the issue that at least from Maui's perspective they've in essence been pushed out of the retail market and on the other hand I've heard a lot of other statements that would suggest that this was a conscious decision on theirs to get out of the retail market.

I'm wondering if you can help me understand how it works. In other words, if I'm trying to sort
out whether a company like yours or a company like Maui, what would I be looking at in terms of do you normally have a contract? Does it specify the volume you're going to purchase, the exact can size that you're purchasing? Do you specify what grade the pineapple has to be? How long a term a contract is that typically? Anything you can help me understand about how the retail end of it does its purchasing of pineapple.

MR. SHIRAIWA: First of all there is no quantity contract except I'd say private label do have buy in quantity, but my brand, we basically review the price quarterly and it depends on market situation.

COMMISSIONER HILLMAN: How do you decide who you're buying from? Do you go out there and in essence request bids? I'm ready to buy X amount in Y can size and give me an offer?

MR. SHIRAIWA: Purchasing, we keep contacting the suppliers, constantly asking for prices. Probably every two to four months we constantly ask.

COMMISSIONER HILLMAN: How many people would you typically contact?

MR. SHIRAIWA: At this moment probably two.

COMMISSIONER HILLMAN: So you go to two
different suppliers and say I'm looking to buy a
certain amount and please give me a price quote?

    MR. SHIRAIWA: Yes. Basically we give them,
this is how much quantity we need for the next three
months, what is the price. Usually they give two
different prices. Not necessarily I push everything
to this one supplier. Usually I keep the other
suppliers as well just to have a communication and to
understand what the market price will be.

    COMMISSIONER HILLMAN: For that quarter will
you give all of that bid to the one supplier that was
the lowest?

    MR. SHIRAIWA: No. As I said, I would like
to keep getting all this information from different
suppliers so I can see overall the situation market
price. For instance, I will bid between Thai and
Indonesia. If Indonesia has a cheaper price they will
get the larger share, but I will still be buying from
Thailand just because I want to keep track of what
Thai price would be.

    COMMISSIONER HILLMAN: When you say
Thailand, are you contacting more than one company in
Thailand or are you going to multiple --

    MR. SHIRAIWA: Currently one only.

    COMMISSIONER HILLMAN: One Thai company and
MR. SHIRAIWA: Yes.

COMMISSIONER HILLMAN: If somebody else, say Maui or somebody else wanted to get your business, how would they have to -- What would they do to do that?

MR. SHIRAIWA: If Maui wants the business I will be open to --

COMMISSIONER HILLMAN: If they come to you and say we'd like to start supplying you.

MR. SHIRAIWA: Yes. I would definitely look into that.

COMMISSIONER HILLMAN: Do you typically get that from other producers in Thailand or Indonesia or elsewhere? We'd like to supply you?

MR. SHIRAIWA: Yes, I do.

COMMISSIONER HILLMAN: Would you say that's pretty typical of how that works? In essence quarterly contracts, if you will, based on their soliciting you, not your soliciting them.

MR. SHIRAIWA: Yes, but for canned pineapple actually soliciting is not really good for me. First of all, I don't have a huge quantity that I may be able to allocate to these customers, but moreover, it's risky to start business with people I don't know. For people I've dealt with or the factory I'm buying...
from right now, is reliable. That's why I go to there. That's why I constantly buy from them.

COMMISSIONER HILLMAN: When you're selling product at retail you're selling it under a single brand name?

MR. SHIRAIWA: Yes, Ace of Diamonds is my brand. I only supply to one private label, that's all.

COMMISSIONER HILLMAN: So one private label and then your own brand?

MR. SHIRAIWA: Yes.

COMMISSIONER HILLMAN: Would you say that's typical? Or again are a lot of the companies from whom you might purchase also supplying you but also supplying lots of other labels?

MR. SHIRAIWA: Yes.

COMMISSIONER HILLMAN: If you go into the factory where you're purchasing your product, will you see labels, many many different labels?

MR. SHIRAIWA: Lots of labels, yes.

COMMISSIONER HILLMAN: No other differences?

MR. SHIRAIWA: No.

COMMISSIONER HILLMAN: Same can, same product, same everything, just putting a different label on it.
MR. SHIRAIWA: Correct.

COMMISSIONER HILLMAN: In terms of the relationship between the retail price versus your price. Do you watch what's going on in the retail market in terms of pricing?

MR. SHIRAIWA: Yes.

COMMISSIONER HILLMAN: I'm trying to understand, is your price that you're willing to pay for your pineapple more set by what's going on in the retail market for canned pineapple? Or is it more set by the price of canned pineapple, the cost from your supplier?

MR. SHIRAIWA: Definitely the cost will affect the retail price as the price we offer to the retailers, the retailers add onto a certain percentage of their profit and then put on the shelf. But if I go too much above, there will be a limit of what I can do with the canned pineapple, as a limit of pricing that, for instance for my brand I cannot go over Dole's price, so Dole's price will be like a maximum price for me.

COMMISSIONER HILLMAN: I understand that.

If that were to happen, if you were to try to go over Dole's price then the retailers simply don't purchase any from you? Or they come back to you
and say you have to lower your price?

MR. SHIRAIWA: It probably will not happen, but if we were to do that, I think my sales will drop significantly and retail will probably ask me to discontinue the product. They will stop buying from me.

COMMISSIONER HILLMAN: Then once you've lost that shelf space, then what? What would you have to do to get it back?

MR. SHIRAIWA: Usually the retailers will replace with the other brands if there is space. If I want to get it back then I need to go back with basically some offers, including the price and probably some promotional programs to support our sales at the retail stores.

COMMISSIONER HILLMAN: Okay. And the last question on this. Do you have a sense of the portion of canned pineapple sold at retail that has now shifted into these plastics or jars? Any ball park percentage of how much has moved?

MR. SHIRAIWA: I don't have the number with me, but as I said before, if you look at the shelf of the retailers you start seeing all these, especially plastic cups taking over the spaces. It definitely affects not only pineapple, all this canned food
COMMISSIONER HILLMAN: Would you say that is an add-on or it's a direct displacement of the canned?

MR. SHIRAIWA: Not direct replacement, but there is some affect on the canned fruits.

COMMISSIONER HILLMAN: Five percent, ten percent, or smaller than that?

MR. SHIRAIWA: I may be able to get back with that number. In my region I have number. For New England I do have IRI statistics that shows some of the numbers, but --

COMMISSIONER HILLMAN: It can be provided in the post-hearing brief.

MR. SHIRAIWA: Probably.

COMMISSIONER HILLMAN: If that's a confidential number that would be very helpful. Thank you.

With that, I have no further questions, but thank you very much for your answers.

Thank you, Mr. Chairman.

CHAIRMAN PEARSON: Commissioner Koplan?

COMMISSIONER KOPLAN: I have nothing further.

CHAIRMAN PEARSON: Commissioner Okun?

COMMISSIONER OKUN: Just a couple more
things for this session.

Ms. Tantipipatpong, you had discussed your demand projections going forward. If there's anything else you can put on the record to supplement what's in the staff report at 4-24. You talked about, you were basing them on the export numbers, and if your association has any projections for future demand, if you could put those on the record as well in those markets.

MS. TANTIPIPATPONG: I'll see what we have and I'll submit that in the post-hearing brief.

COMMISSIONER OKUN: Okay.

To the extent you've talked a fair amount about Japan, does the Japan-Thai FTA have any implications for pineapple?

MS. TANTIPIPATPONG: I understand that in the FTA negotiation it's actually reciprocal. So one product for the same product.

In this case in Okinawa, the production volume of Okinawa is so small that we have asked the Japanese counterpart whether they would want to lift the quota, but the outcome from the negotiation as we understand, they would still like very much to protect the Okinawa producers. But the volume does not really affect the trade because at the end almost entire
demand in Japan, they have to rely on the imports from
Thailand and Indonesia and Philippines.

COMMISSIONER OKUN: I appreciate that.

Mr. Lafave, I did want to give you the
opportunity, you had wanted to comment I believe on
the discussion we were having about what went on
during the '03, '04 time period.

MR. LAFAVE: What I wanted to say is that
Mr. Nishida testified this morning that they started
repositioning their, when he was asked when was the
decision made to exit the retail segment, he first

So it's sort of a chicken and egg question
but it certainly doesn't seem to be true as Mr.
Magrath claimed that they exited it being hurried by
producers that had been revoked from the order because
that took place in August of 2004. They'd already
made their decision to limit their sales in certain
segments, and obviously one of those decisions was to
exit the retail segment.

COMMISSIONER OKUN: You're using the
information you used in your brief with regard to what
specific purchasers --

MR. LAFAVE: No, I'm not. I'm relying on
Mr. Nishida's statement earlier and the SEC filings of

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Maui Land and Pineapple. Because they also, I have their statement in their 2004, which I believe was, which says, "Maui's current strategy is to expand its presence in the fresh pineapple market while selectively reducing its reliance on the processed pineapple market. Therefore over recent years the company has decreased the tonnage of fruit going into the cannery and in 2004 began to commensurately reduce the number of markets for processed pineapple that it serves."

That's what it said in their SEC filing. So this is obviously not a reaction to something that happened in the middle or towards the end of 2004. This is something that was in the works before that. So when they withdraw from the retail market that leaves unmet demand and if the established Thai exporters to this market saw that opportunity and expanded their shipments in order to meet that demand, that can hardly be put down to constitute evidence A, of injury by reason of subject imports; or B, the evidence of what subject imports would do in another year if this order were revoked.

COMMISSIONER OKUN: I appreciate you clarifying what the point was on that. I appreciate that.
I think my final question for you for the open session, Mr. Lafave, you had begun your testimony taking issue with some of the Petitioner's exhibits which go to whether the Thai government is or isn't helping exports.

I guess the question is, even if I agree with you that I don't think those are something that presents a lot of evidence for us to rely on, increased exports from Thailand because of government policies, and even if I take the capacity data, don't agree with Mr. Rosenthal that we should take adverse inferences and go with the existing capacity based on questionnaires, I still see a Thai industry that is export oriented by any definition I've ever used in any case I've ever done up here.

So my question for you is, I think for post-hearing, is to address that for me. Let's say I'm not relying on those two points that Mr. Rosenthal makes, I still want to understand your arguments of where this data, goes, and a lot of that I've already asked for, which goes to can the products shift, would these markets shift around. That's what I'm particularly interested in in the post-hearing.

MR. LAFAVE: I think we've given our best answer on that but we'll reiterate it in the post-
COMMISSIONER OKUN: Best answer with more evidence. If you just look at the data, and again, you can look back at other cases we've done, if you just look at the numbers out there of where subject exporters are exporting, and they're not in their home market and if they're not tied to long term markets. Again, you've been asked to present evidence on that. That's what I'm trying to understand. I think you can't just look at a heavily export oriented Thai industry and say the U.S. isn't an attractive market when they were here before. Before the order.

MR. LAFAVE: Right. I think the answer is that perhaps partly because of the order and perhaps also because of increasing demand, these other exporters have focused on these other markets. Our best answer as to why they wouldn't ship here is that the product that's sold in the EU is not of the right quality that ships to the United States. The pricing in the markets that do take choice quality product is higher than the pricing in the United States. And that they have relatively high capacity utilization and growing demand in those markets that they have traditionally served. Whereas the non-subject Thai exporters have traditionally served this market.
So it was easy for them to increase their volume when the opportunity presented itself. It's not so easy for these others. That's one of the questions I think would be confidential.

COMMISSIONER OKUN: Thank you very much for those responses. I have no further questions.

CHAIRMAN PEARSON: Commissioner Lane?

COMMISSIONER LANE: I just have a few follow up questions to Commissioner Hillman's questions about plastic and glass.

Are the sales price of the product in glass or plastic comparable to the prices in cans?

MR. SHIRAIWA: No, they are higher, and they probably have a higher profit, too.

COMMISSIONER LANE: So they're higher and have a higher profit?

MR. SHIRAIWA: Higher price per ounce.

COMMISSIONER LANE: What about the shelf life of the plastic or the glass? Is it as long as the canned?

MR. SHIRAIWA: No, canned will be much longer than cups or glass. I know because I handle cups, cups are generally about one year shelf life versus pineapple could be two to three years.

COMMISSIONER LANE: Do the plastic or the
glass require refrigeration in the stores?

MR. SHIRAIWA: No.

COMMISSIONER LANE: And you're going to provide us with what percentage you think of the Thai product is now being sold in cans as compared to plastic or glass?

MR. SHIRAIWA: Yes, but this is going to be a limited area so I'm not sure if that's going to help you, but I'll be able to provide that data.

COMMISSIONER LANE: Is there any difference in shipping the product either in can or plastic or glass?

MR. SHIRAIWA: No.

COMMISSIONER LANE: Thank you.

CHAIRMAN PEARSON: I have a couple more for the open session.

Ms. Tantipipatpong, whenever there is a review case and we see that some firms have worked with the Department of Commerce to get the orders lifted, I find myself wondering well, are other firms considering doing that same thing? Do you know whether companies in Thailand are currently working to demonstrate to the Department of Commerce that they are pricing fairly and thus should have the order revoked?
MS. TANTIPIPATPONG: Are you referring to doing this administrative review?

CHAIRMAN PEARSON: Yes.

MS. TANTIPIPATPONG: I believe so, but information is confidential to each producer so they do not disclose it. We would only know it when there was the publication on the Federal Register.

CHAIRMAN PEARSON: If the order stays in place we could expect continued efforts by firms that currently are subject producers to become non-subject producers?

MS. TANTIPIPATPONG: I do not really believe that everybody would pursue on that, doing the administrative review because actually the cost of doing it is very expensive. The procedure is quite complicated and we may need to retain legal counsel to do that so that would add to the cost.

In such case, if some of the firms, some of the producers that have good contacts with buyers in Europe or some other countries, then they don't benefit by incurring those costs in trying to get to the U.S. market.

The same holds true for doing the sunset review, when we're trying to ask all the producers to respond to it. We said the cost will be born by the
association, there is no extra cost for each of the
producers to pay, but in fact some of them, this is
personal to the contact on the phone calling,
everything, they would just say they have no interest,
why would they have to reveal some of the confidential
information in order to submit to the sunset review?

CHAIRMAN PEARSON: Those points are well
taken, that for the smallest firms it would be
difficult to go through the process at Commerce to
have the order revoked, so this might be an approach
that would only be of interest to the larger and more
sophisticated firms.

The last question has to do with the
packaging of product. This order applies only to
pineapple that's packed in steel cans and we've talked
some about other forms of packaging.

If firms wanted to come to the U.S. market
without being subject to the order could they switch
packaging? Is there some of that work being done by
firms in Thailand?

MS. TANTIPIPATPONG: Yes, actually Dole
supplies both the plastic cups and the bigger plastic
jar out from Thailand and Philippines. There are also
other Thai producers who put in additional investment
in the plastic cup line. They do export it into the
CHAIRMAN PEARSON: As an example, occasionally I go to a large big box retailer and I buy a one gallon glass jar of dill pickles. This is about four liters, so a large glass jar.

It occurred to me that if producers subject to the order wanted to have access to the food service market in the United States perhaps they could package in large jars like this and there would be no restriction from the order. Is this a strategy that's possible?

MS. TANTIPIPATPONG: Yes, alternative packaging, plastic or glass jar may not be an option for food service because they consider food safety, especially in the glass jar. They don't want to have any glass pieces in case it's broken in the processing line.

Another alternative is packing in aluminum pouch. I'm sorry to maybe quote Dole again, but in fact Dole has the product on the web site that they're offering to their food service customers here in the U.S. and also in Canada.

CHAIRMAN PEARSON: Thank you.

I have no further questions for the public session.
Madame Vice Chairman?

Any other questions from the dais?

Do staff have questions for this panel?

MS. MAZUR:  Mr. Chairman, staff has no questions.

CHAIRMAN PEARSON:  Do representatives of the domestic industry have questions?

MR. ROSENTHAL:  Yes we do, Mr. Chairman.

CHAIRMAN PEARSON:  Please proceed.

MR. ROSENTHAL:  Ms. Tantipipatpong, would you say that TPC is typical of the other Thai producers when it comes to the percentage of products you produce that are choice versus standard?

MS. TANTIPIPATPONG:  Yes. It also depends on the growers that each of the factories have the relationship. But in fact I have to say this, let me backtrack a bit. There are two growing areas in Thailand. The east and the south. The east tend to have a bit better quality and that would include, there are about three factories in the east at the moment and they have on average better quality.

On the south, on average, the quality is not as good as on the east. So you're talking about in terms of production volume of TPC, that is typical of the industry, I would say yes for the packers that are
located in the same area.

MR. ROSENTHAL: Thank you.

Are you familiar with Chulalonghorn University in Thailand?

MS. TANTIPIPATPONG: Yes, I am.

MR. ROSENTHAL: Is it a university with a good reputation?

MS. TANTIPIPATPONG: Yes.

MR. ROSENTHAL: Thank you.

A question for Mr. Shiraiwa, please.

I believe your statement in direct was that you used to source from TPC until the antidumping duty got too high and then you switched to non-subject imports. Is that a correct characterization?

MR. SHIRAIWA: Yes.

MR. ROSENTHAL: Would you switch back to TPC or a non-subject importer or one who is subject now if the antidumping duty order were revoked?

MR. SHIRAIWA: As I said, I will switch to TPC but not saying that I'm going to switch everything to TPC. The reason for that is because TPC I know, we dealt with and they have a very high quality product and very reliable shipments that are supplied that I can trust and they have a high quality. Price wise sometimes they are kind of high. But yes, we'll
switch. But I would probably not consider other
subject suppliers as I don't know them or they might
be unreliable. It would take some time if I want to
start new business with other subject suppliers.

MR. ROSENTHAL: The last question.

How long have you been selling to the retail
market?

MR. SHIRAIWA: In the United States?

MR. ROSENTHAL: Yes, in the United States.


MR. ROSENTHAL: When you began selling in
the retail market in 2002 was Maui Pineapple selling
in the retail market at that time with you, or against
you?

MR. SHIRAIWA: Again, I've never seen, there
is no competition, I didn't see any competition
between Maui and ourselves.

MR. ROSENTHAL: Thank you. That's all the
questions I have.

CHAIRMAN PEARSON: Thank you.

Let me express my appreciation to this panel
for the time and energy that you've devoted in
traveling here to help us learn more about this
product.

I'm well aware that all of those of you who

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are involved in business have lots of other things you could be doing if you weren't here, so I genuinely do appreciate your presence.

Mr. Secretary, would it be reasonable to have a five minute recess to set up the room for the in camera session?

MR. BISHOP: Yes, Mr. Chairman.

CHAIRMAN PEARSON: Good. We are recessed for five minutes.

(Whereupon, at 3:36 p.m. a recess was taken, to resume in camera.)
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OPEN SESSION

CHAIRMAN PEARSON: Okay. Let's see. Time check. The parties in support of continuation have a total of 13 minutes available. That's five for closing plus it would be nine remaining from the earlier proceedings. And in opposition to continuation have a total of 41 minutes left.

Is it the intention of parties to use all of their time, or would there perhaps be less required?

MR. ROSENTHAL: I don't know yet. It's my intention not to use all of my time, but I have a few points for rebuttal that I want to make.

CHAIRMAN PEARSON: You would like to offer rebuttal and then break --

MR. ROSENTHAL: If you don't mind, I'll just do it all right here at once. I think I'll probably have a total of 10 minutes.

CHAIRMAN PEARSON: Okay. Good. Well, we'll cut him off at 13 if he goes over that. Please proceed, Mr. Rosenthal.

MR. ROSENTHAL: Thank you. I want to respond to a few points made earlier, or amplify some. It's hard to imagine that anyone has more to talk about at this point, but I believe I do.

First of all, I want to highlight what I
regard as the admissions by Respondents on the record
concerning the primacy of price in the marketplace for
canned pineapple. In a series of questions by
Commissioner Hillman about how the pricing process
works to Mr. Shiraiwa, he made it very, very clear
that he would switch suppliers to him based on price.
They all had to be qualified, but price was important,
and if one source had too high a price, he would
switch to the other one. He wouldn't get rid of the
other one because he wanted to have multiple sources,
but price was paramount to his purchases.

He also made it clear that price is
paramount when it comes to reselling that product to
the retail segment of the market. He made it very
clear, and the statement was along the line that if
his price got too high with respect to a retail
customer, for example, if the Dole national brand
price were lower, he would lose the sale or have to
lower his price.

Similarly, he was facing direct competition
by others in the tier that he was selling, and he had
to compete on price. Notably, he dismissed Maui as
competition there because their price was much higher
than the pricing that he is seeing from other Thai and
other sources of imports.
So it's very clear that despite what you might have seen in some of the purchasers' questionnaires or other testimony presented, price is crucial in the retail segment, as it is in the rest of the pineapple market.

Along those lines -- I'm sorry if I mispronounce names -- I apologize -- he made it very clear, Mr. Shiraiwa, that you are able to get shelf space at the retail market by lower price and price promotions, and you lose shelf space, and you lose sales by going over Dole and your other competitors.

Mr. Shiraiwa made a similar comment in response to a question by Chairman Pearson when he admitted that he sometimes had trouble competing on price, and he admitted that, again, Maui, from his perspective, hadn't been able to be competitive on price. He kind of dismissed them because their price was so high, not because price wasn't important.

As promised, we will try to provide you the documentation that, I understand, is so crucial to your decision-making when it comes to the chicken-and-egg question, whether the Maui decision to retreat from the retail market was driven by price competition, or was it driven by other factors?

Moving from the issue of the primacy of
price and the issue of Maui's participation in the retail segment, let me turn to the issue of whether revocation of the order would change the behavior of the producers that are currently subject to the order. Commissioner Okun asked several different times and several different ways, what would prevent, for example, the Thai producers moving in a greater way into food service? There really wasn't a good answer presented by any of the witnesses. Mr. Shiraiwa, I think, offered can size as a possible reason. I don't think he had real conviction in that answer, and I think most people would believe that can size was a real impediment to the Thai producers. They know how to make cans of different dimensions.

The witness for the Thai producers, the association, really didn't answer, other than to say that there wasn't enough capacity. Interestingly enough, on that capacity issue, as not only is she president of the TFPA; she is also with the TPC Company, and she said that she anticipated that if the order were revoked, that TPC would increase their production by about 10 percent. What she also said was that half of that, or 50 percent, would go to the U.S. market, and half for the other markets, including Europe.
One of the questions that raises is that if 50 percent would go to the U.S. market, by definition, 50 percent of that has to be at least choice. She claimed that there wasn't enough choice to go around or supply this market, but 50 percent is choice.

When I asked her, Is your production of choice versus standard typical for the industry? she said, yes. So if you extrapolate the TPC experience to the other Thai producers who are capable of supplying the market, at least 50 percent of their production should be choice and able to be directed to the U.S. market.

Let's see here. One of the interesting aspects of the TPC comment on the increase of the exports of 10 percent, where they said it wouldn't hurt Maui, one of the things that is interesting is that the TPC is not alone in their ability to increase their exports. If every one of the companies that is currently subject to order just increased by 10 percent, that would amount to what is exactly Maui's current market share of the U.S. market.

So what claims to be a small increase by that one company, if extrapolated to the other Thai producers, would essentially wipe out Maui, at least when it comes to the volume issue.

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We spent a lot of time talking about the nonresponsiveness of the producers. We will submit for the record the 1999 study by the Thai University that indicates that there are 60 million cases of capacity and 50 percent capacity utilization as of 1999. The Thai industry hasn't shrunk since then; it has grown, and I urge you to take a look at that. Whether or not you want to rely on adverse inferences, what you cannot rely on, based on this record, are simply the questionnaire responses supplied by the Thai producers.

The rest of the rebuttal that we have we'll provide for in a post-hearing brief. I just want to, first of all, thank you for your attention to this matter.

Commissioner Koplan, I agree with you. At least, the in-camera session was perhaps the only useful in-camera session I've ever participated in. I'm glad you think it was useful. It allowed, I think, both parties to get on the record some important information. Of course, I always get nervous when a commissioner, such as Commissioner Aranoff, says, I don't get a chance to usually do this. When she starts that way, I get very anxious.

But I'm hoping that the candor that we've
been able to provide will do a couple of things: number one, demonstrate the absolute conviction that the Maui Pineapple Company has about the facts here and the belief in what will happen to the company and its workers if revocation takes place. Maui is not in this for the short-term dollar, not for the CDO money. They brought this case well before the Byrd Amendment was ever even conceived of.

Now, I would love to come back, at Mr. Lafave's invitation next year, and see whether we have something to talk about there. I don't think we'll have that opportunity. But the fact of the matter is, as unsatisfying as the state of events are today and as difficult the financial situation that Maui is in today, if you revoke this order, things will get worse, and that's how you have to look at it.

It is not a current injury analysis. It is what's going to happen if the order is revoked, and I don't think that anyone can look at the nature of the Thai industry, the nature of the subject producers, their behavior pre-order, and the nature of the U.S. market, and conclude that anything but disaster will befall the domestic pineapple industry if the order is revoked.

I urge you, when the Commission has a Heritage Reporting Corporation (202) 628-4888
complete record, to reach an affirmative determination in this case. Thank you.

CHAIRMAN PEARSON: Thank you, Mr. Rosenthal.

Mr. Lafave, please come forward.

MR. LAFAVE: Thank you.

CHAIRMAN PEARSON: Do you expect to use something less than 41 minutes?

MR. LAFAVE: I expect to be brief.

CHAIRMAN PEARSON: Excellent. Will you combine rebuttal with closing?

MR. LAFAVE: Yes, I'll combine.

CHAIRMAN PEARSON: Excellent. Okay. Thank you.

MR. LAFAVE: First of all, I just need to respond to a couple of things that were just said. When he spoke of Ms. Tantipipatpong's testimony about choice and standard, I think he mixed up 50 percent of an increase in production with the quantity that would be choice, and that's not exactly what she said. What she said is that they would increase production by about 10 percent, and about 50 percent of that would be available for the U.S. market, which she quantified as being less than one percent of the U.S. market.

That was not a comment on what was choice and what wasn't, and it didn't mean that it's always...
50 percent is choice. What they are saying is that, of the total quantity that they have there, about 50 percent of that 10 percent increase would be available for the U.S. market, which, obviously, would have to come out of their choice production.

She also testified separately that more than 50 percent of her production is standard. She didn't testify as to how much is fancy. So it's quite clear that what's choice is considerably less than 50 percent.

Secondly, Mr. Rosenthal emphasized Mr. Shiraiwa's comments on competition based on price, but I heard him say something very different. I heard him say, first of all, that he uses established suppliers. He doesn't take bids from lots of different people. It's not a true commodity market because he doesn't go out and ask for bids from 10 or 20 suppliers and simply accept it. No, he relies on established suppliers.

It indicates that there is a barrier to entry here because you have to become an established supplier before importers will buy from you. You have to establish your reliability, and he also expressed a lot of concern about quality, not the qualities that Mr. Nishida was talking about, the so-called "fancy,
choice, and standard," and maybe it would be a case of whether the pineapple fell below choice standard to a standard grade when it was represented as being choice.

But I think what he was concerned about was whether the pineapple was other than what it is represented to be and whether that would create customer complaints that might cause him to lose shelf space. That was of great concern to him, it's quite obvious. So there are other factors here besides price.

With respect to the capacity in Thailand, these capacity numbers are difficult to evaluate because we know, from the testimony of Ms. Tantipipatpong and from the foreign producers' questionnaire responses, that the actual capacity now is constrained by shortages of labor in Thailand and by fruit availability.

I think there is a great deal of reason to question that 60 million case figure. It's probably considerably less than that. Something considerably less than 50 percent of it is choice. Those people who are producing that product are exporting it to established markets of their own.

I'm not going to repeat everything that we
said, or anything that we said, earlier except to say
that the Compass model strongly suggests that there
would be no price effect if the order was revoked and
that the volume effect would be negligible and that
the effect on gross revenues would be negligible.

Two really important things that happened
today is Mr. Nishida admitted in open session that he
has exited the retail segment. That means that they
are no longer producing and selling 20-ounce can sizes
or eight-ounce can sizes to supermarket chains.

I would propose to the Commission, if it weren't inclined to continue the order for other
reasons, that it consider partially revoking the order
as to can sizes of 20 ounces of less. That would
continue protection in the segments that Maui
continues to participate in while freeing the Thais
who are currently subject to this order to compete in
a market in which Maui is not participating. Thank
you very much.

CHAIRMAN PEARSON: Thank you, Mr. Lafave.

Mr. Secretary, are we ready to go to

closing?

MR. BISHOP: Yes, sir, the closing

statement.

CHAIRMAN PEARSON: Is it okay for me to read

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the closing statement?

MR. BISHOP: Yes, please.

CHAIRMAN PEARSON: It's been a long day.

Okay.

Post-hearing briefs, statements responsive to questions and requests of the Commission, and corrections to the transcript must be filed by January 29, 2007. Closing of the record and final release of data to parties is March 6, 2007, and final comments on March 8, 2007. Thank you very much. This hearing is adjourned.

(Whereupon, at 6:30 p.m., the hearing in the above-entitled matter was concluded.)
CERTIFICATION OF TRANSCRIPTION

TITLE: Canned Pineapple Fruit from Thailand

INVESTIGATION NOS.: 731-TA-706

HEARING DATE: January 18, 2007

LOCATION: Washington, D.C.

NATURE OF HEARING: Hearing

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: January 18, 2007

SIGNED: LaShonne Robinson
Signature of the Contractor or the Authorized Contractor's Representative
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Washington, D.C. 20005

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